

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on January 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: Jolene Kline, Housing Finance Agency
Max Wetz, Housing Finance Agency
Vance Taylor, State Mill
Ed Barchenger, State Mill
Eric Hardmeyer, Bank of North Dakota
Members of the Press

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

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented a resolution regarding carryforward allocation of private activity bond authority for the North Dakota Housing Finance Agency. She said every year the State has a certain allocation of private activity bond cap and in 2014 none of it was used so she is recommending all of the allocation be carried forward to the Housing Finance Agency which is the only state entity that is doing bonding that might be able to use this. It is in the amount \$296,825,000.

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

RESOLUTION AUTHORIZING CARRYFORWARD PROCEDURES
FOR THE NORTH DAKOTA HOUSING FINANCE AGENCY
Preliminary Statement

The Industrial Commission of North Dakota (the "Commission") is authorized to issue North Dakota Housing Finance Agency Mortgage Revenue Bonds (the "Bonds") pursuant to Section 54-17-07.4 of the North Dakota Century Code; and

The Bonds are private activity bonds which are "qualified bonds" on which the interest income earned is not included as gross income for federal income tax purposes under Section 103 of the Internal Revenue Code for 1986, as amended (the "Code"), when an "allocation" is obtained and, if necessary, "carried forward" pursuant to Section 146 of the Code; and

Executive Order 1988-13 (the "Order") Section 2(c) requires the submission of certain documents by an issuer in order to receive a carryforward allocation.

BE IT RESOLVED by the Commission as follows:

1. The Commission authorizes the Executive Director to the Commission to submit on behalf of the Commission in its capacity acting as the North Dakota Housing Finance Agency (the "Agency") all applications and additional information which are or may be required and

requested pursuant to the Order to obtain a 2014 "carryforward allocation", as the term is described by the Code and the Order, in an amount not to exceed \$296,825,000.

2. The Commission authorizes the Governor to act on behalf of the Agency upon the advice of counsel to the Commission, as the authorized public official and representative of the Agency, in executing and submitting to the Internal Revenue Service the appropriate forms pursuant to and in compliance with all necessary (i) requirements of Section 146 of the Code, and (ii) requirements of the Order.

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

Ms. Jolene Kline discussed the appointment of Hearing Examiner for TEFRA hearing. She said annually they are required to hold a public hearing prior to the issuance of any tax exempt bonds. This is to request that she be named as the hearing office and it is scheduled for next week. The appointment is as follows:

INDUSTRIAL COMMISSION OF NORTH DAKOTA
Acting as the
NORTH DAKOTA HOUSING FINANCE AGENCY

Appointment of Public Hearing Representative
and
Order and Direction for Publication

The Executive Director of the North Dakota Housing Finance Agency (the "Agency"), is hereby appointed to represent the North Dakota Industrial Commission, (the "Commission"), acting as the Agency at the public hearing regarding the proposed issuance of Housing Finance Program Bonds, Home Mortgage Finance Program, (the "Bonds") by the Agency, to be held in Bismarck, North Dakota, on February 4, 2015 at 1:30 P.M. (CT), as noticed by the Notice of Public Hearing hereto attached.

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

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

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Jolene Kline, Executive Director of the Housing Finance Agency, be appointed as the Industrial Commission's Public Hearing Representative for the February 4, 2015 hearing on the proposed issuance of Housing Finance Program Bonds, Home Mortgage Finance Program.. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Kline gave a legislative update as follows:

RE:Legislative Update

The following is a status report on current Legislation affecting the North Dakota Housing Finance Agency:

HB 1014 contains the Agency's budget, as well as reauthorizes the Housing Incentive Fund (HIF) and provides \$30 million in income tax credit authority for contributions to HIF. The Government Operations Division of the House Appropriations committee held its first hearing on the bill on Jan. 15 and discussed housing issues again on Jan. 22.

HB 1070 was introduced by the Agency to include 501(c)(4) entities in the affordable housing property tax exemption administered by the Agency. The bill was heard by the House Finance and Taxation Committee on Jan. 7. We provided information for a fiscal note on the bill after the hearing, but no further action has been taken on the bill.

HB 1193 was introduced by Rep. Klemin to expand the allowable securities in which a political subdivision may invest its funds. "A general obligation of the state housing finance agency that is a moral obligation of the state and is rated in the highest three categories by a nationally recognized rating agency" was included in the bill. The bill was introduced at the behest of the North Dakota Bankers Association on behalf of one of its members. We have discussed the language with NDBA's general counsel regarding the fact that the Agency does not issue moral obligation bonds. It is our understanding that an amendment to remove that language will be offered during its hearing with the House Political Subdivisions Committee.

HB 1349 was introduced by Rep. Hatlestad to establish the Essential Service Worker Home Ownership Incentive Program and provide a \$5 million transfer from the general fund. A mortgage loan officer from Williston solicited our input regarding establishing such a program and we assisted the sponsors in developing the concept which would be consistent with our statutory authority.

The proposed ESW Home Ownership Program would begin in the 2015-17 biennium as a pilot program in Williams, Mountrail, McKenzie and Dunn counties and, in subsequent years, the Industrial Commission would have the authority to expand it to other areas of the state. The fund would be a revolving loan fund administered by the Agency to provide purchasing assistance on single-family residential mortgage loans for ESWs. The Agency would be allowed to provide a zero interest, 10-year secondary loan to ESW households in conjunction with a mortgage loan originated under an Agency home ownership program. If during the 10 year loan period, the borrower ceases to be employed as an ESW or if the borrower sells the home, they become liable for repayment based on the first mortgage rate and term of the secondary mortgage lien. Ten percent of the secondary loan would be forgiven each year the borrower remains employed as an ESW. The Industrial Commission will set the program guidelines and the Agency will be allowed to deduct a reasonable administrative fee from the fund.

The bill will be heard by the House Industry, Business and Labor Committee.

HB 1449 was introduced by Rep. Mock to add language to the Agency's section of code that a program to assist first-time home buyers "must provide assistance with loan closing costs for low to moderate income home buyers for up to six percent of the appraised cost of a home, not to exceed ten thousand dollars."

Under our current Start program, the Agency provides 3 percent of the mortgage in the form of a credit at closing, the expense of which is offset by a slightly higher interest rate on the loan. Under our current Down Payment and Closing Cost Assistance program, we utilize an allocation of federal HOME funds to provide a zero-interest, deferred payment loan equal to 3 percent of the home purchase price to very low-income borrowers who have completed a home buyer education course.

The bill will be heard by the House Industry, Business and Labor Committee.

SB 2126 is the Governor's Jump Start bill which includes a \$20 million transfer from the general fund to the Housing Incentive Fund. It had its first hearing with the Senate Appropriations Committee on Jan. 16.

SB 2220 was introduced by Sen. Mathern and seeks to increase the Housing Incentive Fund to \$100 million with \$70 million being a general fund transfer and \$30 million being tax credit authority. It includes the reauthorization language which is identical to HB 1014. The bill was heard by the Senate Government and Veterans Affairs Committee on Jan. 23.

SB 2257 was introduced by Sen. Bekkedahl and seeks to add mobile home parks as an eligible use under the Housing Incentive Fund. The bill includes the reauthorization language and \$30 million in tax credit authority. The bill will be heard by the Senate Finance and Taxation Committee.

Being no further Housing Finance Agency business, Governor Dalrymple adjourned this portion of the meeting at 1:15 p.m. and the Commission took up State Mill business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Also

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Ed Barchenger, State Mill
Eric Hardmeyer, Bank of North Dakota
Members of the Press

Governor Dalrymple called the State Mill portion of the Industrial Commission meeting to order at 1:15 p.m. following completion of Housing Finance Agency business.

Mr. Vance Taylor, North Dakota Mill President and General Manager, discussed the FY 2015 Second Quarter Report as follows:

**North Dakota Mill
Review of Operations
2nd Quarter Ended 12/31/14**

SUMMARY

Activities in the 2nd Quarter of the year resulted in a profit of \$4,558,970 compared to \$3,385,087 last year. For the six months ending December there is a profit of \$9,096,493 compared to \$6,391,696 last year.

	<u>Quarter</u>		<u>Year-to-Date</u>	
	<u>12/14</u>	<u>12/13</u>	<u>12/14</u>	<u>12/13</u>
Profits	4,558,970	3,385,087	9,096,493	6,391,696
Sales	77,939,449	81,582,534	155,970,286	164,569,832
Cwt. Shipped:				
Spring	2,822,577	2,905,117	5,700,951	5,845,268
% to Total	91.8%	90.5%	91.7%	90.7%
Durum	<u>253,755</u>	<u>306,461</u>	<u>513,589</u>	<u>597,835</u>
	<u>3,076,333</u>	<u>3,211,578</u>	<u>6,214,541</u>	<u>6,443,103</u>
Bag Shipments	706,411	689,803	1,414,402	1,379,401
% to Total	23.0%	21.5%	22.8%	21.4%
Tote Shipments	33,096	37,025	59,645	72,734
% to Total	1.1%	1.2%	1.0%	1.1%
Family Flour Shipments	91,467	75,008	183,049	144,499
Organic Flour Shipments	35,110	58,100	53,322	100,272

Wheat Purchased

Spring	5,996,980	6,035,761	12,301,217	12,708,836
Durum	<u>559,864</u>	<u>564,883</u>	<u>1,001,722</u>	<u>1,266,318</u>
Total	<u>6,556,826</u>	<u>6,600,644</u>	<u>13,302,939</u>	<u>13,975,154</u>

SALES

2nd Quarter

Sales for the 2nd Quarter were \$77,939,449 compared to \$81,582,534 last year. Shipments of 3,076,333 cwts. are 135,245 cwts. below last year, a decrease of 4.2%. Bag shipments for the 2nd Quarter are 706,411 cwts., which is 2.4% above last year's 2nd Quarter. Tote shipments for the 2nd Quarter are 33,096 cwts., which is 10.6% below last year's 2nd Quarter. Family flour shipments of 91,467 cwts. is 21.9% above last year's 2nd Quarter. Organic flour shipments were 35,110 cwts., which is 39.6% below last year's 2nd Quarter.

Year-to-Date

Sales for the six months ended December were \$155,970,286 compared to \$164,569,832 last year, a decrease of 5.2%. This decrease is driven by the decline in volume. Shipments of 6,214,541 cwts. are 228,563 cwts. below last year, a decrease of 3.5%. For the first six months the average settled price of grain is \$0.15 per bushel higher than last year. Year-to-date bag shipments are 1,414,402 cwts., an increase of 35,001 cwts. from last year. Tote shipments are 59,645 cwts., a decrease of 13,089 cwts. from last year. Family flour shipments for the six months ending are 183,049 cwts., an increase of 26.7%. Organic flour shipments of 53,322 cwts. is a decrease of 46.8% from last year.

OPERATING COSTS

2nd Quarter

Operating costs for the 2nd Quarter were \$7,041,381 compared to \$6,306,865 last year, an increase of 11.6%. Operating cost per cwt. of production was \$2.25 compared to \$1.99 last year, an increase of \$0.26 per cwt.

Year-to-Date

Year-to-date operating costs are \$13,584,225 compared to \$12,255,102 last year, an increase of 10.8%. Operating cost per cwt. of production for six months ending is \$2.17 compared to \$1.93 last year, an increase of \$0.24 per cwt.

PROFITS

2nd Quarter

Operating activity for the 2nd Quarter led to a profit of \$4,558,970 compared to a profit of \$3,385,087 last year. Gross margins as a percent of gross sales for the Quarter were 15.0% compared to 12.0% last year, an increase of 3.0%.

Year-to-Date

Operating activity for six months ending December led to a profit of \$9,096,493 compared to a profit of \$6,391,696 last year. Gross margins as a percent of gross sales for the year are 14.6% compared to 11.5% last year, an increase of 3.1%.

RISK MANAGEMENT POSITION

The table below shows our hedge ratio by futures month going forward. While the mill does monitor and maintain the spring wheat hedges, it does remain at risk for fluctuations in the basis.

**Position Report
31-Dec-14**

Period	Hedge Ratio
Mar-15	1.0
May-15	0.8
Jul-15	1.3
Sep-15	0.7
Dec-15	1.0
Net Position	0.9

Mr. Taylor said work has progressed on the G-Mill; the milling equipment has been ordered; design work on the building has been completed; going through the bidding process on the building which will be awarded sometime in late February. Mill management is still working with the BN on getting the track moved out of the way for the building. BN has committed to doing it but it is taking longer than expected to get through all the steps. Right now they are still tracking for completion in early 2016.

Mr. Taylor updated the Commission regarding legislation. He said SB 2183, which would make the State Mill a permanent member of the Northern Crops Institute, passed the Senate on January 26 with vote of 46 to 0. He indicated that he had testified on the Mill's budget as part of HB 1014 before the House Government Operations Division two weeks ago and again today. They are having good discussions with the committee members with the primary focus being on the 12 additional FTE's needed to run the new mill, load and pack the flour, maintain the plant, etc. They are critical positions.

Being no further State Mill business, Governor Dalrymple adjourned this portion of the meeting at 1:26 p.m. and the Commission took up Bank of North Dakota business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



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Also

Present: Eric Hardmeyer, Bank of North Dakota
Chad Johnson, Bank of North Dakota
Joel Erickson, Bank of North Dakota
Bob Humann, Bank of North Dakota
Brad Thompson, Bank of North Dakota
Darrell Lingle, Eide Bailly
Cory Fong, Odney
Bonnie Storbakken, Governor's Office
Senator Rich Wardner
Members of the Press

Governor Dalrymple called the Bank of North Dakota portion of the Industrial Commission meeting to order at 1:27 p.m. following completion of State Mill business.

Mr. Darrell Lingle, Eide Bailly, presented the audit of the Rebuilders Loan Program as of June 30, 2014. He said their firm had issued an unmodified opinion on the financial statements or what used to be referred to as an unqualified opinion on the financial statements so it is a clean opinion. He pointed out that a new accounting standard -- GASB Statement #65 had been implemented in this audit. GASB #65 requires that the net deferred loan costs (costs over fees collected) which in the past had been deferred and amortized over the life of the loan now must be recognized immediately. GASB #65 also requires that this be applied retrospectively so we had to go back and restate all of the periods presented for the impact of the implementation of GASB #65. He pointed out a note on Page 14 of the audit that explained in detail the implementation of GASB #65 and its impact on the financial statement and the impact on the Bank and the General Fund. The impact on the financial statements is an adjustment of \$230,850 on the total net position at the beginning of the year -- a restating for all the previous years for the deferred fees that were recognized incurred before the 2013 fiscal year. It changed the beginning net position from \$23,327,000 to \$23,096,000. The rest of the items in the Program are very straight forward and consistent with the prior year's reporting. They did not identify any matters that were required to be reported on in regards to internal controls over financial reporting or noncompliance with laws or other matters. It is basically a clean opinion.

Mr. Lingle presented the audit of the Medical Facility Infrastructure Loan Program as of June 30, 2014. He said their firm had issued an unmodified opinion on the financial statements or an unqualified opinion on the financial statements so it is a clean opinion. They did not identify any matters that were required to be reported concerning internal controls over financial reporting or with compliance of laws and regulations. It is a clean opinion.

Mr. Eric Hardmeyer discussed the 2015 legislative update. (A copy of the legislative update is available in the Commission files.) He said they are monitoring and testifying on a number of bills. He highlighted the following bills and discussed with the Commission whether the Bank is just monitoring the bill or, if they are testifying, what Bank management is saying:

HB 1014 - appropriation bill; financing on the reservations specifically for housing was discussed by the Government Operations Division

HB 1049 - relates to loans and grants for certain behavioral health professionals. Student loan repayment grant includes having a student loan at BND; State Board of Higher Education distributes grants to BND - maximum \$1,500 per year and an applicant may not receive more than \$6,000 in grants - BND to implement an Addiction Counseling Internship Loan Program and determine terms of repayment - Appropriation from General Fund

HB 1116 - An amendment - Information from the Vital Statistics to assist with the College SAVE program - the amendment has raised concerns with the Health Department

HB 1137 - Infrastructure Loan Fund administered by Public Finance Authority - \$100 million transfer from BND

HB 1286 - Medical Infrastructure Loan Program - BND to transfer \$50 million from BND earnings - Did testify on the bill noting the amount of money that is being appropriated from the Bank of North Dakota overall and what the limit is for transfers from the Bank.

HB 1369 - BND to develop and implement a program under which the interest rate on an individual's student loan is reduced to zero for the period the individual is a resident of ND and employed on a full-time basis. He indicated that determining the fiscal note has been very difficult. \$45 million a year is what the Bank has come up with.

HB 1373 - Relates to creation of North Dakota ABLE Act.

HB 1443 - Creation of Infrastructure Revolving Loan Fund administered by BND. OMB shall transfer \$300 million from Strategic Investment & Improvements Fund and \$100 million from BND earnings. In the discussion it was indicated that if this is a replacement for HB 1137 some of the language from HB 1137 should be in this bill.

SB - PSC budget that includes the potential transfer from the Beginning Farmer Fund for costs associated with rail rate complaint case - similar to language in prior years.

SB 2165 - Relates to allocation of \$5,000 at time of ND child's birth for an investment. BND to administer and manage these amounts. Funding source is the Legacy Fund. BND did the fiscal note.

SB 2178 - Relates to the establishment of the ND School District Construction Fund. BND to administer moneys; \$125 million transferred from the Strategic Investments & Improvement Fund. There are a number of amendments being discussed. This could be set up as a type of School PACE Fund.

SB 2282 - Construction of North Dakota Financial Center on Bank of North Dakota property. He noted the dollar amount of \$25 million is too high. He discussed the prior legislation that has been passed related to the purchase of the land for this type of purpose; how this could be funded and set up as an earning asset of the Bank; some possible tenants for the building are the Department of Commerce, Housing Finance Agency and Department of Financial Institutions, the maximum size of any building that could be put on the Bank's property; and competitive lease rates for the tenants. Mr. Hardmeyer stated that they do not plan to testify on the bill but be prepared to answer questions. He is supportive of this concept and believes it would be beneficial to the state. It was suggested that Mr. Hardmeyer visit with Ms. Pam Sharp regarding the bill.

SB 2288 - Development and implementation of a GAP Scholarship Program. There were questions about the funding and how this differs from other state scholarship programs.

SB 2296 - Relates to BroadBand Grant & Loan Program administered by the Department of Commerce and the BroadBand Infrastructure Revolving Loan Fund administered by BND - \$50 million from BND earnings to the Loan Fund.

SB 2378 - Relates to the establishment of local community incentive/investment fund grants and tax credits for parks. He would like to remove BND from this bill and put this responsibility where it should be, probably Parks and Recreation. He said it makes no sense for the Bank to do this.

Mr. Hardmeyer indicated that if a number of these Bank administered revolving loan programs are passed the Bank will need resources to do that work. He will be making that point with the Government Operations Division when they tour the Bank this week.

Mr. Hardmeyer presented non-confidential Bank of North Dakota Advisory Board November 20, 2014 meeting minutes.

Governor Dalrymple closed the meeting at 2:18 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 2:37 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 two loans identified as Attachments 9 and 10. In non-confidential session, on a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accept the recommendation of the Bank of North Dakota Advisory Board and approve the Loan Charge-Offs totaling \$2,133,958.15 and Recoveries totaling \$709,977.02 for the period January 1, 2014 through December 31, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accept the recommendation of the Bank of North Dakota Advisory Board and make the determination that the following loans charged off in the years 2008 and 2014 totaling \$146,695.38 are determined uncollectible:

2008 Loan Chargeoffs Deemed Uncollectible*

Harvey Building Development, LLC	\$ 52,994.04
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2014 Loan Chargeoffs Deemed Uncollectible*

Thomas-Dennis Funeral Home, Inc. and Dennis Commercial Properties, LLC	\$ 52,803.71
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Edward Peltier and Dianne Peltier d/b/a Miss Dee's Restaurant & Catering and Big E's Saloon	\$ 35,855.25
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Harvey Building Development, LLC	<u>\$ 5,042.38</u>
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TOTAL	\$ 146,695.38
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Also determined as uncollectible are \$172,440.67 of student loans which are not reportable under GLB.

***Uncollectible amounts are net of any recoveries received.**

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 2:39 p.m. and the Commission took up Western Area Water Supply Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Chad Johnson, Bank of North Dakota
Joel Erickson, Bank of North Dakota
Bob Humann, Bank of North Dakota
Brad Thompson, Bank of North Dakota
Jaret Wirtz, WAWSA
Cory Chorne, WAWSA
Mark Owen, WAWSA
DeAnn Ament, Public Finance Agency
Members of the Press

Governor Dalrymple called the Western Area Water Supply Authority (WAWSA) portion of the Industrial Commission meeting to order at 2:39 p.m. following completion of Bank of North Dakota business.

Mr. Jaret Wirtz, Western Area Water Supply Authority Executive Director, reviewed the Western Area Water Supply Authority Board request for approval of the water storage capital project in McKenzie County at a cost of \$2,000,000 that had been drafted by Karlene Fine, Industrial Commission Executive Director and Secretary, as follows:

RE: Western Area Water Supply Capital Project

At the Industrial Commission's August 26, 2014 meeting the Commission considered the following request from the Western Area Water Supply Authority:

Storage Capital Request from Jaret Wirtz--

I am requesting on behalf of the Western Area Water Supply Authority Executive Committee that the Industrial Commission approve the Authority moving forward with the following capital cost item including the Authority being reimbursed for the cost (approximately \$120,000) of design engineering and bidding:

The increased industrial demands on the south side of the Missouri River in McKenzie County have at times required us to limit sales. Limited capacity due to restrictions in pipe size, pumps and storage capacity have caused us to limit and even cease our industrial sales at times. To assist us in meeting these industrial demands and preventing limitations and shutdowns to our customers WAWS has determined that an additional storage facility is needed. This additional storage facility would be placed near our existing Indian Hills reservoir and would be 2 MG in size. No additional land will be needed for this facility as we have enough space at our existing location. The cost of this project is estimated not to exceed \$2 Million (which includes the cost of the design engineering and bidding). We would like to move forward this fall to ensure the project would be done by June, 2015.

In terms of payback on the investment, it is difficult to calculate the rate of return. This is a long term payback and the increased storage capacity will pay itself back over time as we will have more water to sell in McKenzie County. Essentially, we have the ability to sell an additional \$40,000 worth of water in the event of a shortage or temporary shutdown of the plant. These shortages are often numerous with the amount of demands we have in the Williston area. In coordination with our staff, we have concluded that we should be able to sell approximately an additional 1-2MG/month (\$20,000-\$40,000/month of additional sales). This is not a fast return, but as we look to be more marketable as an industrial provider of water we need to become a more reliable source to guarantee future contracts with existing and potential customers. We are currently serving a customer who has put in a significant amount of underground infrastructure and is currently taking large volumes of water from the system. In order to avoid restrictions and shutoffs to customers like this additional storage is needed. We are currently working with other customers in the area to connect to the WAWS system and the extra storage capacity will help as we negotiate these potential contracts.

If the Industrial Commission approves the Authority moving forward with this project, when the Authority has the bids we would then bring back a recommendation for the Commission to award the low bid.

At that August 26 meeting the Commission passed the following motion:

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission authorize the Western Area Water Supply Authority to proceed with the designing and bidding of a capital project for additional water storage near the existing Indian Hills reservoir at a cost not to exceed \$120,000 and to provide a recommendation on the construction of the storage after the bidding has been completed. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

The Authority subsequently went out for bids and they came in much higher than anticipated. The Authority Board of Directors decided to delay the project until it could be rebid. The Authority just recently rebid the project and the Authority's Board of Directors has made the following recommendation:

To award the General Construction Contract for the Indian Hills Reservoir #2 Project to Engineering America, Inc. in the amount of \$1,979,888.00 contingent on the North Dakota Industrial Commission approval and that WAWSA cover any cost over the \$2,000,000 Industrial Commission cap associated with the construction of the reservoir.

Based on the Western Area Water Supply Authority Board of Directors' recommendation I would recommend the Commission adopt the following motion:

It was moved by ____ and seconded by ____ that the Industrial Commission accept the recommendation of the Western Area Water Supply Authority (Authority) Board of Directors and authorize the Authority to proceed with the construction of the Indian Hills Reservoir #2 Project with the industrial sales dollars reimbursing the Authority up to \$2,000,000 including the costs of the design, engineering, bidding and construction.

In response to a question regarding how much WAWSA may have to pay, Mr. Wirtz said around \$200,000 to \$300,000.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Western Area Water Supply Authority (Authority) Board of Directors and authorize the Authority to proceed with the construction of the Indian Hills Reservoir #2 Project with the industrial sales dollars reimbursing the Authority up to \$2,000,000 including the costs of the design, engineering, bidding and construction. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Fine discussed a \$1,000,000 Capital Project pool of funds as follows:

RE: Capital Improvement Budget of \$1,000,000

Mr. Jaret Wirtz recently recommended to the Western Area Water Supply Authority Board of Directors that a Capital Improvement Budget of \$1,000,000 for smaller localized projects be authorized from industrial sales funding on the terms and structure as determined by the Industrial Commission. The Board of Directors adopted Mr. Wirtz's recommendation.

Mr. Wirtz and I have discussed the Board's recommendation. Mr. Wirtz has indicated that he had developed this plan with the idea that this would allow the Authority to proceed with smaller projects in a timely manner. Some of the terms and structure that we have discussed -- no one project could be funded at a level exceeding \$200,000; that the customer associated with the project would agree to a "take or pay" contract for a designated period of time; and the Water Commission staff approval of the location has been received. If all the terms have been met then the Industrial Commission Executive Director could approve the expenditure of the funds. These are our initial thoughts on the terms. If the Industrial Commission wishes to adopt the Board of Directors' recommendation I would suggest the following motion be adopted:

It was moved by _____ and seconded by _____ that the Industrial Commission accepts the recommendation of the Western Area Water Supply authority Board of Directors and establishes a \$1,000,000 Capital Improvement Budget for smaller localized projects with funding to come from the industrial sales and that the Industrial Commission Executive Director be authorized to approve each of the projects if all of the following terms have been met on each project:

- No one project can exceed \$200,000 in costs;
- A "take or pay" contract for a designated period of time will be executed; and
- Water Commission approval of the location has been received.

In response to a question regarding the time frame, Mr. Wirtz said it would be for the year 2015. He noted that a project might be done in 2015 but the contract to take a minimum amount of water might extend beyond 2015. Once the company is hooked up to the pipeline, we know that connection is going to be there for many years, for the life of their wells in that field.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the recommendation of the Western Area Water Supply authority Board of Directors and establishes a \$1,000,000 Capital Improvement Budget for smaller localized projects with funding to come from the industrial sales and that the Industrial Commission Executive Director be authorized to approve each of the projects if all of the following terms have been met on each project:

- **No one project can exceed \$200,000 in costs;**
- **A “take or pay” contract for a designated period of time will be executed; and**
- **Water Commission approval of the location has been received.**

The Commission requested Mr. Wirtz keep them posted on what he does under this authority. Mr. Wirtz said Ms. Fine would have to approve those as well so everything would have to be run through her.

In response to a question regarding if there is anyone that is interested in doing this right away, Mr. Wirtz said he is in discussions with two companies right now.

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

Mr. Wirtz gave a legislation update on two bills that would directly impact the WAWSA. He distributed copies of Senate Bill 2361 and Senate Bill 2336. Senate Bill 2361 deals with the use of eminent domain by WAWSA--this bill would limit the usage for only domestic use. He explained how passage of the bill would impact the operations of WAWSA and its ability to distribute water throughout the system. Since the operations of WAWSA are so intertwined between domestic and industrial the passage of the bill would limit WAWSA from getting water to a lot of rural residents. He indicated that there have been only two instances where WAWSA has used eminent domain -- one situation was the process that all the parties agreed was the best way to do it and the other was an instance where a landowner after a period of negotiations just would not allow a pipeline to go through his property. WAWSA doesn't plan on having to use it more in the future but it is one of those things that if you are going to be in the business of providing public water to this region, you have to have that in your back pocket or it is only going to add costs to the amount of the project or it will not allow WAWSA to get water to people who really want it. WAWSA will be opposing the bill.

Mr. Wirtz said the second bill is SB 2336. This bill would require that the process currently used (per SB 2233 passed last session) to approve water taps along a pipeline be changed. Currently the process is that WAWSA submits a request to the Water Commission stating the amount of water that would be utilized from the WAWSA line in a localized area for an approximately amount of time and the capacities that are available on that pipeline. The Water Commission staff reviews the request, reviews the location, calls with any questions and generally within a week the State Engineer gets back to WAWSA with an answer and, if the answer is yes, WAWSA is able to provide the water needed to that particular industrial customer. SB 2336 would eliminate that process - it requires notice being given for at least 30 days, the holding of a public hearing, and requiring that the full Water Commission must act on the request rather than allowing that authority to be delegated to the State Engineer. The way the oil industry works this would diminish the amount of water WAWSA could sell and would affect their ability to pay back the BND loans and other obligated loans WAWSA has to the State. They will also be opposing this bill.

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Mr. Wirtz said they see things trending a little slower although their January sales were actually a record month. WAWSA had \$4.3 million in sales which is their highest month ever so things are continuing to look good.

Being no further Western Area Water Supply Authority business, Governor Dalrymple adjourned this portion of the meeting at 2:56 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 January 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: DeAnn Ament, Public Finance Authority
Members of the Press

Governor Dalrymple called the Public Finance Authority portion of the Industrial Commission meeting to order at 2:56 p.m. following completion of Western Area Water Supply Authority business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a legislative update as follows:

Re: Legislative Update

Status of PFA Bills

HB 1014 Industrial Commission appropriation bill.

The hearing before the Appropriations Committee was held on January 15, 2015.

HB 1137 Relating to creation of the capital infrastructure revolving loan fund; to provide for a transfer; and to provide a continuing appropriation.

The hearing before the Political Subdivisions Committee was held on January 15, 2015. Representative Frantsvog introduced the bill, DeAnn Ament provided a summary of the bill and answered questions, seven cities along with the ND League of Cities, Information Technology Council of ND and Greater ND Association testified in support of the bill. There was no opposing testimony.

Bills Being Monitored

HB 1085 Relating to federal funds reporting requirements by state agencies and reports to the legislative management; and to amend and reenact section 54-27-27 of the North Dakota Century Code, relating to federal grant applications reporting requirements by state agency.

Each executive branch state agency receiving federal funds, shall report to the office of management and budget biennially on the amount of federal funds received by the agency for the preceding biennium in a form determined by the office of management and budget. The hearing before the Government and Veterans Affairs Committee was held on January 22, 2014. A "do pass" was recommended 10-4. On January 27, 2015 the House passed the bill 74 - 19.

HB 1250 Relating to the publishing of minutes of board and commissions.

Each governing body to which the governor appoints any member shall publish on the governor's office website the minutes of each meeting of the governing body within sixty days after the meeting. The hearing before the Political Subdivisions Committee was held on January 23, 2014.

HB 1443 Relating to creation of the infrastructure revolving loan fund; to provide for transfers; and to provide a continuing appropriation.

This bill is similar to HB 1137. However, it does not restrict borrowers whose projects are eligible under the State Revolving Fund from utilizing this loan fund. The first hearing before the Appropriations Committee will be held January 29, 2014.

SB 2375 Formation of a community facilities district for public improvements.

The bill would allow for the creation of Special Purpose Taxing Districts which would provide access to capital for a district without putting a city or county at risk. This bill has been referred to the Political Subdivisions Committee.

Ms. Ament asked the Commission if they wanted her to attend the hearing for HB 1443. Governor Dalrymple said it would be a good idea, in case there were questions regarding the difference between the two bills.

Being no further Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting at 3:00 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 January 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: Lynn Helms, DMR
Bruce Hicks, DMR – Oil and Gas Division
Andrea Travnicek, Governor's Office
Senator Rick Wardner
Representative Todd Porter
Danette Nelson, OneOk
Ron Ness, ND Petroleum Council
John Morrison, Crowley Fleck
Jan Swenson, Badlands Conservation Alliance
Lori Andist, Vogel Law Firm
Jeff Hume, Continental Resources
Justin Kringstad, Pipeline Authority
Members of the Press

Governor Dalrymple called the Department of Mineral Resources portion of the Industrial Commission meeting to order at 3:00 p.m. following completion of Public Finance Authority business.

Mr. Lynn Helms, Department of Mineral Resources Director, presented Order No. 25588 for Case No. 23245 heard on November 19, 2014 regarding the determination of the amount of a bond. He said this is an application by a company called Jayhawk. He noted that there is a related order. An order applying for salt water disposal conversion of this Jenks well that he can sign under 88.1 and it is his intention to sign an order denying that application. The next thing is the company needs to post a plugging and reclamation bond. This is a vertical well that Jayhawk drilled. (A copy of the handout is available in the Commission files.) He said this well is in a swampy location. The operator is proposing converting the well to salt water disposal but for the past three years the location has been under water more than it has been dry land. Because of the shallow water table, the Commission required the entire pad to be lined. The well produced 160 barrels of oil in the Mission Canyon. The staff required extensive soil borings in the area and discovered that at its deepest depth the ground water is at six feet. The burial of a salt water pipeline network in this area is not appropriate and the location is particularly not suitable for truck traffic. The well needs to be plugged and the site reclaimed and this proposed order requires Jayhawk to post a bond in the amount of \$120,000 for the remaining plugging costs and the site reclamation and then they will have a year to finish that operation.

The Commission and Mr. Helms discussed several issues related to this application with Mr. Helms providing the following information:

- The area is a slough just south of the Canadian border
- The road is a lease road with a minimal carrying capacity
- Well was completed May 27, 2010

- When the site has flooded the last two years, the staff required the operator to sample the water, get an analysis of the water and get a permit from the Health Department to pump the water off the location. The water is not contaminated.
- In order to reclaim the site, the operator will have to pump the water off the location, remove the liner, all the scoria, re-contour it, replace the clay, replace the top soil and then seed it to its native state. The reclamation of this site will require a lot of oversight.
- It will likely take more than one season to get the reclamation done.
- The operator has three operating wells but their cash flow is pretty slim.
- The well has been plugged back to the Indian Canyon or Dakota Formation so most of the plugging costs have already been spent.

Case 23245: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 25588 issued in Case 23245, be approved and effective this 28th day of January, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Bruce Hicks, Oil and Gas Division Assistant Director, reviewed the Oil and Gas Division 3rd Quarterly Report for the months of July, August and September 2014. (A copy of the Quarterly Report is available in the Commission files.) Some of the highlights were:

- Permits issued were ahead of the third quarter.
- Rig count averaged 194 during the quarter and today is at 148.
- Over 700 wells waiting to be fracture stimulated.
- Barrels of oil per day is at 1.1 million, gas was up accordingly and unit production continues to decline because there have been no additional units approved.
- Horizontal production is at 96 percent.
- Average price over the quarter was right around \$80.00 which was a drop from previous and gas also had a drop – WTI today was down \$1.50 and we were around \$44.50.
- Funds balances all remain very good.

He reviewed the flared gas information and stated the weather presented some problems with it being harder to operate in winter. The Commission's gas capture goal is 77 percent for January and so far the operators have been meeting the October and November goals. There was one operator with a handful of wells that didn't make the October numbers. There continue to be some issues with right-of-ways involving the Tioga gas plant and the Oneok projects.

In response to a question regarding the status of the exception the Commission granted last meeting, Mr. Helms said they are more than half done with their purging operation and are close to getting all the needed work completed. The warm weather has helped immensely and they think by mid-February they will be up and running. He will update the Commission at their February meeting.

Mr. Hicks continued with the 3rd Quarterly Report with the field related problems summary. He stated they continue to issue complaints where they are warranted with most of them being on non-Bakken wells. He noted the information regarding litigation that is stated in the report. The

last case on the list is in Southwest Judicial District Court and involves Environmental Driven Solutions. This company has a treating plant in Dunn County and Dunn County is trying to put some zoning ordinances and restrictions on them and they are suing because they don't think the County has jurisdiction. Ms. Hogan, through the Attorney General's Office, has intervened as a party and will address the Court.

As part of the report Mr. Hicks presented information and pictures on a technique that is being used by a few companies where stimulation is being done with coiled tubing. He explained how it works and what has been identified as benefits for this method. He stated that typically you would be stimulating around 40 stages and with this method they can get twice that many. It is a fast operation and Whiting claims some very good results from it – higher initial production and hopefully higher ultimate recovery from those wells.

Mr. Helms reviewed DMR related legislation. (A copy of the legislation is available in the Commission files.) He said they are tracking 66 bills and 27 directly impact the Department.

He commented on the following bills:

- HB 1259 will require a performance audit of the DMR Oil and Gas Division – He plans to attend the hearing and let the committee know the Department went through a four and a half month regulatory audit during its most recent audit starting February 1 and ending July 16. The results of the regulatory audit were no formal findings – there were a few informal suggestions of some things the Department could track better, but no formal findings.
- HB 1266 would require a qualified individual to determine whether or not vegetation is properly growing when the Commission releases the bond on a location and this qualified individual would have to do an assessment, come up with a remediation plan, see that the plan was followed through and no one has defined what a qualified individual is – so he plans to testify at the hearing and ask them if they are going to do this to define “qualified individual”. That is a term that really opens the door to litigation. He said the two last items of concern - 1) being restricted to what was previously planted on the site -- on an older well would be limited to what was planted 40 years ago 2) includes something that is not under the Industrial Commission's jurisdiction and that is the payment of damages. That would have to be tracked and somehow reconciled before the bond could be released His intention is to appear before the committee and point out those problems and ask that it not be passed in its current form. Mr. Helms said his experience in hiring what he considers a qualified individual for the illegal dumping incidents has resulted in about \$30,000 per site just for a site assessment by an environmental consultant. There is a substantial fiscal note that goes with this bill and the Commission is expected to pay for the qualified individual, so maybe \$12 million per biennium for 200 site assessments and reclamation plans.
- HB 1267 deals with confidentiality under the Commission's confidentiality rules. Basically, it would eliminate confidential status for salt water disposal wells which he thinks could impinge on people's proprietary business information because a SWD Permit contains the information on where the water is going to come from. The rule already says the Commission can release this information on a well with a spill to health

authorities, health officials, emergency managers, etc. but this would require all information from any well that had a spill to be released from confidential status – to any person. The final section is on abandoned gathering pipelines – that information would have to be released to any person– so there are some problems with the bill.

In response to a question, Mr. Helms said under their rules if a health official or emergency manager or someone locally with the Health Department needs information to deal with the spill, we will give out anything including the fracture fluids used and all the chemical constituents, what formation the spill is occurring from, where the drill cuttings are buried – you name it, the entire file is available to those specific individuals. This would release all information to the public for every well that had a spill on it.

In response to a question regarding if there was any information the public should have, Mr. Helms said it was possible. He gave an instance where there was a concern about methane or natural gas being in the air and some nearby neighbors needing to be provided with that information. The staff found out later that the neighbors did not get notified even though the county emergency managers were told about it. That kind of information needs to be disclosed. The Department tries to do it on a case by case basis and deal with emergency managers and the health officials who are responsible for protecting the environment and public health and safety. He indicated that he has some real concerns about the approach this bill takes to confidential information and he will just be offering those factual pieces to the committee for their consideration.

- HB 1358 sets up a program similar to the Abandoned Mines Lands Program out of the Abandoned Well Site Restoration Fund where we would prioritize legacy contamination issues across the state and then work our way through the prioritized list at about \$1.5 million per year. It sets out how the sites are going to be prioritized. He continues to have some concern in Section 2 because it specifically earmarks \$2.5 million to north central North Dakota. It does have a sunset on it which does limit it. It is a pilot research project to try to develop new methods to reclaim those sites faster, so it is good to get that kind of work underway right away. He will be supportive of the bill, the concept and moving it forward.
- HB 1440 will change the whole paradigm for temporary abandoned wells in that it uses the term biannual. He believes it means twice a year so a temporary abandoned well, which is typically a well that has been secured and is being left there for future purposes like enhanced oil recovery – after its seventh year in that status, you would have to get surface owner permission twice a year to leave it there. He thought industry would talk about the fact that it flips the dominate estate upside down so now the surface owner decides whether the well stays or goes instead of the mineral owners. If the surface owner does not provide approval twice a year, the well has to be plugged – it cannot continue in temporary abandoned status.
- SB 2251 talks about enforcement of penalties and introduces the term vigorously which is undefined. That is fertile ground for lawyers. He will ask them that if they are going to leave it in, to define it for us. Also, what it does is requires that the minimum penalty be the full cost of remediating whatever the violation was. A good example is Charbonneau Creek. The minimum penalty would be \$7 million because the operator has spent \$7

million to date. Last of all, the legislation includes something the Commission already does by rule. The Commission does not release bonds if they are subject to any penalty. This would completely change the way the Industrial Commission would do civil penalties. In response to a question regarding whether companies would be able to pay the penalties and afford to get the situation fixed, Mr. Helms said he was not sure. The bill would require setting up a new fund where the amount of the proposed penalty has to be put on deposit in that fund before settlement negotiations could begin. So you figure out the minimum penalty, then they have to deposit that into an account and then you can talk about settling the violation or negotiating a settlement and then you would refund that penalty back to the operator. We would have to set up a new continuing appropriation where those deposits could be held. He wanted to point out those difficulties with enforcing penalties this way and will share with the committee the penalty approach they have been taking over the last four years.

- SB 2271 creates the Ombudsman Program under the Agriculture Department for making sure that reclamation problems are negotiated and some agreement is reached. Commissioner Goehring said it is about providing some assurances to our surface owners that their concerns and issues with pipelines are being addressed. Mr. Helms said this provides some resources for reaching settlements. Commissioner Goehring said this is set up as a pilot program. The goal is to help the landowners and companies resolve some of their issues and get to a better place for all of them.
- SB 2287 changes the amount of time gas can be flared without royalties and taxes from one year to ninety days. The impact to the Department is this will increase the number of cases where the Industrial Commission has to determine volume and value for payment of royalties and taxes by about 500 per year. There are about 500 wells per year that are connected after ninety days but before the 365 days. In his opinion, it does not add anything to the gas capture plan process. The order the Commission approved requires wells to achieve 60 percent or more gas capture after 90 days or have production restricted. The fiscal note is about \$90,000 per biennium for the additional people to handle those 500 cases. In response to a question regarding the issue of easements and right-of-ways, Mr. Helms said it is still a problem.
- SB 2338 places county emergency managers on sites where there has been a spill doing investigation relating to compliance with state law and county ordinances. There is no jurisdiction for that so he wanted to point that out to the committee.
- SB 2342 requires that the Commission take a roll call vote on the settlement of every civil complaint case. Whether it is adjudicated or settled the Commission would have to take a public roll call vote at this meeting regardless of the size or end result. It would bring all civil penalties here and we do about one a month.
- SB 2343 is the same thing as SB 2287 but changes the one year to fourteen days instead of ninety days for flaring without paying royalties and taxes. He had the same comment about a lot of additional work with about a fifty percent increase in cost over what had been indicated in the other bill.
- SB 2366 this removes the current fostering, encouragement and promotion of development of oil and gas to the Department of Commerce. Seventeen of the thirty-one oil and gas states have this language in their oil and gas division statute so it is really common. North Dakota is not unique in this at all. This promotion effort is done through

the Geological Survey Division of the DMR. This would basically remove three geologists who do this work for the Survey. They do two publications and one presentation a month – that would be under the Department of Commerce, but the big ones are the Williston Basin Petroleum Conference, the North American Prospect Expo and GeoNews – all of those are promotional efforts done by the Geological Survey and would have to move to the Department of Commerce. Our number one tool for promoting and fostering production of oil and gas in the State of North Dakota is the Core Library and the way the bill is written is that you could no longer use have the Core Library under the Industrial Commission's jurisdiction. So he plans to appear and point those facts out to the committee.

- SB 2370 brings back the setback issue. His concern with it and the reason he wants to testify is that this would not allow the Commission to permit wells on existing multi-well pads if they were closer than 1,320 feet to a residence. It would mean that all new wells would have to go on a new pad so it vastly increases the footprint of development and that needs to be worked out of the bill if at all possible.
- SB 2374 deals with pipeline safety and gathering systems. Mr. Helms discussed pipeline safety. He said significantly more needs to be done than what was authorized by HB 1333 two years ago. That was the first baby step into gathering pipeline regulation and it set up a program where the construction of gathering pipelines and their location were to be reported to the Industrial Commission. This bill takes the next step which is to begin looking at how they are designed and actually intervening in the monitoring process of those pipelines. He noted a few concerns about the bill as currently drafted. If the Department is to issue a permit for every pipeline they will need more staff. More importantly the legislation should not lock these operations into twentieth century technology which is flow meters, pressure cutoff switches and automatic shut off valves. The leaks that have recently happened have had those things in place. The bill anticipates setting up some kind of a research program to look at new technologies and develop new and better technologies suitable for North Dakota. The bill moves the State in the direction it should go but it is going to need a lot of work before the end of the session. He is encouraged to see it come in and it initiates an important discussion that the Commission needs to be having with the Legislature.

Governor Dalrymple said that he is encouraged that we are in the process of developing a comprehensive set of rules regarding these types of gathering lines. He stated that there are a couple of areas we may want to accelerate. Based on what was learned on the recent spill he has questions about the materials that are used for these pipelines. As a regulatory entity he thinks we should be very much interested in the materials being used. The other part is speeding up any inquiry into new technologies. We need to be on top of those opportunities. It is good we have a bill because it directs us to do things – the language may have to be made more general but we are required to carry out this duty but it is a moving target in that the solutions do change as time goes by. He also questioned whether there should be a higher standard when we know a pipeline is going under a significant body of water – whether it is the Yellowstone River or the size of a creek – that is where we are vulnerable to significant impacts of a spill. We are always vulnerable but in the case of water supply he thought we need to really talk about an even

stronger standard in those locations. He thanked the legislators that were present and there being a part of developing this public policy.

Mr. Helms said he has been thinking about the section on permitting and if that was applied to all water crossings, for example, that would be absolutely appropriate. Before you could cross an intermittent stream or stream or a river with a pipeline, you have to get a permit so that the engineering and the monitoring could be looked at before it was actually constructed and put in place. The idea of permitting all flow lines and tank battery pipelines does not make sense to him but the idea of permitting any type of stream crossing or something by a lake or stream makes a great deal of sense.

Mr. Helms noted that one of the difficulties of the new technology is finding an operator willing to test it on their system or pipe. We do not have the authority to make someone do that but people are beginning to envision maybe providing some funding at the EERC to build some sections of pipe specifically for that purpose – for testing materials and monitoring technologies or a side stream off of someone’s system just for that purpose. We would have a scientific group taking a hard look at every technology that comes down the street and figuring out whether it is suitable for North Dakota. The material on this latest spill has been used all around the country but it may be a problem – we just don’t know, the investigation is not complete. We have fifteen companies that operate salt water gathering systems now in North Dakota and four of them are pure midstream. They do not own or operate any wells; they just operate the gathering system – so oversight over them really needs to be taken up a notch. Mr. Helms said he plans to be fully engaged in the discussions of SB 2374 and he will keep the Commission posted as it moves forward.

Mr. Helms provided a handout and discussed the 2013-2014 Oil and Gas Division Civil Penalties (A copy of the handout is available in the Commission files.) He said it is important for people to understand that the Commission just proposes a penalty, the operator or whoever is responsible is subject to the penalty but the Commission just proposes it. The Commission also has authority to negotiate a compromise solution or what he calls a settlement agreement to the penalty. The only way the Commission can collect on a penalty, other than a settlement agreement is to sue in district court. If the Commission adjudicates one, it has to go through district court to collect. He said there were \$5.7 million in proposed penalties in 2013-2014 with 55 percent of them having been adjudicated through the Office of Administrative Hearings--approximately \$2,463,000. On that group the Commission has not collected a penny. The process is long and it is appealable all the way to the Supreme Court and these large penalties will more than likely end up there. Of the roughly 43 percent where the Commission reached settlement agreements, the Commission collected 12 percent of that amount with 42 percent suspended – basically hanging over the violators head to try to change their behavior. The goal really is that – change behavior. Since 2006 with the suspended penalties, the Department has had zero repeat offenders. So, the concept of leaving 75 to 90 percent of the penalty hanging over their head for one to five years, causes them to change their processes and behaviors and results in long term compliance with the Commission’s rules.

Mr. Helms stated that a study was the basis of this concept – a criminal justice study. They did a study of approximately 60,000 cases of traffic violations and the end result was that financial penalties and larger financial penalties did not affect the long term behavior of the violators. They sped again or drank again because they didn't think they were going to get caught; the only thing that affected them and reduced recidivism was probation. They were put on probation for one, three or five years with a big penalty like a jail sentence hanging over their head. That caused them to straighten up their act for a period of time and that stuck with them long term and changed their behavior permanently. That is our goal and he believes the Division is achieving it.

He stated the Commission has collected \$234,000 through these settlement agreements. They have left \$822,000 of long term probationary penalties hanging over the violators head and are getting zero repeat violations. He is a firm believer that the process that is being utilized by the Division is very affective and is making a difference in changing the behavior of the everyday worker out there. He said one, it should never be cheaper to break the rule than to follow the rule so the penalties are always set at at least that amount and two, we need a system that changes long term behavior of these operators and their employees and he thinks we have that.

The question was raised as to those situations where there is a perpetrator who appears to have done something intentionally and knowingly and whether there should be a punitive aspect in those situations. Mr. Hicks stated that when they run into those situations they are turned over to the Attorney General's Office for criminal prosecution.

Attorney General Stenehjem said the amount of penalty depends on how egregious the violation is and how intentional it may have been and how likely it is we can set an example to prevent any repeat violations. They are all resolved on a case by case basis with all of those things in mind.

Mr. Helms said in certain cases there should be a punitive aspect if someone can be identified or a company attitude is identified that is a serious problem. There are several in the list that look like that where when staff sat down with the company to sort through what happened, there was an employee that literally ignored best practices and they lost their job because of it but secondly, the company needs to pay some for having hired the person in the first place and make it clear to all their employees what is expected of them. An important piece that has been missing from a lot of public information is the significant amount of suspended penalties that are held over these companies for one to five years which forces them to talk about it in their safety meetings and tailgate meetings every day to change employee behavior because the company can ill afford to pay that suspended penalty. Those companies have agreed in writing to cut the check, non-appealable the day that repeat violation occurs and they simply can't afford that, so they really do focus on changing employee behavior.

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned this portion of the meeting at 4:19 p.m. and the Commission took up Pipeline 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 January 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
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Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also

Present: Lynn Helms, DMR
Bruce Hicks, DMR – Oil and Gas Division
Andrea Travnicek, Governor's Office
Ron Ness, ND Petroleum Council
Justin Kringstad, Pipeline Authority
Wade Moser, Outdoor Heritage Fund
Members of the Press

Governor Dalrymple called the Pipeline Authority portion of the Industrial Commission meeting to order at 4:19 p.m. following completion of Department of Mineral Resources business.

Mr. Justin Kringstad, Pipeline Authority Director, reviewed the Quarterly Pipeline Authority Report. (A copy of the Quarterly Report is available in the Commission files.) He pointed out that over the last few months he has been focused on the decrease in oil prices. It has been a topic of significant interest for the mid-stream industry and trying to understand the impacts of low oil prices on infrastructure needs going forward. He indicated that in December he posted a video and report looking at well economics in the Williston Basin. The points that were covered in that video were:

- What is the breakeven price of a Bakken barrel,
- Where do the operators continue to drill in North Dakota,
- What is the impact at different prices,
- When do the operators leave/when do they stay,
- What level of rate of return do they drill or not drill.

Mr. Kringstad included a few key slides from that report but he indicated that the website has more slides. In the full report the reader can see how the breakeven points change for a well depending on barrels of oil per day and the price of oil.

Mr. Kringstad also reported on the North Dakota Pipeline Technology Working Group. He distributed a copy of the executive summary. (A copy of the executive summary and the report is available in the Commission files.) He stated Governor Dalrymple in December, 2013 called together a group of industry, state regulatory and university researchers, local engineering companies to form the Governor's Pipeline Technology Working Group. That group has wrapped up its work and submitted a report to the Governor's Office.

Mr. Kringstad summarized the work that this group had done as follows:

- The task of the group was to look at what technology existed for leak detection and what some of the options were, the pros and cons.
- There was a lot of research the group brought to the table from existing federal studies that have been done and other industry work that's been done
- The group focused on four areas from a holistic approach to pipeline technology in North Dakota.
 - **Prevention** - The working group believes that a strong focus on incident

prevention is paramount. The area of incident prevention includes, but is not limited to, third party damage prevention, robust design and construction practices, comprehensive integrity management programs, corrosion control procedures, employee training and strict operating and maintenance practices. The working group endorsed the recommendations and guidelines of Common Ground Alliance for damage prevention and NACE (National Association of Corrosion Engineers) for corrosion control. The Common Ground Alliance is an industry group that every year comes out with a set of best practices on damage prevention. It was recommended that the State of North Dakota use that as one of the key tools in the oversight of pipelines. As part of prevention you have the call before you dig or the 811 systems and ensuring that third party strikes and the risk associated with that category can be reduced as well because that is one of the major causes of pipeline incidents -- third-party strikes. He noted that a Bakken Chapter of the National Association of Corrosion Engineers was started last summer and should be relied on for specific information on North Dakota soil conditions.

- The second key component is leak **Detection**. This is an area where the group was specifically tasked to look at and put together a comprehensive list of what technologies exist out there. The full list is found in the full report under Appendix B. They have a list of both internal and external systems--what the benefits and drawbacks are of each system. There is no silver bullet. It is very system dependent based on what commodities the pipeline carries, the size of the pipeline, the environment the pipeline is operated in, etc. There are many different variables that must be considered. The one universal consideration the working group focused on was visual inspection; it is universal across all pipeline types and pipeline categories – that these pipelines are inspected from the surface. However, typically that is done with the human eye so there is a lot of research and development right now looking at what type of sensor packages can be utilized that are more advanced than the human eye at detecting situations sooner than we can do with just a human visual response. That is an area where the working group suggested that North Dakota support research and subsequent usage of imaging packages that work in North Dakota's unique climate and terrain conditions. He thought the Oil and Gas Research Council is considering some projects in this area of research.
- **Incident Response** - The group recommended that industry and emergency managers at the county and state level coordinate their efforts so that when an incident does occur it is identified as quickly as possible to get it mediated. An effective and timely incident response plan can help to further reduce the consequence of a leak if one occurs. Incident response depends highly on the type and robustness of the leak detection system, how soon a leak is detected and verified and how soon incident response actions are initiated.
- **Incident Reclamation** - North Dakota is fortunate to have a university system with world class resources which could be utilized to further research how to best reclaim an area in which an incident occurs. The working group supports the efforts of current research and the further utilization of the North Dakota

University System to continue researching the best practices in incident reclamation. The goal is that if or when an incident does occur that the reclamation process can be done as quickly and properly as possible and gets the land back in working condition.

In response to a question regarding all the entities and situations involved when there is a leak, Mr. Kringstad noted that Appendix D of the report includes a one page chart that shows who regulates for what type of pipelines. This chart was the result of the Public Service Commission and PHMSA working together along with the Industrial Commission Oil and Gas Division to correctly identify all the different categories. The work on this chart was primarily done by Patrick Fahn from the Public Service Commission staff.

Governor Dalrymple thanked Mr. Kringstad for his leadership and work with this group and for the report and recommendations.

Being no further Pipeline Authority business, Governor Dalrymple adjourned this portion of the meeting at 4:36 p.m. and the Commission took up Outdoor Heritage Fund business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on January 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: Andrea Travnicek, Governor's Office
Wade Moser, Outdoor Heritage Fund
Jason Bohrer, Lignite Energy Council
Mike Jones, Lignite Research, Development and Marketing Program
Tyler Hamman, Lignite Energy Council
Wade Boeshans, BNI Coal
Dale Niezwaag, Basin Electric
Members of the Press

Governor Dalrymple called the Outdoor Heritage Fund portion of the Industrial Commission meeting to order at 4:36 p.m. following completion of Pipeline Authority business.

Mr. Wade Moser, Outdoor Heritage Fund Advisory Board (Advisory Board) Chairman, updated the Commission regarding legislation. (A copy of the list of bills directly impacting the Outdoor Heritage Fund or related to the Fund is available in the Commission files.)

Mr. Moser walked through House Bill 1409 and provided background information on the provisions that were being proposed. He noted that some of the provisions are ones that the Commission had previously adopted (3a, b, c, d, e, f). The new provisions related to a clarification regarding funding levels for playgrounds, funding for buildings, direct involvement of the applicant in a project, time frame for executing a contract, sources of matching funds and funding for staffing. He noted that the Advisory Board had not taken a position on this legislation. The Advisory Board had seen an early draft of the bill and some of the Board members had provided feedback and suggestions on the proposed provisions. Those feedback/suggestions had been given to Representative Porter – some suggestions were put in and some were not. Mr. Moser stated the bill will be heard this week; he intends to be present to answer questions but will not be testifying on behalf of the Advisory Board because they had not taken a position.

Mr. Moser said SB 2356 may conflict with current policy because it talks about funding a study and current policy prohibits feasibility and research studies.

Mr. Moser said there is one more bill other than what is noted on the legislative update that may indirectly impact the Outdoor Heritage Fund. Senate Bill 2297 transfers \$30 million of General Fund money into the Game and Fish Department for funding conservation practices and the PLOTS program.

In response to a question regarding the local community incentive fund, Ms. Fine stated this is the legislation that Mr. Hardmeyer had talked about earlier in the meeting that had the Bank of North Dakota administering a mechanism for tax credits to be used for recreational equipment/projects in consultation with Parks and Recreation.

There was discussion regarding the provision in HB 1409 related to the Outdoor Heritage Fund dollars being used for administrative expenses. It was indicated that there are costs related to operating a program and that there should be some flexibility for the Commission to award some level of funding -- perhaps up to 5% for the applicant's operating costs. However, this should be limited.

Mr. Moser said there was some concern about state agencies requesting administrative dollars. For example if Game and Fish or Parks and Recreation came in with a proposal requesting funding for staff, he thought that should not be allowed. If the agency needs staff, they need to make that request to the Legislature. In regards to entities outside of state government that don't have full time staff there may be a need to allow funding for staff. He thought most of the Advisory Board members would agree to that.

Mr. Moser pointed out that the provision in Section 2 of HB 1409 which states "the Commission shall exclude any money appropriated from the State General Fund for use as matching funds" has raised some questions about intent. The Commission and Mr. Moser discussed the issue of matching funds, what is required under current policy and how HB 1409 would change those requirements--who is being penalized when requiring match, who is penalized when you exclude General Fund dollars being a match, in-kind match dollars, etc. A couple of scenarios were discussed involving state agencies and what impact these new provisions would have on their ability to submit applications.

Mr. Moser commented on an issue he had involving the funding that the Outdoor Heritage Fund had awarded to Game and Fish for the PLOTS program. There were now some applicants bringing in proposals that included PLOTS dollars for match and he was concerned that there would be a perception that we were matching Outdoor Heritage Fund dollars with Outdoor Heritage Fund dollars. He said it isn't a big issue but something that they need to watch.

Mr. Moser said they need some clarification on what they are going to be able to do this next grant round in regards to funding. Based on the forecast the Fund for the 2013-2015 biennium is going to be at around \$20 instead of the \$30 million allowed in the law and the Commission has already allocated \$19.3 million. The Advisory Board had been making their recommendations based on the premise that the full \$30 million would be available. There is nothing that he is aware being discussed by the Legislature about appropriating funding to fill the gap between the forecast and the \$30 million in the law. It appears that for this upcoming round the Advisory Board/Commission is almost up against the limit right now. Ms. Fine noted that the awards made for the upcoming grant round won't be disbursed until the next biennium. Governor Dalrymple said this is something they will monitor through the legislative session.

Being no further Outdoor Heritage Fund business, Governor Dalrymple adjourned this portion of the meeting at 4:53 p.m. and the Commission took up Lignite Research, Development and Marketing Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Present: Governor Jack Dalrymple, Chairman
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Present: Andrea Travnicek, Governor's Office
Jason Bohrer, Lignite Energy Council
Mike Jones, Lignite Research, Development and Marketing Program
Tyler Hamman, Lignite Energy Council
Wade Boeshans, BNI Coal
Dale Niezwaag, Basin Electric
Members of the Press

Governor Dalrymple called the Lignite Research, Development and Marketing Program portion of the Industrial Commission meeting to order at 4:55 p.m. following completion of Outdoor Heritage Fund business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, reviewed the Lignite Research Fund Financial Report. (A copy is available in the Commission files.) She said the Commission has sufficient funding to award these grants if they so wish.

Mr. Mike Jones, Lignite Research Program Director, discussed the Lignite Research Council's recommendations regarding the following Grant Round 78 applications:

“Managing Slag Flow Behavior in Combustion and Gasification Systems”; Submitted by: Microbeam Technologies, Inc.; Request for: \$245,065 (Small Research); Total Project Costs: \$785,065; Project Duration: 24 months. (A copy is available in the Commission files.) The purpose of this project is to use CFD modeling to develop relationships for designers and operators of high temperature slagging combustion (cyclone) and gasification systems that can be used on a daily basis to predict slag behavior as a function of fuel properties, system design and operating conditions to manage slag flow behavior. He said two reviewers indicated to fund and one said consider funding with the Council vote of 19 to 0 to fund. He reviewed the contingencies and recommended funding. Conflicts of interest were Minnkota and BNI Coal.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the Lignite Research Council recommendation to fund the grant application “Managing Slag Flow Behavior in Combustion and Gasification Systems” and to authorize the Industrial Commission Executive Director to execute an agreement with Microbeam Technologies, Inc. to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$245,065 (small research) with the conditions that the match funding is received from all the parties and the Technical Advisor participates in the advisory group. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

“Demonstration of Pilot-Scale Hydrogen and CO₂ Separation Membrane Technology on Lignite-Derived Syngas”, Submitted by: Energy and Environmental Research Center; Request

for: \$225,000 (Demonstration); Total Project Costs: \$2,039,608; Project Duration: 21 months. (A copy is available in the Commission files.) The purpose of this project is to conduct a pilot-scale demonstration of coal-to-hydrogen production technology using warm-gas cleanup techniques and hydrogen separation membranes. Five separate tasks will be performed to enable the demonstration of the technology. Tasks 1 and 2 will involve membrane acquisition and installation, and additional modifications to the TRDU and warm-gas cleanup system will be needed to facilitate the test runs. The test runs will occur in Task 3 and the data derived will be used in an economic analysis to be conducted in Task 4. Task 5 is for management and reporting. Tasks 1 and 2 are currently under way with the project sponsors, and Tasks 3 and 4 will begin in December 2014. He said two reviewers indicated to fund and one said consider funding with the Council vote of 17 yes, 1 no and 1 abstained from voting. He recommends funding. Conflict of interest is Basin Electric.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the Lignite Research Council recommendation to fund the grant application “Demonstration of Pilot-Scale Hydrogen and CO₂ Separation Membrane Technology on Lignite-Derived Syngas” and to authorize the Industrial Commission Executive Director to execute an agreement with the Energy and Environmental Research Center to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$225,000 (demonstration) with the condition that match funding is received from all the parties and the Technical Advisor participates in the advisory group. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Fine discussed the next project. She indicated that she handled the review of the project because the Lignite Energy Council was the applicant.

Annual Lignite Energy Council Education Seminar: Energy, Economics and Environment”; Submitted by: Lignite Energy Council; Request for \$80,000 (Small Research); Total Project Costs: \$160,000; Project Duration: 1 year. (A copy is available in the Commission files.) . The purpose of the project is to continue the annual education seminars for one year. The Teachers Seminar is held in June of each year for four days and includes presentations on the Bismarck State College campus for three days and a one-day tour of Coal Country. The lignite presentations and panel discussions include history, geology, mining and reclamation, converting lignite to electricity, converting lignite to synthetic natural gas, economics of the lignite industry, career opportunities, environmental issues facing the lignite industry, transmission and research and development topics. She said all reviewers indicated to fund with the Council vote of 19 to 0 to fund. Conflict of interest is the Lignite Energy Council and its members that serve on the Lignite Research Council.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the Lignite Research Council recommendation to fund the grant application “Annual Lignite Energy Council Education Seminar: Energy, Economics & Environment” and to authorize the Industrial Commission Executive

Director to execute an agreement with the Lignite Energy Council to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$80,000 (small research). On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Jason Bohrer gave a legislative update. He said they were following seven bills.

SB 2372 - He reviewed the purpose of the bill and why it was introduced. There was discussion of some unintended consequences if this bill was passed. Mr. Bohrer indicated that more communication about the bill should have been done before talking with legislators. This is not a significant issue at this time and if it in any way impacts pending litigation then they will not support its passage.

Mr. Bohrer discussed HB 1014, the appropriations bill for the R&D Program. He said they have offered an amendment that consists of two parts. (A copy of the amendment is available in the Commission files.) He covered section 21 of the amendment relating to the membership of the Lignite Research Council. Current law constrains the membership of the Council to only North Dakotans. This would allow non-North Dakotans to be on the Lignite Research Council -- some of the partners the Lignite Research Council has are from Canada and individuals from Otter Tail and the Department of Energy (DOE). When the State is asking these companies and DOE to be our partners in these projects we believe it would increase the likelihood of participation in good projects happening in North Dakota if we were able to make this change.

Mr. Mike Jones said the makeup of the Council would still have 21 or 22 North Dakota residents and maybe three or four potentially from outside the state. Currently these entities are represented by ex-officio members so they listen to the conversations but have no right to vote. Some of these individuals are long term partners and we would like to give them the opportunity to participate more if we can.

In response to a question regarding if this was open ended, Mr. Bohrer said yes. Mr. Jones said the makeup of the Lignite Research Council includes all the principal players in the lignite industry that are in the state. There are others that are participating but they happen to reside outside the state and he did not see that mix changing significantly.

Ms. Fine stated that the Governor, by executive order, determines the makeup of the Lignite Research Council and appoints the members to the Council but he is limited to who he can appoint because of the statute.

Mr. Bohrer said the second part of that amendment is an additional appropriation request for \$10 million from the General Fund to the Lignite Research Fund for the purpose of commercializing capture, utilization and storage of CO₂ and next generation electricity. He distributed a presentation and discussed the information with the Commission. (A copy of the presentation is available in the Commission files.) The funding would be used for some of the more promising technologies that they are now seeing -- one being the Allam Cycle. They wish to pursue these next generation energy solutions for the state because they will bring the oil and gas and the coal

industry together in partnership to further develop the energy resources in North Dakota in tandem in a way that is beneficial to everybody involved. The Lignite Energy Council is working to line up industry dollars to provide the match that would be needed if the \$10 million is appropriated to the Lignite Research Fund.

Mr. Bohrer discussed SB 2036 and SB 2027 - two bills where they are trying to clarify existing language and bring the language back in line with how it was first intended. Both bills related to tax issues--one relates to beneficiated coal and one relates to new coal mines.

Mr. Bohrer said SB 2318 deals with incentives for CO₂ capture sequestration equipment. Passage of this bill could have benefits for the work that is being proposed with the \$10 million of additional funding.

Mr. Bohrer said SB 2377 changes the definition of Leonardite which technically is a very low grade coal. The lignite industry has not taken an official position on the bill because there may be some unintended consequences for the coal mines so at this point it is being monitored.

Mr. Bohrer said the final bill he testified at was the PSC consolidation bill; he didn't think it was a good idea to have the PSC/IT infrastructure consolidated into the rest of IT.

Being no further Lignite Research, Development and Marketing Program business, Governor Dalrymple adjourned this portion of the meeting at 5:32 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 January 28, 2015 beginning at 1:00 p.m.
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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 5:32 p.m. following completion of Lignite Research, Development and Marketing Program business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, gave a legislative update as follows:

Legislative Update - January 28, 2015

- SCR 4009 - Study the Industrial Commission membership as it relates to decisions regarding the oil and gas industry - Hearing held on January 23, 2015. Anticipate amendments to be proposed.
- HB 1179 - Increase the size of the Industrial Commission by adding the State Tax Commissioner and the President of the Public Service Commission. Hearing has not been scheduled.
- HB 1014 - Industrial Commission appropriation bill
- SB 2032 - This bill as originally proposed placed under the Industrial Commission an Oil and Gas Development Strategic Planning Authority. This bill has been amended and passed the Senate. The amendments place this responsibility with the Department of Commerce with the funding coming from the General Fund rather than the Oil and Gas Research Fund.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring to authorize Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, to testify in opposition to HB 1179. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Fine indicated that during the discussions with the Appropriations Committee - Government Operations Division she had been asked to provide information on bonding for buildings. She has provided that information to the Committee. She said S&P just reaffirmed the State's rating of "AAA" and the Building Authority and Public Finance Authority of "AA+".

Being no further Administrative business, Governor Dalrymple adjourned the meeting at 5:42 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary