

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on September 17, 2014 beginning 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: Wade Moser, Outdoor Heritage Fund Advisory Board  
Jim Melchior, Outdoor Heritage Fund Advisory Board  
Laney Herauf, Greater ND Chamber  
Andrea Pfennig, Outdoor Heritage Fund  
Kevin Kirkey, L&C Ft. Mandan Foundation  
Dave Nehring, Habitat Unlimited  
Bonnie Storbakken, Governor's Office  
Members of the Press

Governor Dalrymple called the Industrial Commission meeting to order at 1:00 p.m. and the Commission took up Outdoor Heritage Fund business.

Ms. Karlene Fine, Industrial Commission Executive Director, presented the following financial report on the Outdoor Heritage Fund:

Outdoor Heritage Fund (294)  
Financial Statement  
**2013-2015 Biennium**  
September 5, 2014 Outdoor Heritage Fund Advisory Board Meeting

	<u>Cash Balance</u>
July 1, 2013 Balance	\$ 0.00
Interest Revenue through July 31, 2014	\$ 1,949.22
Revenues through July 31, 2014	\$ 9,960,555.14
Grant Expenditures through July 31, 2014	\$ (544,809.00)
Administrative Expenditures through July 31, 2014	<u>\$ (79,271.90)</u>
	<b>\$ 9,338,423.46</b>
Outstanding Project Commitments as of July 31, 2014	<u>\$(7,812,752.00)</u>
Balance	<b>\$ 1,525,671.46</b>

Outdoor Heritage Fund  
Continuing Appropriation Authority  
2013-2015 Biennium

Uncommitted Balance July 1, 2013	\$ 000.00
Interest Revenue	\$ 20,000.00
Revenues Fiscal Year 2014	\$15,000,000.00
Revenues Fiscal Year 2015	<u>\$15,000,000.00</u>
	\$30,020,000.00
Administration Expenditures	\$ (300,000.00)
Project Commitments 2013-2015	<u>\$(8,357,561.00)</u>
<b>Available Funding</b>	<b>\$21,362,439.00</b>

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

*There is created a North Dakota Outdoor Heritage Fund that is governed by the Commission. Any money deposited in the Fund is appropriated on a continuing basis to the Commission for the purposes of this*

*chapter. Interest earned by the Fund must be credited to the Fund. The Commission shall keep accurate records of all financial transactions performed under this chapter.*

**57-51-15(d). Outdoor Heritage Fund - Deposits.**

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

*(d) Credit four percent of the amount available under this subsection to the North Dakota Outdoor Heritage Fund, but not in an amount exceeding fifteen million dollars in a state fiscal year and not in an amount exceeding thirty million dollars per biennium;...*

Mr. Wade Moser, Outdoor Heritage Fund Advisory Board Chairman, discussed the Outdoor Heritage Fund Advisory Board Grant Round 3 recommendations. He said there were 27 applications that came in this round with one withdrawn so they heard 26 applications at their meeting. He explained the process the Board had followed in reviewing the applications and provided the following information on the fourteen recommended applications:

1. GR3-03: **“Wild Rice River Restoration & Riparian Project Phase II”**; Submitted by: Wild Rice Soil Conservation District; Project Duration: 4 years; Total Project Costs: \$33,125; OHF Funding Requested: \$9,937; **Recommended Funding: \$9,937** – He said this is basically for a ten to fifteen year easement on 363 acres of CRP land.
2. GR3-06: **“Graner Park Bank Stabilization”**; Submitted by Morton County Parks; Project Duration: 14 months; Total Project Costs: \$250,200; OHF Funding Requested: \$187,650; **Recommended Funding: \$187,650** – He said as a result of the flood in 2011, there was a lot of damage done to the Graner Park riverbank and this would help stabilize that. The applicant still has some work to do to get some permits through the Corps of Engineers. The main purpose of stabilizing the bank is that they have lost so much shore line fishing opportunities – this will help that.
3. GR3-07: **“Ryan Lake Fishing and Recreation Development Project”**; Submitted by Grand Forks Park District; Project Duration: 10 months; Total Project Costs: \$290,005; OHF Funding Requested: \$200,015; **Recommended Funding: \$100,000** – He said Ryan Lake is starting to get surrounded by housing development but this project Game and Fish was involved with several years ago to do some dredging and thought it was well worthwhile and needs more dredging. The Board did not recommend full funding. He noted that there is a lot of community involvement with some of the retail stores that get youth involved.

In response to a question regarding recommending the partial funding, Mr. Moser stated the Board leaned on Mr. Steinwand to see if we did part if it would it be successful. Mr. Steinwand didn't think it was needed to clean out the entire Lake and could even take away from it as far as some of the cattails being a food base for some of the fish. The Game and Fish Department does stock the Lake and it is used. They are trying to extend the fishing opportunities to see if they can do some ice fishing which right now they can't do because of the shallowness.

4. GR3-08: **“Public Use Fishing Docks at Lake Metigoshe and Beaver Lake State Parks”**; Submitted by ND Parks & Recreation Department; Project Duration: 4 months; Total Project Costs: \$53,842; OHF Funding Requested: \$40,382; **Recommended Funding: \$40,382** – He said this is for fishing docks which normally go through Game and Fish. Because this is

another state agency looking for funding they do not rank as high in the Game and Fish selection process. So the Parks and Recreation Department came to the Heritage Fund.

5. GR3-010: “**Lake Tschida’s Wildlife Conservation Planting, Recreation Project Walking Trail, Bird Observatory and Playground Rest Area**”; Submitted by Tri-Cities Joint JDA; Project Duration: 4 months; Total Project Costs: \$92,969; OHF Funding Requested: \$66,152; **Recommended Funding: \$66,152** – He said this is a combination of a walking trail, tree planting and playground equipment.
6. GR3-011: “**North Dakota Pheasant Habitat Initiative**”; Submitted by ND Game and Fish Department; Project Duration: 6 years; Total Project Costs: \$38,000,000; OHF Funding Requested: \$3,000,000; **Recommended Funding: \$3,000,000** – He said this funding would be used to obtain federal funding from the USDA Conservation Reserve Enhancement Program. Game and Fish is currently writing the rules which should be done this winter. The Governor will have to also approve the rules and the funding. This is a program where USDA has dollars available but the only way you can access those dollars is to enter into an agreement with an agency like Game and Fish to help deliver that program. Game and Fish is looking to use this \$3 million and to get access to an additional \$34 million in USDA funding. If we don’t use it in the state, it could be used by another state. The program has been around for some time but North Dakota has not signed onto it because the rules really were not right for us – so they are rewriting some of the rules to try to entice some of the states to get on board.

In response to a question regarding if they discussed the thrust of the program such as food plots, nesting cover, tree rows, Mr. Moser said it was all of that and included pollinators, and enhancing some of the grasses which are basically not doing the job anymore. He hopes this would lead to better management too with weed control, etc.

Governor Dalrymple said the leverage is about nine to one, if you can get approved. The problem is getting the local sponsor to make the effort and come up with the local money. This could be great if we can do this through Game and Fish.

In response to a question Mr. Moser indicated that it is similar to the new Regional Partnership Program. However, the Conservation Reserve Enhancement Program is an already existing program. Although the Regional Partnership Program may have more flexibility there were over 600 entities that applied for that funding nationwide and only four projects from North Dakota were selected.

7. GR3-012: “**Drayton Campground**”; Submitted by Drayton Park Board; Project Duration: 1 year; Total Project Costs: \$453,033; OHF Funding Requested: \$295,000; **Recommended Funding: \$125,000** - He said they would develop seventy sites. There were some other costs involved in this that the Board thought they needed to do a little more locally or maybe come back with a revised plan on some of the things to get this completed. This should get it off the ground and started. This is working in cooperation with American Crystal Sugar who is going to buy the land that is right outside the city limits of Drayton and donate it to the Drayton Park Board.
8. GR3-013: “**Park River Parks & Recreation - Phase 1 Campground and Three-Plex Ball Field**”; Submitted by Park River Parks and Recreation; Project Duration: 2 years; Total Project Costs: \$1,460,027; OHF Funding Requested: \$1,095,020; **Recommended Funding: \$240,000** - He said they had an extensive plan to put in ball diamonds, restroom facilities and

a campground – the Board did not feel the ball diamonds and those kind of facilities were probably appropriate for this Fund but they were interested in the campground facilities so their million dollar request was actually pared back to \$240,000 in order for them to put in the campground facilities.

9. GR3-015: “**Fingal Wildlife Club Dam Restoration**”; Submitted by Fingal Wildlife Club; Project Duration: 12 months; Total Project Costs: \$52,600; OHF Funding Requested: \$35,500; **Recommended Funding: \$35,500** - He said this is to restore a dam for fishing which is a structure that has had some damage to it and needs repair. The Game and Fish stocks it on a regular basis.
  
10. GR3-016: “**Sandhills Archery Club Landscaping**”; Submitted by Sandhills Archery Club; Project Duration: 2 years; Total Project Costs: \$82,550; OHF Funding Requested: \$61,000; **Recommended Funding: \$40,000** - He said this is to do some site preparation and some construction to upgrade their archery facilities. They requested \$61,000 but the Board recommended \$40,000 and did not put any stipulations on it. There is \$6,000 for a playground. In response to a question regarding where this is, Mr. Moser said it is in Cass County--just outside Fargo.

Mr. Moser said the Commission may want to put some restrictions on this – the Board had talked about using the dollars so the archery range was in better shape--improving the drainage and then being able to put out more targets and that type of thing versus the playground equipment.

Ms. Fine said they had some tree planting in it but the Board felt the applicant could do that with the Soil Conservation District so they did not need to use OHF dollars for that.

It was stated that the word is getting out there that we don't do buildings. Does this project include funding for the clubhouse? Mr. Moser said no. We did have a couple applications this time for buildings and they were declined and a few others for sidewalks, etc. that were proposed that the Board does not do either – you can see that we are probably approving more applications than we have in the past because the applicants are doing a better job of putting their applications together.

11. GR3-017: “**Brown Ranch Habitat Enhancement through Prescribed Grazing**”; Submitted by The Nature Conservancy; Project Duration: 10 months; Total Project Costs: \$24,255; OHF Funding Requested: \$16,889; **Recommended Funding: \$16,000\*** - He said this was to fund some water tanks. Normally we do not do portable but these are going to be more permanent, they 27,000 gallon tanks within the ranch so they can do cell grazing. They have the wells dug. These tanks, even though there are big round grain bin type rings that are put in permanent – they are pretty permanent – they could be removed and relocated if need be.
  
12. GR3-018: “**Bismarck PF Habitat Enhancement**”; Submitted by Pheasants Forever Dakota Chapter, Bismarck; Project Duration: 10 months; Total Project Costs: \$100,000; OHF Funding Requested: \$60,000; **Recommended Funding: \$60,000** - He said this is to do some tree plantings, weed barrier, grass seeding – this is an example of a proposal that came to us one time and we denied it. The applicant went back and they reworked it, made it better and it came back. Their first proposal was to buy the tree planting equipment. The Board didn't want to get into the business of owning equipment so they went back and redid the proposal and came back and it was a big hit with everyone on the Board.

13. GR3-021: **“Working Wetlands in North Dakota”**; Submitted by Delta Waterfowl; Project Duration: 5 years; Total Project Costs: \$4,950,000; OHF Funding Requested: \$1,750,000; **Recommended Funding: \$1,750,000** - He said this is one that is very similar to what Commissioner Goehring referred to as the working lands, we recommended \$1,750,000 and they have a commitment in writing from NRCS to match that with \$3,000,000 – they are basically going to allow annual rental payments for wetland use to farmers and ranchers. He thought it would be a big hit out in the countryside.
  
14. GR3-025: **“Urban Woods and Prairies Initiative”**; Submitted by Audubon Dakota; Duration: 1 year; Total Project Costs: \$148,789; OHF Funding Requested: \$82,218; **Recommended Funding: \$82,218** - He said there are five sites in the Fargo area covering 142 acres – they are basically going to clean up those sites and restore them to native vegetation. What they have tried to do is keep those in parks, the flood came through, now it’s a mess – they have a lot of restoration to do. Their plan is to put these back more into natural settings using species that can withstand some flood damage and make them better over time.

Mr. Moser reviewed some applications that did not get recommended:

GR-3-05 **“Wilderness Wellness Walking Path”** submitted by City of Beulah and Coal Country Community Health Center for \$634,000 – He said sidewalks in the city limits of Beulah to connect and go through town. They said it was outdoors, walking, good health – the Board did not believe that the purpose of the Fund is to fund sidewalks.

GR-3-02 **“Northwood Ice Rink”** submitted by Northwood Hockey Boosters for \$55,000 – He said they were requesting funding for hockey boards and the Board did not think that fit within the Board’s directives.

GR3-14 **“Partnering with ND Producers to Promote Profitable Agriculture with Wildlife Benefits”** submitted by Ducks Unlimited for \$472,320 – He said this was their third time in with this proposal and it is basically a winter wheat seeding project that they were going to pay landowners to seed winter wheat. Each time the argument was the weather is going to be more an indicator whether you are going to seed winter wheat than whether you get a few more dollars an acre for an incentive.

GR3-022 **“Conservation Cover Program (Pilot)”** submitted by North Dakota Natural Resources Trust for \$3,525,000 – He said this was basically an in-state pilot CRP program. There was one vote on the Board for funding this project. It was felt that this is a policy issue that should be considered by the Legislature rather than a 12 member advisory board. That is the reason this was rejected.

GR3-23 **“Western ND Habitat Enhancement Projects”** submitted by Mule Deer Foundation for \$480,900 – He said the plan fell short of details on how the projects would be completed. They had a lot of involvement from the oil industry, ranchers, federal lands. The plan is to do a controlled burn, which everyone is leery of, to get rid of cedars on the north facing slopes of some of the Badlands – but that is where it ended. There was good debate brought up of what is your plan to restore that, how do you keep erosion from happening, how are you going to get it to

grow back. This is a prime one to come back next time when they can provide more details on how they are you going to get it in good shape so you don't have a bigger problem on your hands.

GR3-24 "**Private Land Aquatic Habitat Creation & Infrastructure Enhancement**" submitted by Ducks Unlimited for \$580,000 – He said that was a real close vote on funding or not funding but he thought the bottom line was there was eleven structures to be built or repaired at a cost of a little over \$7,000 an acre for repair costs – everyone was wondering why it was so expensive and is there something different that could be done.

GR3-26 "**TMBCI Sky Chief Park Playground Project**" submitted by Turtle Mountain Band of Chippewa Indians for \$40,000 – He said this was for playground equipment and that is a tough sale to the Board – it was basic playground equipment.

Governor Dalrymple said he had someone mention to him that the City of Munich got playground equipment so what is the difference? Mr. Moser said he thinks the reason Munich made it is because they had so much community input and involvement with cash. They did not just meet the minimum; they came in with over fifty percent of the dollars in hand already included--they had all kinds of interest. Some of the other applicants come in saying they will do the minimum and we don't know whether there is community support or they are just looking at getting a grant for as much as possible.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the recommendation of the Outdoor Heritage Fund Advisory Board and approves the funding for the following 14 projects in the total amount of \$5,752,839 and authorizes the Industrial Commission Executive Director to enter into contracts with the applicants with the contingencies as noted below:**

1. **"Wild Rice River Restoration & Riparian Project Phase II" - \$9,937**
2. **"Graner Park Bank Stabilization" - \$187,650**
3. **"Ryan Lake Fishing and Recreation Development Project" - \$100,000**
4. **"Public Use Fishing Docks at Lake Metigoshe and Beaver Lake State Parks" - \$40,382**
5. **"Lake Tschida's Wildlife Conservation Planting, Recreation Project Walking Trail, Bird Observatory and Playground Rest Area" - \$66,152**
6. **"North Dakota Pheasant Habitat Initiative" - \$3,000,000**
7. **"Drayton Campground" - \$125,000 (OHF funding to be used for site work, water and sewer)**
8. **"Park River Parks & Recreation - Phase 1 Campground and Three-Plex Ball Field" - \$240,000 (OHF funding to be used only for costs related to the campground)**
9. **"Fingal Wildlife Club Dam Restoration" - \$35,500**
10. **"Sandhills Archery Club Landscaping" - \$40,000**
11. **"Brown Ranch Habitat Enhancement through Prescribed Grazing" - \$16,000 (OHF funds cannot be used for trailer or portable solar pump)**
12. **"Bismarck PF Habitat Enhancement" - \$60,000**
13. **"Working Wetlands in North Dakota" - \$1,750,000 (contingent upon receipt of written \$3,000,000 commitment by October 24 from NRCS)**
14. **"Urban Woods and Prairies Initiative"- \$82,218**

They discussed the Sandhills playground equipment and the intent was to stay away from using the funding for playground equipment. The trees they can access through soil conservation districts. The dollar amount can stay the same just stipulate that the grant cannot be used for playground equipment.

Commissioner Goehring revised his motion to include the stipulation that grant money cannot be used for playground equipment in the Sandhills Archery Club project.

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14. **“Urban Woods and Prairies Initiative” - \$82,218**

In response to a question regarding how Mr. Moser feels about the flow of applications and are more people becoming aware of the opportunity, Mr. Moser said more people should be aware of it. As the program is fine-tuned people will feel more comfortable in applying. He hopes the Petroleum Council dollars that are being spent to hire a consultant will help in seeking out more of the smaller applicants. There is support by the Board for these small groups that come in; they have pinpointed a problem or they want to do something good in their area and are really passionate about it. He thought that will continue to improve.

Governor Dalrymple said it would be good if we could provide some more coaching on this. He was at Turtle Mountain recently and they are wondering why they have not been successful and he explained that they have just been a little bit off the mark. It had to be about the outdoors, nature, conservation, etc. They indicated that they now understood that and will be putting in another application. He indicated that he would also talk to the executive branch agencies --

Game and Fish and Parks and Recreation-- about also providing assistance to the potential applicants. With some good advice it would save wasted energy.

Mr. Moser agreed and is still surprised they are not seeing more proposals because there have been comments that there is a significant need. Governor Dalrymple said there are opportunities out there. If you consider all the CRP in North Dakota and the potential to enhance the value of that CRP for wildlife and outdoor use, it is really there but we still need to have a proposal.

Mr. Moser said he thinks it is there but it could be tied in very closely with the livestock industry and put those acres into production and graze it. He did not think CRP is just for wildlife. He stated it should be enhanced for grazing – every acre the Game and Fish has should be put in production at some level. It could be grazed and managed because every bit of research that has ever been done shows that that land that is grazed is better for wildlife than the land that is not grazed. It has so much potential.

The Commission members and Mr. Moser discussed the benefits of using the acreage for haying and grazing noting that it has to be properly managed. Mr. Moser stated that with good management water, diversity of plant species and wildlife would flourish and the cattle industry would benefit.

Governor Dalrymple said that it sounds like a matter of talking with the conservation groups and making sure they have their opportunities to say what they have to say about rotational grazing and the effective dates during the season for protecting the wildlife. There should be a way to do something as an integrated approach.

On behalf of the Commission, Governor Dalrymple thanked the Board for their hard work.

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

Mr. Moser reported on the election of Outdoor Heritage Fund Advisory Board Chairman and Vice Chairman. He said Jim Melchior was elected the Vice Chairman and he remains chairman.

Mr. Moser said next week Wednesday they will be before the Budget Section to make a report to them – it will be very positive, get more word out and inform the legislators what we are doing and gives them a chance to give some feedback as to if we need any fixes at all in this whole process – it is not perfect yet but we are getting closer.

Being no further Outdoor Heritage Fund business, Governor Dalrymple adjourned this portion of the meeting at 1:34 p.m. and the Commission took up Renewable Energy Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary



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

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

Also  
Present: Andrea Pfennig, Department of Commerce  
Jaret Wirtz, WAWSA  
DeAnn Ament, Public Finance Authority  
Members of the Press

Governor Dalrymple called the Renewable Energy Program portion of the Industrial Commission meeting to order at 1:35 p.m. following completion of Outdoor Heritage Fund business.

Ms. Karlene Fine, Industrial Commission Executive Director, presented the following financial report on the Renewable Energy Program:

Renewable Energy Development Fund  
Financial Statement  
**2013-2015 Biennium**  
September 12, 2014 Renewable Energy Council Meeting

	<u>Cash Balance</u>
July 1, 2013 Balance	\$ 2,757,612.42
Revenues from Resources Trust Fund	\$ 3,000,000.00
Revenues through July 31, 2014	\$ 2,628.77
Expenditures net of returns through July 31, 2014	<u>\$(1,487,146.47)</u>
Cash Balance as of July 31, 2014	\$ 4,273,094.72
Outstanding Administrative Commitments ( <i>estimate</i> )	\$( 76,026.30)
Outstanding Project Commitments as of July 31, 2014	<u>\$( 777,062.00)</u>
Uncommitted dollars as of July 31, 2014	<b>\$ 3,420,006.42</b>

Renewable Energy Development Fund  
**Continuing Appropriation Authority**  
2013-2015 Biennium

July 1, 2013 Balance of Uncommitted Dollars	\$ 825,744.42
Transfer from Resources Trust Fund for 2013-2015 Biennium	\$ 3,000,000.00
Interest Income (Estimated)	\$ 10,000.00
Income from Project Applications (Estimated)	\$ 1,500.00
Returned Commitments	<u>\$ 163.23</u>
	\$ 3,837,407.65
Administrative Commitments	\$( 110,000.00)
Commitments 2013-2015	<u>\$( 298,530.00)</u>
	\$ 3,428,877.65

Senate Bill 2014 (2013 Legislative Session) included an amendment to "57-51.1-07. Allocation of moneys in Oil Extraction Tax Development Fund" that stated the following:

Five percent of the amount credited to the Resources Trust Fund must be transferred no less than quarterly into the Renewable Energy Development Fund, not to exceed three million dollars per biennium.

Renewable Energy Development Fund (54-63-04, N.D.C.C.) – Continuing appropriation. The Renewable Energy Development Fund is a special fund in the state treasury. All funds in the Renewable Energy Development Fund are appropriated to the Industrial Commission on a continuing basis for the purpose of carrying out and effectuating this chapter. Interest earned by the Fund must be credited to the Fund.

Ms. Andrea Pfennig, Department of Commerce, discussed the Renewable Energy Council's recommendation regarding Grant Round 22 application: "Solar Soaring Power Manager"; Submitted by Packet Digital; Request for \$500,000; Total Project Costs \$1,010,000; Project Duration: 9 months. (A copy of the application is available in the Commission files.) She indicated that the primary objective of this project is to enable a persistent, low-altitude UAS to initially double fly times and ultimately provide unlimited endurance. This will be achieved by:

- Harnessing solar energy with high efficiency, flexible photovoltaics,
- Autosoaring technology to enable the UAV to autonomously gain lift from rising hot air, and
- Advanced power management algorithms.

She noted the partners in the project and stated it was a multi-phase project.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the recommendation of the Renewable Energy Council to fund the grant application "Solar Soaring Power Manager (Phase 1)" and authorizes Karlene Fine, Industrial Commission Executive Director, to execute an agreement with Packet Digital to provide a total of Industrial Commission Renewable Energy Program funding in an amount not to exceed \$500,000. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Renewable Energy Program business, Governor Dalrymple adjourned this portion of the meeting at 1:40 p.m. and the Commission took up WAWSA business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Also

Present: Jaret Wirtz, WAWSA  
Cory Chorne, WAWSA  
DeAnn Ament, Public Finance Authority  
Eric Hardmeyer, Bank of North Dakota  
Bob Humann, Bank of North Dakota  
Chad Johnson, Bank of North Dakota  
Tom Redmann, Bank of North Dakota  
Members of the Press

Governor Dalrymple called the Western Area Water Supply Authority portion of the Industrial Commission meeting to order at 1:42 p.m. following completion of Renewable Energy Program business.

Ms. Karlene Fine, Industrial Commission Executive Director, presented the following Western Area Water Supply Authority monthly financial reports and Debt Reduction Report: (The entire report is available in the Commission files.)

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

Attached is the Western Area Water Supply Authority (WAWS) financial information for the month of August and for the thirteen months ending August 31, 2014.

Pages 1 & 2 were prepared by the Bank of North Dakota reflecting debt service payments. One payment was made on September 2, 2014 but is reflected in the August financial information. There were two principal prepayments in August consisting of:

- total interest prepayments of \$118,575.80, and
- total principal prepayments of \$2,463,575 which were applied to debt service payments due in 2015. This principal prepayment was applied to the debt service owed on BND Loan #1 (Original loan was \$50,000,000 and with the August prepayments the principal owed is now down to \$41,334,656). On this particular loan WAWS has now made principal prepayments totaling \$8,665,344.

The next 3 pages (pages 3, 4 & 5) I prepared based on the information provided by WAWS staff reflecting revenues and expenses and showing net income. Per our discussion last month I have separated out the prepayments from the revenues and expenses. (see yellow highlighted line item) With that adjustment the net income for the month of August was **\$1,349,986.13**. Revenues in August were \$2,988,199.64. -- the third highest month so far in 2014, Page 6 is the balance sheet prepared by WAWS staff as of July 31, 2014. As noted on the Balance Sheet the Accounts Receivable are \$4,941,332.37. In addition we have added Page 7 which reflects the outstanding loans that are being serviced by the Bank of North Dakota.

Governor Dalrymple stated that Mr. Wirtz appeared two days ago in front of the Water Commission and did a good job of briefing the Water Commission on everything going on out there including growth and the strategy of the industrial sales. He thought the Water Commission

appreciated learning more about how you approach this from a management standpoint. The Water Commission did approve the Crosby Depot project because they are required by law to approve anything that changes the WAWS depots. They did that but the Industrial Commission still has to approve it as well because it is a capital expenditure.

Mr. Jaret Wirtz, Western Area Water Supply Authority Executive Director, discussed the proposed Crosby Depot relocation expenditure. He indicated that the two projects he had previously discussed with the Commission - 2<sup>nd</sup> Street Project and Tioga depot - have been put on hold. The Crosby Depot is still being considered with the Water Commission having approved it earlier in the week. He is now coming to the Commission for funding. He reviewed the cost estimate he proposed back in April. (A copy is available in the Commission files.) He said he thinks they can get it done at a lower cost but he wanted to make sure he didn't have to come back and ask for additional money. He does not have land costs included in this price but didn't think they would see land costs like they see around Williston – we could get something between \$5,000 and \$15,000 per acre for three to five acres. He said they have not found an actual place but they have possibilities. Some are estimated costs depending on how far they get pushed out of Crosby. He indicated that they wanted to be able to use both the ground water source that is available along with the WAWS water that would be piped in.

In response to a question he stated that the current depot is in the middle of town by the elevator. It had originally been set up for agriculture producers and there is the possibility that they would leave that site so it could continue to be used by ag producers.

Mr. Wirtz noted that the relocated depot would have two cold water ports; would have heated pads and would have the same fill station improvements that the Commission had previously approved. He indicated that this was being proposed to attract more sales and to provide a more convenient site for industrial users.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission, after a favorable recommendation from the State Water Commission, authorizes the Western Area Water Supply Authority to proceed with the following capital project:**

**Construction of the Crosby Depot in an amount not to exceed \$1,153,000**

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

Mr. Wirtz discussed a potential capital improvement expenditure as follows: (Copies of the maps are available in the Commission files.)

RE: Capital Project Request

On Friday, September 12, I received the following message from Jaret Wirtz, WAWS:

The McKenzie County Water Resource District (MCWRD) currently receives water from Ft. Berthold Rural Water to service water to the System 2 Rural Water system in eastern McKenzie County through a contract signed prior to the establishment of WAWS. The MCWRD has paid a significant amount of money funded through grants and loans to obtain 225 gpm. To date, the MCWRD has only received approximately on average 150 gpm from the Ft. Berthold Rural Water to service the rural system and the Keene water depot. In November, the transmission line from Watford City to Keene will be complete and the rural water system and the Keene Depot will be operated with WAWS water. Since the water from each source is treated at different levels and with different chemicals it makes it very difficult to mix these two sources and maintain water quality standards. Therefore, MCWRD will need to shut off the source from Ft. Berthold that feeds into the MCWRD rural system. Although this is a limited amount of water we still would like to keep this contract enacted and continue to utilize this source. In order for WAWS to do this in the short term, we will need to set up a temporary depot site. The proposed plan is to bring the Ft. Berthold water into a leased site directly across Highway 23. This would involve boring a line across the highway and setting up temporary storage tanks in order to sell the water. Some sort of temporary metering system would need to be installed in order for this to operate. This temporary setup would only last until a more permanent solution can be obtained or negotiated. It would be our request to the Industrial Commission for WAWS to proceed with this proposal and come up with some costs to present to the Industrial Commission at a future date.

Jaret will be at the September 17 meeting to go over this request. North Dakota law states the following:

*The state water commission shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after the effective date of this Act. (emphasis added)*

I have contacted the Water Commission to find out if it is their determination that they will need to act on this matter before the Industrial Commission could approve spending for this project.

Mr. Wirtz reviewed the request and discussed with the Commission a number of issues related to this situation:

- contract with the Fort Berthold Rural Water District,
- the volume of water they receive from the Fort Berthold Rural Water District which is a breach of their contract,
- what has been done to resolve the breach in the contract,
- the new water transmission line that WAWS has brought into the Keene area and who it will service,
- the value of the water for both domestic and industrial sales,
- the quality of the water,
- costs for blending the water from the WAWS pipeline and the Fort Berthold Rural Water District,
- the need for storage and a temporary facility to sell water to industry (allowing WAWS to continue to utilize the water they do get from the Fort Berthold Rural Water District),
- location of the water pipelines in this area,
- location and possible costs for a temporary facility, and
- demand for water in that area and the locations of the other sources for water

After considerable discussion, Governor Dalrymple said the request is to get estimates for the depot and maybe study the financial pay back on it. He did not see anything wrong with that

**It was moved by Attorney General Stenejem and seconded by Commissioner Goehring that the Industrial Commission authorizes the Western Area Water Supply Authority to proceed with getting estimates for a temporary water depot in order to continue to utilize the water that comes from Ft. Berthold Rural Water per the contract with the McKenzie County Water Resource District and the Ft. Berthold Rural Water and report back to the Industrial Commission with a recommendation. On a roll call vote, Governor Dalrymple, Attorney General Stenejem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Wirtz said he will be giving Ms. Fine, the Governor's staff and Water Commission staff a briefing on Friday which will be an overall picture and it is what he will give the Commission in October – an overall plan.

Mr. Wirtz indicated that the water sales for the month of September have been going good. He is expecting another good month.

Being no further WAWSA business, Governor Dalrymple adjourned this portion of the meeting at 2:11 p.m. and the Commission took up Public Finance 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 September 17, 2014 beginning 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  
Bob Humann, Bank of North Dakota  
Chad Johnson, Bank of North Dakota  
Tom Redmann, Bank of North Dakota  
Members of the Press

Governor Dalrymple called the Public Finance Authority portion of the Industrial Commission meeting to order at 2:11 p.m. following completion of WAWSA business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a proposed Reimbursement Resolution which provides for reimbursement of certain costs for the State Revolving Fund Programs. She said the Internal Revenue Service requires that when the Public Finance Authority issues bonds the Authority has to meet certain spend downs--30 percent of the bond proceeds must be spent in one year and 95 percent of the bond proceeds spent in three years. Reaching these spend down levels is generally not an issue although in 2008 this was a matter that the Authority had to deal with. One way that the Authority is able to meet those spend down requirements is to have a Reimbursement Resolution in place. The Reimbursement Resolution states that the money the Authority is spending now to fund loans which is not from bond proceeds the Authority can reimburse itself with those bond proceeds and effectively meet the IRS spend down requirements. The proposed Reimbursement Resolution establishes the limits for the reimbursements to be up to \$105 million for the Clean Water Program and up to \$60 million for the Drinking Water Program. She noted that there is an 18-month look back under the proposed resolution.

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

RESOLUTION PROVIDING FOR REIMBURSEMENT OF CERTAIN COSTS FOR  
THE STATE REVOLVING FUND PROGRAMS

WHEREAS, the North Dakota Public Finance Authority (the "Authority") is duly constituted as an instrumentality of the State of North Dakota exercising public and governmental functions under the operation, management and control of the Industrial Commission of North Dakota (the "Industrial Commission"), pursuant to Chapter 6-09.4, North Dakota Century Code (the "Act");

WHEREAS, pursuant to the Act, the Authority is authorized to issue bonds and to make loans to political subdivisions of the State of North Dakota and certain other entities through the purchase of municipal securities and other obligations;

WHEREAS, the Legislative Assembly of North Dakota has established a revolving loan fund (the "Clean Water State Revolving Fund" or "Clean Water SRF") pursuant to Chapter 61-

28.2, North Dakota Century Code (the “Clean Water SRF Act”) to be maintained and operated by the North Dakota Department of Health (the “Department”) to provide for loans for the design, construction and rehabilitation of wastewater treatment facilities and certain other activities in accordance with Title VI of the Clean Water Act (the “Clean Water Program”);

WHEREAS, the Legislative Assembly of North Dakota has established a revolving loan fund (the “Drinking Water State Revolving Fund” or “Drinking Water SRF”) pursuant to Chapter 61-28.1, North Dakota Century Code (the “Drinking Water SRF Act”) to be maintained and operated by the Department to provide for loans for expenditures on public water systems and certain other activities in accordance with the Safe Drinking Water Act (the “Drinking Water Program”);

WHEREAS, the Industrial Commission, acting pursuant to provisions of the Act, the Clean Water SRF Act, and the Drinking Water SRF Act, and pursuant to the Amended and Restated Master Trust Indenture dated as of July 1, 2011, between the Authority and the Bank of North Dakota, as Trustee, as amended (the “Master Trust Indenture”) expects to authorize and direct the issuance by the Authority of a future series of its State Revolving Fund Program Bonds (the “Bonds”);

WHEREAS, the Authority desires to fund additional projects pursuant to the Clean Water Program and the Drinking Water Program with amounts on deposit in the Federally Capitalized Loan Accounts and Unrestricted Cumulative Excess Subaccounts (the “Accounts”) and, at a later date as determined in the discretion of the Executive Director, and in compliance with Treas. Reg. §1.150-2, reimburse those Accounts of the Clean Water Program and the Drinking Water Program from the proceeds of subsequent Bonds issued pursuant to the Master Trust Indenture;

NOW THEREFORE, BE IT RESOLVED BY THE INDUSTRIAL COMMISSION OF NORTH DAKOTA, AS FOLLOWS:

Section 1. Definitions. All terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Master Trust Indenture.

Section 2. Purpose and Expectations. The Industrial Commission declares that it intends for the Authority to undertake the making of Loans pursuant to the Clean Water Program and the Drinking Water Program with amounts on deposit in the Accounts and to reimburse the Accounts for expenditures made for costs of the Loans out of the proceeds of the Bonds. This declaration is a declaration of official intent adopted pursuant to Treas. Reg. §1.150-2.

Section 3. Timing and Amount of Reimbursement. Reimbursement allocations made under the provisions of this resolution shall be made within 18 months of the date hereof and shall not exceed \$165,000,000 in aggregate principal amount consisting of up to \$105,000,000 for the Clean Water Program and up to \$60,000,000 for the Drinking Water Program. The Executive Director shall be responsible for the timing and amount of the reimbursement allocations. Each allocation shall be evidenced by an entry on the official books and records of the Authority maintained with respect to the Bonds.



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

Ms. Ament presented a Clean Water State Revolving Fund Program loan request for Ward County Water Resource District in the amount of \$2,564,022. She said this is to finance sanitary sewer to existing homes and businesses south of the Minot area and those would connect to the sewer trunk line. The loan payments would come from twenty year improvement bonds payable by special assessments. If the water district is unable to make the payments then Ward County is the backstop for this borrowing. The Advisory Committee recommended approval of the loan.

**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 Ward County Water Resource District (the "Political Subdivision") has requested a loan in the amount of \$2,564,022 from the Program to finance connecting users to Minot's sewer trunk line; 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 Clean Water State Revolving Fund Program loan request for the City of Williston in the amount of \$125,600,000. She said this is to construct their mechanical waste water treatment facility. They will be issuing sewer revenue bonds. They will be able to pay their operations and maintenance (O&M) costs and their debt service from the Gross Production Tax. Indications are that the city will try to pay this down faster than the scheduled twenty year payments. The Advisory Committee recommended approval.

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

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 Williston (the "Political Subdivision") has requested a loan in the amount of \$125,600,000 from the Program to finance construction of a mechanical wastewater 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 memorandum regarding increase in Drinking Water SRF loan to Barnes Rural Water District in the amount of \$946,171 (total of \$2,605,171) as follows:

**Re:** Barnes Rural Water District, Drinking Water State Revolving Fund 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 Barnes Rural Water District (BRWD) requesting a \$946,171 increase (total \$2,605,171) to their \$1,659,000 loan approved in August under the Drinking Water State Revolving Fund (DW SRF) to finance an addition to the water treatment plant which will increase water treatment capacity. Construction will begin in 2014 and be completed in 2015. Total construction costs for this project will be \$3,915,171 with a \$1,310,000 grant from the State Water Commission (SWC) providing the remainder of the funding. BRWD is also applying to the SWC for a grant to cover a portion of the increase. The requested term for the DW SRF loan is 20 years. BRWD will issue revenue bonds payable with user fees.

The loan was approved by the Public Finance Authority's Advisory Committee the September 11, 2014 Advisory Committee meeting.

Governor Dalrymple said he has talked with Ms. Ament about an idea to possibly create a state funded loan fund for political subdivision infrastructure that falls through some of the gaps in what the State currently can do through the Public Finance Authority and other programs targeting more to the non-water supply and smaller communities situations. The only relevant thing is that if this continues to progress, that Public Finance Authority would be asked to oversee it. It is right up the same alley that Ms. Ament does already but it would be funds that are more flexible for some situations that the Public Finance Authority cannot do right now. He wanted the Commission to know that the Public Finance Authority would probably wind up being asked to be the overseer of the program.

Ms. Ament said they are looking at something to fill the gaps and something below market ideally, not competing with the State Revolving Loan Program so looking at 2.5 percent interest rate. The way the bill draft is now it would be tiered to the population growth rate of the communities – looking at the growth from 2012 to 2013 and looking at any community that has grown greater than six percent would be eligible up to twenty million dollars in a biennium. She said the vision for this would be to provide water, sewer, streets, curb and gutter so that communities could hopefully put in lower cost infrastructure in the hopes that more affordable housing could be available in those communities. There was discussion regarding the concept

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September 17, 2014

and noting that the Public Finance Authority would be using the Bank of North Dakota's Trust Department to assist with this program.

In response to a question, Ms. Ament said Representative Bob Frantsvog will sponsor the bill. She is meeting with the League of Cities and giving a presentation to them.

Being no further Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting at 2:24 p.m. and the Commission took up Bank of North Dakota business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on September 17, 2014 beginning 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: Bob Humann, Bank of North Dakota  
Chad Johnson, Bank of North Dakota  
Tom Redmann, Bank of North Dakota  
Members of the Press

Governor Dalrymple called the Bank of North Dakota portion of the Industrial Commission meeting to order at 2:25 p.m. following completion of Public Finance Authority business.

Mr. Bob Humann, Bank of North Dakota Senior Vice President, discussed amendments to the General Loan Policy. (A copy of the full memorandum and attachments is available in the Commission files.) He summarized the changes.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approves the amendments to the General Loan Policy, contingent upon Bank of North Dakota Advisory Board approval, as stated in the following September 11, 2014 memorandum from Mr. Bob Humann:**

Page 5

**Loan Approval** – Extend the number of days for construction loan commitments

An initial commitment by the Bank to make a direct loan or to participate in a loan may not exceed 180 days. In the event that BND is not a party to the construction or bridge financing provided to a borrower, but has committed to provide permanent financing to that borrower, the Bank may extend up to a 12-month commitment to accommodate the construction or installation phase.

Page 12-13

**Discretionary Lending Authority on Loans Risk Rated 1-4** (the old 10% Rule)

For a credit relationship which has the approval of the Investment Committee, the Advisory Board or the Industrial Commission, it will be within the authority of the Ag Loan Manager, Commercial Loan Manager or Senior Vice President/Lending Services to approve an increase in BND exposure equal to the respective lending authority of the Loan Managers or Senior Vice President without further action by the Investment Committee, Advisory Board or Industrial Commission. For a credit relationship which has been approved only at the Investment Committee level, this discretionary authority is subject to a cap of \$10,000,000 for overall exposure.

For a credit relationship which has the approval of the Advisory Board or Industrial Commission, it will be within the authority of the Investment Committee to approve an increase in BND exposure equal to \$5,000,000 without further action by either the Advisory Board or Industrial Commission. The Investment Committee minutes will specifically note action taken under this rule.

For a credit relationship which has not previously required the approval of the Advisory Board or the Industrial Commission, it will be within the authority of the Investment Committee to approve an increase in BND exposure not to exceed \$1,000,000 without further action by either the Advisory Board or Industrial Commission despite the fact that the additional exposure may exceed the \$10,000,000 loan approval level granted to Investment Committee. The Investment Committee minutes will specifically note action taken under this rule.

**COMMENTS:** Changes to the “10% rule” include defining the authority of the Loan Managers and SVP of Lending in terms of a definite dollar amount tied to their individual lending limits, providing the Investment Committee authority to extend up to an additional \$5,000,000 on credit relationships approved previously by the Advisory Board and IC, and allowing the Investment Committee \$1,000,000 of additional authority on credit relationships which have not been previously approved by the Board and IC even though the additional exposure may exceed the \$10,000,000 approval level of the Investment Committee

**Advisory Board & Industrial Commission**

\*\*Loans in excess of \$5,000,000 with a BND risk rating codes of 5-8 must be approved by the Advisory Board and Industrial Commission. For a credit relationship which exceeds \$10,000,000, the Investment Committee may renew the loan without further action by the Industrial Commission provided: 1) the loan has a risk rating code of 4 or better; 2) the quality of the loan has not deteriorated; and 3) the Advisory Board and Industrial Commission have previously approved the loan.

**COMMENTS:** The changes to this section include increasing the 5-8 risk rating approval requirement up from \$3,000,000 to \$5,000,000 as proposed, and allowing the Investment Committee (versus the Advisory Board) to approve renewal of a qualifying credit which has been previously approved by the Advisory Board and IC.

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**ATTACHMENTS** – Loan programs are attached and at the request of the Department of Financial Institutions the following guidelines are attached.

The attachments which follow are made a part of this loan policy. The attachments are generally focused on loan programs, administrative issues, or guidance relative to the Bank’s credit culture. These topics tend to be subject to frequent modification as a result of changes in:

- Regulatory environment
- Economy of the state or nation
- The Bank’s appetite for risk due to concentration issues or other factors

Due to this need to react to changes in the Bank’s environment, the Bank’s Investment Committee will have the authority at any time to amend or make additions to the Loan Policy attachments in order to address issues associated with administration of the Bank’s assets or its credit culture. The Investment Committee minutes will specifically note action taken with regards to changes in the attachment section of the Loan Policy.

Guidelines will be attached in this order:

Pages 70-74

E1 – CREDIT CULTURE AND UNDERWRITING GUIDANCE

Pages 75-78

E2 – ALLOWANCE FOR CREDIT LOSSES METHODOLOGY

Page 79

E3 – APPRAISAL REVIEW GUIDELINES

Pages 80-81

E4 – CONCENTRATION REPORTING CLASSES

Pages 82-85

E5 – TROUBLED DEBT RESTRUCTURING GUIDANCE AND TRACKING

Page 24

**FARM REAL ESTATE LOANS** – Increase the maximum amount from \$2 million to \$3 million

A farm real estate loan must be secured by a first mortgage on farm real estate in North Dakota and may not exceed 75% of the current appraised value of the farm real estate subject to the mortgage or \$3,000,000, whichever is less.

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**MATCH** – Numerous changes that clarify that any investment grade company may qualify, that simplifies the rate option to .25% over the 1 to 5-year US Treasury Yield Rate, and clarifies the options for credit enhancements in the absence of an investment grade rating.

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**FLEX PACE / FLEX PACE FOR AFFORDABLE HOUSING** – adding language to FLEX PACE to address the Affordable Housing feature

**Qualified Businesses –**

These options within the PACE Program will provide interest buydown to non-PACE qualifying businesses for which the Community determines eligibility and accountability standards, Flex PACE will allow communities the ability to provide assistance to businesses that would not meet the current requirements of PACE such as jobs retention, technology creation, retail, smaller tourist businesses, single or multi-family housing units intended for rental and essential community businesses. In the case of Flex PACE for Affordable Housing, the program specifically targets the financing of affordable multi-family housing units.

**Jobs Qualification –**

Jobs creation will not be a requirement of Flex PACE or Flex PACE for Affordable Housing, but jobs will be tracked for informational purposes.

**FLEX PACE / Flex PACE for Affordable Housing Funding –**

Each biennium, the Bank's Investment Committee will designate a dollar amount of the available PACE funds for Flex PACE and FlexPACE for Affordable Housing. This designation is not an exclusive reservation of the funds and therefore will be available for other PACE eligible projects. The cumulative amount of PACE funds available per biennium under Flex PACE and Flex PACE for Affordable Housing to a North Dakota community or an individual borrower will be determined by the Bank's Investment Committee.

**FLEX PACE Parameters –**

Existing PACE Program parameters (ex. interest rate buydown maximum, community match, BND participation amount, default) will apply to Flex PACE. The parameters also apply to Flex PACE for Affordable Housing; however, the maximum buydown amount may be up to \$500,000 per project and will be determined by the Bank's Investment Committee.

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**STATE WATER COMMISSION INFRASTRUCTURE REVOLVING LOAN FUND** – New Program (C8) effective January 1, 2015 with an estimated \$53 million of available funds from the Resource Trust Fund.

BND administers the State Water Commission Infrastructure Revolving Loan Fund established by N.D.C.C. § 61-02-78. The fund was established to provide loans for water supply, flood protection, or other water development and water management projects. This fund is a revolving loan fund.

Projects which are not eligible for the state revolving fund will be given priority for these funds. Refinancing of existing debt or other obligations will not be allowed.

**Loan Amount –**

The maximum amount of a loan may not exceed the project costs, with the maximum loan limits to be determined by the ND State Water Commission.

**Interest Rate –**

The interest rate established for this program has been set at 1.5% with the fund receiving 1.0% and BND receiving a .50% service fee.

**Repayment Terms –**

Amortized payments over a term to be determined by the ND State Water Commission.

**Collateral –**

BND may take all steps necessary and appropriate to preserve security under this program.

**Application Process –**

All applications for loans under this program must be made to the ND State Water Commission office.

The ND State Water Commission shall consider the following information when evaluating projects:

- A description of the nature and purposes of the proposed infrastructure project, including an explanation of the need for the project, the reasons why it is in the public interest, and the overall economic impact of the project.
- The estimated cost of the project and the amount of the loan sought and other proposed sources of funding.
- The extent to which completion of the project will provide a benefit to the state or regions within the state.

The Commission shall approve projects and loans from the infrastructure fund and shall provide written notice of each approved application to BND.

BND shall manage and administer loans from the infrastructure fund. BND will require the following items from the applicant:

- Application
- Conditional and firm commitment from the ND State Water Commission
- Any other data or documentation as deemed necessary

BND may use legal counsel to document and close the loan as deemed necessary. BND may recover from the revolving loan fund amounts actually expended by it for legal fees incurred.

Adopted: September \_\_, 2014

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**DAKOTA EDUCATION ALTERNATIVE LOAN (DEAL)** – Reflect the addition of the DEAL One Loan program.

BND may participate in a consolidation loan program which refinances all eligible education loans (as determined by BND's Investment Committee) and combines them into a single DEAL Consolidation or DEAL One Loan.

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**CRITICAL FINANCIAL NEED PROGRAM FOR POLITICAL SUBDIVISIONS** – New program D9

**Loan Purpose –**

BND will provide a direct loan to political subdivisions that are receiving gross production taxes and experiencing critical financial needs. The political subdivision will be encouraged to pursue all other available State financing alternatives prior to approaching BND. The loan amount will be determined by BND and the local political subdivision.

**Repayment –**



Monthly amortized payments over a maximum period of 10 years. The maximum loan amount will not exceed the available political subdivision's revenue sources that can be pledged over a 10-year period minus the estimated interest costs.

**Interest Rate –**

The interest rate established for this program has been set at 1.5% over the 30-day LIBOR adjusted monthly with a floor of 1.75%.

**Repayment Terms –**

Monthly amortized payments not to exceed 10 years.

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

In response to questions Mr. Human updated the Commission on what is currently happening with the DEAL One program--the volume the Bank is seeing, the rates, who is eligible, maximum loan amounts, how the program is being promoted, etc.

Mr. Humann presented the non-confidential Bank of North Dakota Advisory Board July 17, 2014 meeting minutes.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission close the meeting pursuant to N.D.C.C. §44-04-18.4 to discuss commercial and financial information including marketing and sales plans regarding the State Mill and the Mill's customers. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Governor Dalrymple closed the meeting at 2:45 p.m. pursuant to North Dakota Century Code 6-09-35 to discuss the items on the agenda under Bank of North Dakota confidential business.

**Following the confidential portion of the meeting, the Commission reconvened in non-confidential session at 3:07 p.m. and it was noted that during the confidential portion of the meeting, it had been moved and seconded that the Bank of North Dakota be authorized to participate in loans identified as Attachments 27 & 28. 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 at 3:07 p.m. and the Commission took up State Mill non-confidential 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 September 17, 2014 beginning 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: Vance Taylor, State Mill  
Ed Barchenger, State Mill  
Bob Humann, Bank of North Dakota

Governor Dalrymple called the State Mill portion of the Industrial Commission meeting to order at 3:07 p.m. following completion of Bank of North Dakota business.

Mr. Vance Taylor, State Mill President and General Manager, discussed the State Mill's current situation with additional customer demand exceeding the Mill's capacity to mill flour. He said the Commission this past April had approved funding to expand the B-Mill to 11,500 cwt. per day (a 3,500 cwt. per day increase). He noted that it has now become apparent that increased customer demands will likely prevent the down time needed to complete the B-Mill expansion project and, even after that is completed, customer demand will exceed the Mill's milling capacity. He presented a proposed solution of modifying and adding to the existing B-Mill expansion project to include a new wheat cleaning and mill building for a separate 11,500 cwt per day milling unit. (A copy of the handout is available in the Commission files.) He explained that with this plan, the existing B-Mill would stay as is. The equipment on order for the B-Mill expansion project combined with additional equipment would be used to construct a new milling unit. The proposed wheat cleaning and mill building would allow space for future additional milling capacity – another milling unit of similar size. The additional costs for the wheat cleaning and mill building and additional milling equipment, installation and electrical is \$19.8 million with a payback period of 5.6 years.

Mr. Taylor reviewed the assumptions and analyses the Mill management had used and discussed with the Commission how this project is necessary to meet the increasing demands of the Mill's current customers and will facilitate the continued growth of the business. This project will also create additional demand for over 7,500,000 bushels of North Dakota Hard Red Spring Wheat per year. He indicated that the plan is to complete the project about this time next year with a total project cost of \$27,800,000.

In response to a question, Mr. Taylor indicated that is an aggressive schedule to get the project done in one year. However, because a portion of the equipment has already been ordered he thought it might be possible to do so.

He provided the Commission with preliminary drawings of how the new milling unit would fit alongside the other Mill buildings.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission amend the Capital Plan and rename the B Mill Capacity Increase line item to North Dakota Mill Capacity Increase and amend the amount by \$19,815,000.**

Governor Dalrymple noted that he was interested in how this would impact other capital projects that are being contemplated. Mr. Taylor stated he is still working on various capital projects and will be providing an update at a future meeting. Those projects have been taken into consideration in regards to capital expenditures and how those expenditures would be impacted by the costs of the project that is being discussed.

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

Being no further State Mill business, Governor Dalrymple adjourned this portion of the meeting at 3:15 p.m. and the Commission took up Oil and Gas Research Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on September 17, 2014 beginning 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: Brent Brannan, Oil and Gas Research Program  
Bruce Hicks, DMR-Oil and Gas Division  
Members of the Press

Governor Dalrymple called the Oil and Gas Research Program portion of the Industrial Commission meeting to order at 3:15 p.m. following completion of State Mill business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the Oil and Gas Research Program Financial Report as follows:

Oil and Gas Research Fund  
Financial Statement  
**2013-2015 Biennium**  
September 15, 2014

	<u>Cash Balance</u>
July 1, 2013 Balance	\$ 3,875,671.18
Revenues through July 31, 2014	\$10,005,218.49
Transfer to the Pipeline Authority Fund	\$( 200,400.00)
Expenditures through July 31, 2014	<u>\$(4,965,820.45)</u>
	<b>\$ 8,714,669.22</b>
Outstanding Administration Commitment	\$ (212,376.70)
Outstanding Project Commitments as of July 31, 2014*	<u>\$(6,457,201.00)*</u>
Balance	<b>\$ 2,045,091.52*</b>

Oil and Gas Research Fund  
Continuing Appropriation Authority  
2013-2015 Biennium

Uncommitted Balance July 1, 2013	\$ 000.00
Carried Over Administration Allocation	\$ 32,106.18
Projected Income from Project Applications & Interest	\$ 20,000.00
Revenues (2% of State's Share of Oil Tax Revenues)	\$10,000,000.00
Unused commitment from 2011-2013 biennium	<u>\$ 200,000.00</u>
	\$10,252,106.18
Transfer to Pipeline Authority	\$ (200,400.00)
Administration Commitment	\$ (332,706.18)
Approved Project Commitments 2013-2015	\$ (200,000.00)
Carried over Project Commitments for 2013-2015	<u>\$(7,459,127.00)</u>
<b>Available Funding</b>	<b>\$ 2,059,873.00*</b>

**57-51.1-07.3. Oil and gas research fund - Deposits - Continuing appropriation.**

*There is established a special fund in the state treasury to be known as the oil and gas research fund. Before depositing oil and gas gross production tax and oil extraction tax revenues in the general fund, property tax relief sustainability, strategic investment and improvements fund or the state disaster relief fund, two percent of the revenues must be deposited monthly into the oil and gas research fund, up to ten million dollars per biennium. All moneys deposited in the oil*

*and gas research fund and interest on all such moneys are appropriated as a continuing appropriation to the council to be used for purposes stated in chapter 54-17.6.*

\*This amount does not include research funding for:  
Contract G-028-058 with \$1,100,000 to be expended in the 2015-2017 biennium;  
Contract G-030-060 with \$2,000,000 for to be expended in the 2015-2017 biennium.

Mr. Brent Brannan, Oil and Gas Research Program Director, presented the Oil and Gas Research Council Grant Round 33 recommendation. He said the Program started out with four applications for this grant round and one application has been recommended by the Oil and Gas Research Council for the Commission's consideration as follows:

G-033-04: "Integrated Waste Screening System Demonstration"; Submitted by Battelle Energy Alliance and C3; Project Duration: 6 months; Total Amended Request: \$200,000 (Phase 1); Total Amended Project Costs: \$400,000 (Phase 1); OGRC Recommendation: \$200,000. (A copy of the summary page and proposal are in the Commission files.) He summarized the purpose of the project as follows:

*Significant quantities of TENORM (Technologically Enhanced Naturally Occurring Radioactive Material) are now being produced in North Dakota that require new waste sorting, treatment and disposal methods. New approaches to address TENORM waste characterization and disposal from the Bakken shale need to be developed. Characterization and segregation of TENORM waste can significantly reduce:*

- *the amount of waste generated that needs an engineered disposal path;*
- *the risk of potential environmental and human contamination;*
- *radiation exposure; and*
- *disposal costs to the state and the oil and gas industry.*

*The project intends to clearly demonstrate to the oil and gas industry, the State of North Dakota, insurance companies and the US EPA that an acceptable low-cost low-manpower solution to on-site waste segregation can be made available and implemented quickly in North Dakota utilizing existing oil field staff.*

Mr. Brannan said two technical reviewers recommended funding, one said consider funding and he is recommending to fund in the amount of \$200,000 separating the application into two phases. There were no conflicts of interest and the Council vote was six to zero with one absent and not voting.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accept the Oil and Gas Research Council recommendation to fund the grant application "Integrated Waste Screening System Demonstration (Phase 1)" and to authorize Karlene Fine, Industrial Commission Executive Director, to execute an agreement with Battelle Energy Alliance and C3 Corporation to provide Industrial Commission Oil and Gas Research Program funding in an amount not to exceed \$200,000. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Minutes - Page 3  
September 17, 2014

Being no further Oil and Gas Research Program business, Governor Dalrymple adjourned this portion of the meeting at 3:19 p.m. and the Commission took up Department of Mineral Resources business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on September 17, 2014 beginning 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: Bruce Hicks, DMR-Oil and Gas Division  
Members of the Press

Governor Dalrymple called the Department of Mineral Resources portion of the Industrial Commission meeting to order at 3:19 p.m. following completion of Oil and Gas Research Program business.

Mr. Bruce Hicks, Oil and Gas Division Assistant Director presented orders for the following cases heard on August 27 & 28, 2014: (Copies of the orders are available in the Commission files.)

Case 22374, Order 24709 - petition for recovery of risk penalty  
Case 22375, Order 24710 - petition for recovery of risk penalty  
Case 22376, Order 24711 - petition for recovery of risk penalty  
Case 22377, Order 24712 - petition for recovery of risk penalty  
Case 22378, Order 24713 - petition for recovery of risk penalty  
Case 22379, Order 24714 - petition for recovery of risk penalty  
Case 22380, Order 24715 - petition for recovery of risk penalty  
Case 22381, Order 24716 - petition for recovery of risk penalty  
Case 22387, Order 24722 - petition for recovery of risk penalty  
Case 22388, Order 24723 - petition for recovery of risk penalty  
Case 22389, Order 24724 - petition for recovery of risk penalty  
Case 22390, Order 24725 - petition for recovery of risk penalty  
Case 22391, Order 24726 - petition for recovery of risk penalty

Mr. Hicks said these thirteen cases were combined, they were all very similar and they combined them at the hearing. They are cases where Emerald Oil, Inc. is requesting authority to recover a risk penalty from certain non-participating owners. He reviewed the circumstances of what had happened between Emerald Oil, Spring Creek Exploration & Production Company and Zavanna. (Spring Creek Exploration & Production Company merged with Zavanna. He noted that the Commission had received a motion to dismiss, motion to continue and objection from Zavanna's counsel as the matters are subject to prior contracts that are currently being litigated in District Court.

Mr. Hicks noted that there have been negotiations going on between the parties regarding land trades which did not go forward. He reviewed the evidence that had been put into the record. The law is very clear that they have thirty days to elect to participate and it has to be in writing and it has to be received by the applicant within that thirty day period. Technically, they are in default and subject to the risk penalty and that is what the proposed orders state. The proposed orders deny the motion for a dismissal or continuance and authorize the recovery of a risk penalty.

In response to a question, Mr. Hicks reviewed what was stated at the hearing about the negotiations between the parties -- statements that had been made verbally but never documented. They indicated that if the trade would have gone through, everything would have been fine but there was nothing in writing. There was no documentation that if the trade did not go through, that any extensions were granted beyond that time period. Zavanah has never indicated that they would elect or not elect to participate on any of

these wells and some are a year old. Now they want additional time to evaluate whether they would participate in the wells.

In response to a question, Mr. Hicks said the application is to assess the 200 percent risk penalty on Zavanah's interests filed by Emerald. Emerald filed the request to get the 200 percent penalty because Zavanah in fact opted not to participate by not signing the invitation within thirty day time period they had.

**Case 22374:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24709 issued in Case 22374, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22375:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24710 issued in Case 22375, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22376:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24711 issued in Case 22376, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22377:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24712 issued in Case 22377, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22378:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24713 issued in Case 22378, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22379:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24714 issued in Case 22379, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22380:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24715 issued in Case 22380, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor



**Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

**Case 22381:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24716 issued in Case 22381, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22387:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24722 issued in Case 22387, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22388:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24723 issued in Case 22388, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22389:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24724 issued in Case 22389, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22390:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24725 issued in Case 22390, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 22391:** It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24726 issued in Case 22391, be approved and effective this 17<sup>th</sup> day of September, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Hicks presented proposed Order 25184 in Case 22853 - an application for a 1920-acre spacing unit. (A copy of the order is available in the Commission files.) He indicated that this is a request of EOG. He distributed exhibit maps to explain the case. (Copies of the maps are available in the Commission files.) He noted the pad where EOG wishes to drill approximately twelve wells on the proposed 1,920 acre spacing unit and evaluate those wells for about a year and decide how they want to proceed in developing the remainder of the spacing unit. This is a science project to see how close they can get wells – to see if they interfere with each other.

Mr. Hicks indicated that the Oil and Gas Division staff is recommending that the application be denied as they do not believe it is protective of correlative rights. Mr. Hicks explained the reasons why they felt this way and showed on the exhibits some options that the operator should consider in developing this area that would be equitable and all the parties would be treated fairly.

He noted that the operator had also requested a reduced setback from 500 feet to 250 feet. The proposed order also denies that request. Typically, a company would come in and request a section line well and that would be required to be drilled within 250 feet of the section line and then they would take in the other off setting spacing unit on the other side – everyone would share in that well – but EOG want to reduce that 500 foot setback to 250 to allow them to drill a well on their existing spacing unit. They did not notify the other parties on the other side. We believe that it is fair if you have setbacks reduced on both sides, then you are treating everyone the same – but if you are only going to request it on one side and not the other we have an issue with that.

Because of these two main problems with the applicant's request they are recommending denial of the application.

In response to a question, Mr. Hicks said the proposed spacing unit is both in and outside of the Fort Berthold Indian Reservation (FBIR). He noted the tracts that are fee interests that are not tribal; they are owned by fee interests within the Reservation and would be part of the 1920 acre spacing unit. Although the wells are currently located on FBIR, there are fee interests both outside the Reservation and within it – that being the east half of Section 1. When we talk about jurisdiction on the Reservation, we believe it is our obligation to protect those fee interests and he noted a few on this map. The spacing unit itself, the 1,920 acres contains 49.8 percent trust minerals, the rest are fee interests.

**Case 22853: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 25184 issued in Case 22374 denying the application, be effective this 17<sup>th</sup> day of September, 2014.**

In response to a question, Mr. Hicks said the Commission needs to make sure the original wells stay on the 1,920 acre payout because they were drilled on that basis. Now that the operator has a different plan to develop the area, then the Commission needs to look at the spacing to see if it is still appropriate. EOG came in about six to eight months ago and had a very similar case where they had 1,920 acre spacing over three sections – they ended up drilling it differently from what they had planned and the Commission actually down spaced it. This is similar to what was done then so it should not be a surprise to the operator that their application is being denied.

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

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned this portion of the meeting at 3:40 p.m. and the Commission took up Administrative 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 September 17, 2014 beginning 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

Governor Dalrymple called the Administrative portion of the Industrial Commission meeting to order at 3:40 p.m. following completion of Department of Mineral Resources business.

Ms. Karlene Fine, Executive Director and Secretary, presented a portion of the August 26, 2014 non-confidential and confidential minutes for the Commission's consideration. She said there will be more portions of those meeting minutes to come.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the August 26, 2014 meeting minutes (non-confidential and confidential) meeting minutes that were presented. Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motions carried unanimously.**

There was discussion on what is required by law to be in the Commission minutes.

Being no further Administrative business, Governor Dalrymple adjourned the meeting at 3:50 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary