

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 24, 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: Vance Taylor, State Mill  
DeAnn Ament, Public Finance Authority  
Brad Thompson, Bank of North Dakota  
Bonnie Storbakken, Governor's Office  
Members of the Press

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

Mr. Vance Taylor, North Dakota Mill President and General Manager, discussed a request to increase the Capital Expenditures for FY2015 as follows:

G Mill Expansion Project Estimates

3/6/2015

	<u>Original Estimate</u>	<u>Current Estimate</u>
Wheat Cleaning and G-Mill and H-Mill Building	\$ 13,000,000	\$ 15,785,000
Bridges and Flour Bin Foundations	\$ 0	\$ 1,414,000
Equipment	\$ 9,771,319	\$ 11,012,583
Electrical Equipment and Installation	\$ 2,000,000	\$ 2,500,000
Milling Equipment Installation	\$ 2,500,000	\$ 3,125,000
Contingency	\$ 528,681	\$ 528,681
Total Original Estimate	\$ 27,800,000	
Total Current Estimate		\$ 34,365,264
Increased Funding Needed		\$ 6,565,264

G Mill Expansion Project Approved Funds

	<u>Total</u>		<u>Under/(Over)</u>
	<u>Funds Spent</u>	<u>Budget</u>	<u>Budget</u>
416 B Mill Upgrade	1,286,812.27	7,400,000.00	6,113,187.73
504 A/B Mill Electrical Room		335,000.00	335,000.00
506 Cargo Doors & Openings A/B Mill		120,000.00	120,000.00
507 Air Makeup Sys Modifications		130,000.00	130,000.00
511 G Mill Expansion Project	5,073,723.16	19,815,000.00	14,741,276.84
Totals	<b><u>6,360,535.43</u></b>	<b><u>27,800,000.00</u></b>	<b><u>21,439,464.57</u></b>

Mr. Taylor stated that back in September 2014 the Commission approved construction of the new G Mill which will add 11,500 cwts per day to the State Mill's milling capacity or 30 percent at a total cost of \$27.8 million. It is a great project and the Mill's customers are excited. As the project has moved forward Mill management is seeing higher than expected costs. Actual costs for the milling and wheat cleaning building have come in significantly higher than the budget quotes they previously obtained.

In response to a question regarding when they opened the bid, Mr. Taylor said it has been about a month. The concrete contractors are really busy for a lot of reasons right now so this is probably the best we can do.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission amend the 2015 Capital Expenditures Plan and authorize the expenditure of an additional \$6,570,000 for the completion of the G Mill Expansion Project bringing the total project costs to \$34,370,000.**

Governor Dalrymple reported that he had met with some of the legislators on the Appropriations Committee and had discussed the higher costs for the project. After visiting with them he believed they were supportive of the project moving forward.

Mr. Taylor gave a legislative update. He said they are working with the Senate mainly on the level of General Fund transfers, percentages and maximums. We are also working with them on some funds that were removed by the House on wages of \$809,000 and would like to see that reinstated.

In response to a question regarding the timeline for the expansion, Mr. Taylor said they have started, some equipment has already been ordered and they should start digging on the foundation very soon. It is their hope to finish the project around this time next year and starting the mill sometime in March. Completely finished will be sometime after March, there will be some finishing touches that will happen to the building after the mill is already running.

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

Mr. Taylor said on March 17 SB 2183 did pass the House 98 to zero which allows for the State Mill to be permanent members of the Northern Crops Institute.

Being no further State Mill business, Governor Dalrymple adjourned this portion of the meeting at 1:09 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 March 24, 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  
Brad Thompson, Bank of North Dakota  
Bonnie Storbakken, Governor's Office  
Members of the Press

Governor Dalrymple called the Public Finance Authority portion of the Industrial Commission meeting to order at 1:10 p.m. following completion of State Mill business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a Clean Water State Revolving Fund Program loan request from the City of Harvey in the amount of \$1,060,000. She said it is for the removal and replacement of their storm sewer and to install an additional storm sewer main line. They are going to pay for it with a recently approved one cent city sales tax dedicated for infrastructure and they will also have a secondary source of repayment being an improvement district as the sales tax only has a fifteen year term and there is no guarantee it will be extended. The Advisory Committee recommended approval of the loan.

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

RESOLUTION APPROVING  
LOAN FROM CLEAN WATER STATE REVOLVING FUND

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

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

WHEREAS, the City of Harvey (the "Political Subdivision") has requested a loan in the amount of \$1,060,000 from the Program to finance storm sewer improvements; and

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

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

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

1. The Loan is hereby approved, as recommended by the Advisory Committee.
2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.

3. The Executive Director is authorized to fund the Loan from funds on hand in the Clean Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.

4. The Commission declares its intent pursuant to Treasury Regulations §1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

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

Ms. DeAnn Ament presented a Drinking Water State Revolving Fund Program loan request from the City of Garrison in the amount of \$2,050,000. She said this is to replace their elevated water tank with a new water tower. They are looking to use revenue bonds. With a twelve dollar per user per month based fee in place and their existing net operating revenues they would have sufficient revenues to meet the 120 percent net operating coverage requirement. The Advisory Committee recommended approval.

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

RESOLUTION APPROVING  
LOAN FROM DRINKING WATER STATE REVOLVING FUND

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

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

WHEREAS, the City of Garrison (the "Political Subdivision") has requested a loan in the amount of \$2,050,000 from the Program to finance replacement of the water tank; and

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

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

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

1. The Loan is hereby approved, as recommended by the Advisory Committee.
2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.
3. The Executive Director is authorized to fund the Loan from funds on hand in the Drinking Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the

Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.

4. The Commission declares its intent pursuant to Treasury Regulations §1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

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

Ms. Ament discussed the following memorandum regarding loans approved by the Public Finance Authority Advisory Committee:

**Re:** Rolette, Drinking Water State Revolving Fund  
Tri-County Water District, Drinking Water State Revolving Fund  
Menoken Public School District, Capital Financing Program

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

The committee reviewed an application from the City of Rolette requesting a \$210,000 loan under the Drinking Water State Revolving Fund (DW SRF) Program to finance the construction of a new water supply well and a four inch transmission line. Total construction costs are estimated at \$210,000. The requested term for the DW SRF loan is 20 years. The City of Rolette will issue revenue bonds payable with water user fees.

The committee reviewed an application from Tri-County Water District requesting a \$750,000 loan under the Drinking Water State Revolving Fund to make improvements and expand the existing water treatment plant from 450 GPM to 550 GPM. The entire project will cost \$1,400,000, with the difference of \$650,000 coming from a State Water Commission grant. This project qualifies for loan forgiveness of \$225,000; the net amount of the loan will be \$525,000 when fully funded. The requested loan term is 20 years. The District will issue revenue bonds payable with user fees for this loan.

The committee reviewed an application from the Menoken Public School District (District) requesting a \$100,000 loan under the Capital Financing Program. They are completing a new \$1.5 million school and this will provide cash flow financing for the District. The requested loan term is 5 years, but they anticipate the money will be available sooner. The District will use State Aid or property tax collections to

repay the debt. In addition, the District has authorized the Public Finance Authority to intercept future Foundation Aid, if necessary, to pay any balance remaining after the maturity date of this loan.

The Public Finance Authority's Advisory Committee approved these loans at their March 18, 2015 meeting.

In response to a question regarding where the Tri-County Water District is located, Ms. Ament said it is a water district in northeastern North Dakota: most of Walsh County, part of Ramsey County and a little into Grand Forks County.

Ms. Ament gave the legislative update as follows:

#### Status of PFA Bills

##### *HB 1014 Industrial Commission appropriation bill.*

On February 24, 2015 the House passed the bill with no changes to the PFA's proposed appropriations. On March 16, the hearing before the Senate Appropriations Committee was held.

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

This bill was defeated in the House.

#### 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 House passed the bill. The hearing before the Senate Government and Veterans Affairs Committee is scheduled for March 26, 2015.

##### *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 House defeated the bill.

##### *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. This bill was passed by the House. The first hearing before the Senate Appropriations Committee was held March 10, 2015.

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

The bill was changed to a study of the formation of Special Purpose Taxing Districts which would provide access to capital for a district without putting a city or county at risk. This was passed by the House. The first hearing before the Senate Political Subdivisions Committee was held March 4, 2015.

In response to a question Ms. Ament stated that House Bill 1443 now has a funding level of \$150 million.

Governor Dalrymple stated that the bill now includes medical facilities and is basically wide-open for infrastructure with very little restriction on what it could be used for. He thinks there should be some focusing language to aim the funding at a particular purpose like the city trunk lines -- that is one of the biggest holes in funding infrastructure for new developments right now. He is going to suggest that they define the use of the program -- right now it could be everything imaginable, which would be really hard to administer.

Ms. Ament said the way HB 1443 is now written it includes new water treatment plants and new waste water treatment plants. Those types of projects have generally been eligible for state revolving loan funds. Hopefully there could be language included that says if the project is eligible for the state revolving funds it needs to go there not to this new fund. That would help take a little pressure off the \$150 million since there are funds already available for those types of projects.

Governor Dalrymple told her to be sure she passes that along. Ms. Ament stated she has tried to do so.

Ms. Ament said the North Dakota Natural Beef property was sold at the Sheriff's Sale on February 4. Normal redemption is sixty days for almost everyone involved with it except SBA which is one year. Today she got an email from Mr. Doug Anderson stating that SBA, for a \$5,000 consideration, will shorten their one year redemption period. That would mean the Public Finance Authority would be able to market the property in April once the paperwork gets signed. Back in September the Commission gave her direction to consult with brokers in Fargo and she has a broker lined up to start marketing the property once all the paperwork is done.

Being no further Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting at 1:20 p.m. and the Commission took up Western Area Water Supply Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 24, 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: Jaret Wirtz, Western Area Water Supply Authority  
Brad Thompson, Bank of North Dakota  
Bonnie Storbakken, Governor's Office  
Jolene Kline, Housing Finance Agency  
Max Wetz, Housing Finance Agency  
Jennifer Henderson, Housing Finance Agency  
Members of the Press

Governor Dalrymple called the Western Area Water Supply Authority portion of the Industrial Commission meeting to order at 1:20 p.m. following completion of Public Finance Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the monthly financial report and debt reduction report along with a capital projects update as follows: (Copies of the attachments are available in the Commission files.)

RE: Western Area Water Supply Authority - Industrial Sales - February, 2015 and  
Debt Repayment Report

Attached is the Western Area Water Supply Authority (WAWS) financial information for the month of February and for the 19 months ending February 28, 2015.

Pages 1 & 2 were prepared by the Bank of North Dakota reflecting debt service payments. This report reflects the debt reduction payments made through February, 2015. During the month of February WAWS made 3 principal prepayments totaling \$1,884,872.34 which were applied to debt service payments due in 2016.

All the principal prepayments are being applied to the debt service owed on BND Loan #1. Original loan was \$50,000,000 and with the prepayments made through February 28, 2015 the principal owed is down to \$34,618,665. On this particular loan through February 28, 2015 WAWS has made principal prepayments totaling \$15,381,315.56.

The next 3 pages (pages 3, 4 & 5) I prepared based on the information provided by WAWS staff reflecting revenues and expenses and showing net income. Capital improvement disbursements (highlighted in orange) and prepayments (highlighted in yellow) are noted separately. Excluding those adjustments the net income for the month of February was \$2,319,061.46. Revenues in February were \$4,017,013.28. Page 6 is the balance sheet prepared by WAWS staff as of February 28, 2015. As noted on the Balance Sheet the Accounts Receivables are \$7,850,793.56.

I asked Jaret to provide some information regarding the fill stations capital project (total cost of \$1,008,755). Here is what Jaret said: *The upgrades are nearly all complete with the exception of some final punch list items and warranty issues on some hardware. (\$195,968 remains to be paid out.) These upgrades have made the operations of the fill stations much more efficient. We have noted reduced lane closures this winter and have received numerous compliments from truckers on the improvements. The FlowPoint billing system has streamlined our accounts receivable department and reduced customer complaints and phone calls. Our customers are now receiving their transaction on a weekly basis electronically and have much fewer questions pertaining to their accounts.*



Mr. Jaret Wirtz, Western Area Water Supply Authority Executive Director, gave a legislation update as follows:

Western Area Water Supply Authority Legislative Update - March 24, 2015

SB 2020 - Water Commission budget - The Western Area Water Supply authority requested \$120 million of funding either from a grant or a loan. The amendments to the bill are a bit unclear but on the Senate floor the bill carrier stated that the Senate is recommending funding of \$45 million of grants in \$10,000,000 increments for only domestic use. SB 2020 states "Funds may not be used solely to construct industrial water infrastructure..." The House Appropriations Education & Environment Division held their hearing on the Water Commission budget on March 19, 2015. No action has been taken by the House Appropriations Committee.

SB 2336 - This bill relates to the Water Commission's role in approving the planning, location and water supply contracts of any authority depots, laterals, taps, turnouts and risers for industrial sales for oil and gas exploration and production after July 1, 2013. This bill was amended and passed the Senate 35 - 11. The amendments require that WAWS file its applications with the Water Commission, then the Water Commission must give electronic notice, allow a comment period of seven days and make a decision within ten days after receipt of the application. "The commission shall consider any public comments from permit holders within the county relating to the application before making a determination to approve or disapprove the application. Allows for the approval or disapproval to be delegated to the state engineer. The House Energy and Natural Resources Committee has recommended a **do not pass** on a 13 - 0 vote. The bill is on the calendar for today, March 24, 2015.

SB 2361 - This bill deals with WAWS authority to use eminent domain. The bill was amended and now states that the Authority cannot use eminent domain for infrastructure that is solely for industrial water sales for oil and gas development. This bill passed Senate 40-6. The House Energy and Natural Resources Committee has recommended a **do not pass** on a 12-1 vote. The bill is on the calendar for today, March 24, 2015.

In response to a question, Mr. Wirtz said the \$45 million is for funding as a grant--not a loan. He indicated that the Authority was trying to get back to a \$65 million grant. He stated that is the amount the Water Coalition all agreed upon; \$65 million grant for WAWS out of a total \$500 million budget.

In response to a question, Mr. Wirtz reviewed the need for the projects that had been identified in the original \$120 million request to the Water Commission; funding for expansion to rural areas outside of Stanley and in Burke County; design work at the water treatment plant which needs to be done over multiple years and must constantly be kept updated; the upgrade to the transmission line to Stanley and Tioga; Watford City bypass and the rural systems on the eastern side of the System.

In response to a question, Mr. Wirtz indicated that even though there has been some slow down WAWS is still seeing demand for water in Watford City, Williston and Stanley. The need for water in the rural areas continues. This is really the time to catch up so WAWS isn't always behind. WAWS is focused on getting the rural water work done this in 2015-2017. If the funding is reduced there will be projects that don't get done and it will affect the growth taking place out west.

In response to a question, Mr. Wirtz discussed the limitations that have been placed on WAWS or the member entities in taking on additional debt and the repayment source for any additional debt. This is something that they are asking their attorneys to look at to see if there needs to be an amendment to the law which would allow WAWS to borrow for additional projects. He pointed out that McKenzie Water is not a water district but rather a water resource district. Water Resource Districts have a cap of \$10 million in what they can borrow; rural water districts have a cap of \$50 million. He noted that WAWS needs additional funding for one more session to give them time for their user density to fill in especially in the rural areas but also in the communities.

Governor Dalrymple said if Mr. Wirtz still has projects that need to be done – beyond the \$45 million – he needs to let the Commission know and see if there is something else that can be done.

Mr. Wirtz said SB 2336 (Committee recommendation DNP 13-0) and 2361 (Committee recommendation DNP 12-1) were being voted on the floor today and he anticipated that they would be defeated based on the committee's recommendations for a do not pass.

Mr. Wirtz said they are beginning to see a down turn in sales. He didn't want the Commission to believe the Authority would continue to have industrial sales at a \$4 million average every month. He said it is probably going to be back down to the \$2.5 to \$3 million next month which is still very good.

In response to a question, Mr. Wirtz said the weather may be a factor in the sales during the year. If there are dry conditions then surface water sales would not be available to the industry. He did not see a lot of opportunities that would increase sales but weather could have an impact.

Being no further Western Area Water Supply Authority business, Governor Dalrymple adjourned this portion of the meeting at 1:35 p.m. and the Commission took up Housing Finance Agency business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 24, 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: Brad Thompson, Bank of North Dakota  
Bonnie Storbakken, Governor's Office  
Jolene Kline, Housing Finance Agency  
Max Wetz, Housing Finance Agency  
Jennifer Henderson, Housing Finance Agency  
Members of the Press

Governor Dalrymple called the Housing Finance Agency portion of the Industrial Commission meeting to order at 1:35 p.m. following completion of Western Area Water Supply Authority business.

Ms. Jolene Kline, Housing Finance Agency Executive Director, presented the Housing Finance Agency Advisory Board recommendation to allow the Housing Finance Agency to make application to be an approved FHA-HFA Risk Share Lender under HUD Section 542 (c) as follows:

The North Dakota Housing Finance Agency Advisory Board recommends that the Industrial Commission allow the Agency to make application to be an approved FHA-HFA Risk Share Lender under HUD Section 542 (c).

Agency staff is requesting approval to apply to be an approved FHA- HFA Risk Share Lender under HUD Section 542 (c). Section 542 (c) allows qualified Housing Finance Agencies to originate and underwrite affordable housing loans for multifamily residential projects. The program provides full FHA mortgage insurance to enhance HFA bonds to investment grade in exchange the HFA shares a percent of the mortgage insurance risk. HFAs must share at least fifty percent of the risk in order to have full origination and underwriting authority.

In order to participate in the program, the Agency must receive an overall "A" rating on its general obligation bonds, demonstrate capacity, have five years of experience in multifamily underwriting, and be a HUD-approved multifamily mortgagee in good standing.

In 2014, HUD and U.S. Treasury announced a financing initiative using Treasury's Federal Financing Bank (FFB). The FFB will provide financing for multifamily loans insured under the Risk-Sharing program. This financing opportunity will reduce interest rates as compared to the cost of tax-exempt bonds in the current market. This initiative is a temporary solution until such time as Congress authorizes Ginnie Mae securitization of FHA risk-share loans, which is currently prohibited.

The introduction of the FFB to the risk share program allows the Agency to engage in multifamily lending without a significant investment in capital. The program has the following reserve requirements to participate;

- HFA's with top-tier designation or overall "A" rating on general obligation bonds are not required to have additional reserves, unless determined that a prescribed level is necessary;
- Other HFAs must establish and maintain a specifically identified account in not less than \$500,000 upon execution of a risk sharing agreement and there after a tiered deposit dependent on the unpaid principal balance of each loan originated. A risk share agreement between the Agency and HUD will be required to be executed prior to program participation.

Eligible projects must consist of five or more rental dwelling units and have unit affordability restrictions of twenty percent restricted to fifty percent AMI or less or forty percent restricted to 60 percent AMI or less. Eligible uses of the funding are permanent financing of construction debt, substantial rehabilitation, and with exceptions, refinancing of existing projects without rehabilitation.

Participation in the Program will give the Agency the ability to provide long-term, fully amortizing debt on affordable multi-family projects.

In response to a question, Ms. Kline said the program requires that the Agency share at least 50% of the risk. Because of that exposure the Agency would be doing careful underwriting to make sure that the project is in sustainable markets.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and allow the Housing Finance Agency to make application to be an approved FHA-HFA Risk Share Lender under HUD Section 542 (c). On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Kline discussed the Housing Finance Agency Advisory Board recommendation to approve a resolution authorizing declaration of intent to issue tax exempt multifamily revenue bonds as follows:

The North Dakota Housing Finance Agency Advisory Board recommends that the Industrial Commission approve a resolution authorizing declaration of intent to issue tax exempt revenue bonds.

Agency staff received a request from a developer to indicate the Agency's willingness to issue tax exempt revenue bonds not to exceed \$10,000,000 to finance a loan for the purpose of acquiring and rehabilitating Meadowlark apartments, a 96 unit 100% Section 8 multifamily residential rental property in Minot, North Dakota. Bond tax laws provide that a developer can use tax-exempt bonds to finance only those costs incurred after the bond issuer indicates its (non-binding) intent or willingness to issue bonds for the project in question. This is only a preliminary approval for tax purposes and does not obligate the Industrial Commission or NDHFA to issue bonds. The attached document is simply a non-binding "intent" resolution for this specific project and also gives the authority to either our CFO or myself to make authorizations of intent for future such requests.

Any project that progresses to the point such that an actual bond resolution legally authorizing the issuance of bonds is needed will be brought to both our Advisory Board and the Industrial Commission for final approval.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and adopt the following resolution:**

STATE OF NORTH DAKOTA  
NORTH DAKOTA HOUSING FINANCE AGENCY  
MULTIFAMILY REVENUE BONDS

RESOLUTION AUTHORIZING DECLARATIONS OF INTENT  
TO ISSUE MULTIFAMILY REVENUE BONDS

WHEREAS, the Industrial Commission of North Dakota (the "Commission"), acting in its capacity as a state housing finance agency, i.e., the North Dakota Housing Finance Agency (the "Agency"), is empowered by the provisions of the North Dakota Century Code Chapter 54-17 (the "Act") to provide financing, directly or indirectly, of construction, permanent, and combined construction and permanent mortgage loans for the acquisition, construction, refurbishing, reconstruction, rehabilitation or improvement of multifamily residential housing in which at least twenty percent of the units are held for occupancy by persons or families of low and moderate income; and

WHEREAS, the Integra Property Group ("Integra") has requested that the Agency indicate its willingness to issue its revenue bonds in an amount not to exceed \$10,000,000 (the "Bonds") and use the proceeds thereof to finance a loan to Integra and a co-development partner/co-general partner to be determined, or an affiliate thereof (the "Borrower"), for the purpose of acquiring, rehabilitating and equipping the Meadowlark Apartments, a 96 unit 100% Section 8 multifamily residential rental property in Minot, North Dakota (the "Project"); and

WHEREAS, in furtherance of the purposes of the Act, the Agency is preliminarily considering the issuance of the Bonds, the proceeds of which would be used to finance a loan to the Borrower to assist the Borrower in the acquisition, rehabilitation, construction and equipping of the Project; and

WHEREAS, it is intended that the Agency take "official action" within the meaning of the applicable provisions of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder (the "IRC") for the purpose of preliminarily considering the issuance of the Bonds in an amount not to exceed \$10,000,000 for the purpose of acquiring, rehabilitating and equipping the Project; and

WHEREAS, it is anticipated that the Agency may in the future receive comparable requests from other developers for possible bond issuances for multifamily residential housing, and, as permitted by the IRC, for administrative ease the Agency desires to authorize the Executive Director or Chief Financial Officer to make declarations of intent for such future requests, subject to the limitations expressed below.

NOW, BE IT HEREWITH RESOLVED:

Section 1. *Preliminary Approval.* The issuance of the Bonds for the purpose of financing a loan to the Borrower to allow the Borrower to acquire, rehabilitate, construct and equip the Project is hereby preliminarily approved, and, pursuant to Section 1.150-2 of the Internal Revenue Code Regulations, the Agency hereby states its intention to reimburse itself or the Borrower from Bond proceeds for any advances of funds made prior to the issuance of any such Bonds.

Section 2. *Staff Preliminary Approval.* The Executive Director and Chief Financial Officer are each authorized to execute declarations of intention constituting "official action" within the meaning of the IRC with respect to future requests therefor concerning the possible issuance of revenue bonds to finance multifamily residential projects pursuant to the Act. Any such declaration of intention shall be reported to the Commission at its next succeeding meeting.

Section 3. *Conditions.* A preliminary approval pursuant to Section 1 or 2 does not obligate the Commission to finally approve the issuance of bonds. Final approval of the issuance of any bonds can only be authorized by subsequent Commission action, which may contain such conditions thereto as the Commission may deem appropriate. The Commission in its absolute discretion may refuse to finally

authorize the issuance of any bonds and shall not be liable to any borrower or other person for its refusal to do so.

Section 4. *Prior Resolutions.* All provisions of prior resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflicts, hereby repealed.

Section 5. *Effectiveness.* This Resolution shall be effective immediately.

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

Ms. Kline discussed the Housing Finance Agency Advisory Board recommendation to approve Exhibit 1 to Program Directive 104 and Exhibit 2 as new income limits for respectively the FirstHome and ND Roots programs effective March 25, 2015 as follows:

The North Dakota Housing Finance Agency Advisory Board recommends that the Industrial Commission approve the attached Exhibit 1, Program Directive 104 and Exhibit 2 as new income limits for respectively the FirstHome and ND Roots programs effective March 25, 2015.

#### FirstHome and ND Roots Income Limit Proposal

The Department of Housing and Urban Development (HUD) published new median income numbers on March 6, 2015. These numbers are used to establish the Annual Income limits for the FirstHome, Start, HomeAccess, and ND Roots programs. MRB regulations allow the use of the greater of county or state median income. Mortgage Revenue Bond (MRB) regulations limit household incomes to:

- 100% of median income for one and two member households
- 115% for households of three or more
- Targeted areas are set at 120% and 140% percent according to household size
- ND Roots income limits can be up to 140% of HUD median income limits regardless of household size

The new statewide median income for North Dakota increased \$4,700 (6.8%) to \$74,300 for FY2015. This compares to the national median income increase of \$1,900 (3%) to \$65,800.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve the following Program Directive 104 and Exhibit 2 as new income limits for respectively the FirstHome and ND Roots programs effective March 25, 2015.**

NORTH DAKOTA HOUSING FINANCE AGENCY  
HOME MORTGAGE FINANCE PROGRAM (FirstHome)

PROGRAM DIRECTIVE NO. 104  
MAXIMUM ANNUAL INCOME

The following Program Directive will serve as written notice of the applicable “Maximum” “Annual Income” (as defined in the 1994 Mortgage Purchase Agreement dated as of August 3, 1994) for an Eligible

Mortgagor of a Mortgage Loan. These Maximum Annual Income limits are effective for Mortgage Loans in which the Reservation is dated on or after the herein effective date March 25, 2015.

County	Maximum Annual Income FirstHome/Start/HomeAccess	
	Family Size Less than 3	Family Size 3 or More
Burleigh/Morton	80,300	92,345
Cass	76,600	88,090
Burke	75,300	86,595
Dunn	79,000	90,850
McKenzie	77,000	88,550
Mercer	79,100	90,965
Mountrail	78,700	90,505
Oliver	82,200	94,530
Stark	74,500	85,675
Williams	84,600	97,290
All Other Counties	74,300	85,445

Effective date of this Program Directive No. 104: March 25, 2015

Exhibit 2

NORTH DAKOTA HOUSING FINANCE AGENCY

ND ROOTS PROGRAM  
 MAXIMUM ANNUAL INCOME

These Maximum Annual Income limits are effective for ND Roots Mortgage Loans in which the Reservation is dated on or after the herein effective date March 25, 2015.

County	Income Limit
Burleigh/Morton	112,420
Cass	107,240
Burke	105,420
Dunn	110,600
McKenzie	107,800
Mercer	110,740
Mountrail	110,180
Oliver	115,080
Stark	104,300
Williams	118,440
All Other Counties	104,020

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

Ms. Kline discussed the Housing Finance Agency Advisory Board recommendation to approve the suspension of the HomeKey Program until such time as market conditions warrant reactivation of this program as follows:

The North Dakota Housing Finance Agency Advisory Board recommends that the Industrial Commission approve the suspension of the HomeKey Program until such time as market conditions warrant reactivation of the program.

The HomeKey program went into effect in November 2000. It initially offered a two percent interest rate reduction for the first three years of the loan, a one percent reduction for the next two years, and then stepped up to the full note rate for the remainder of the loan. In 2005, the program terms were adjusted to a two percent reduction for the first year, a one percent reduction for year two, and then stepping up to the full note rate for the balance of the loan.

In the first four years over 647 households utilized the program. Starting in 2005 a significant decline in the use of the program began, resulting in a total of 405 households using the program from 2005 through 2013. The program was not used at all in 2014.

The reduction in usage of the program was due to the change in the program terms, the decline in market interest rates, and loan disclosure/regulatory issues.

If approved, staff will suspend the program effective immediately until such time it may be useful again.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve the suspension of the HomeKey program until such time as market conditions warrant reactivation of this program. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Kline reported on the Low Income Housing Tax Credit program awards as follows:

RE: Award of 2015 federal Low Income Housing Tax Credits

The funding round for 2015 federal Low Housing Tax Credits (LIHTC) closed on January 30<sup>th</sup> and six projects were selected for funding. The projects are located in Bismarck (39 units for seniors), Dunseith (25 units for seniors), Fargo (30 units for seniors), Watford City (39 units for seniors), Dickinson (35 units for workforce) and Minot (35 units for workforce). We were able to fully fund the six projects by forward committing nearly \$600,000 of our 2016 LIHTC authority. The total credits awarded in this round for new projects were \$3,283,083 and these credits are anticipated to bring in approximately \$29 million in equity for the developers to use toward total development costs of about \$37.7 million. As part of this funding round, NDHFA also allocated \$74,000 to two projects funded with 2014 credit authority that experienced significant construction cost increases creating funding gaps which could not be feasibly filled with conventional debt. These two projects are located in Jamestown and West Fargo.



The balance of 2016 LIHTC authority of approximately \$2.1 million will be awarded following a September 30<sup>th</sup> funding round.

Ms. Kline gave the legislative update as follows:

Since the last legislative report in February, the following is a status report on 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 House amended the salaries and wages line item from the Executive Recommendation to a 3 percent increase each year of the biennium. They also included legislative intent language requesting that if revenues come in better than forecast, that a priority list of contingent transfers be developed. HIF was named as one of those priorities. The House passed the bill on a 77-15 vote on Feb. 24. It was heard in the Senate Appropriations Committee on March 16. A subcommittee meeting on the bill will be held on Thursday, March 26.

**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 passed in the House 74-18. It was heard by the Senate Finance and Taxation Committee on March 4, but no action has been taken.

**HB 1193** was introduced to expand the allowable securities in which a political subdivision may invest its funds. We worked with the sponsors of the bill to have it amended to say that any obligation of the Agency which is rated in the highest two categories by a nationally recognized rating agency is an eligible investment potential. The bill passed in the House 91-0. It passed the Senate 47-0.

**SB 2220** sought to increase the Housing Incentive Fund to \$100 million with \$70 million being a general fund transfer and \$30 million being tax credit authority. The bill failed in the Senate 18-29.

**SB 2257** was introduced by Sen. Bekkedahl and sought to add mobile home parks as an eligible use under the Housing Incentive Fund. The bill was amended to take the mobile home provision out and include a \$20 million general fund appropriation and emergency clause. It passed the Senate unanimously. It was amended by the House Finance and Taxation Committee to remove the general fund appropriation and emergency clause. It was passed by the House 56-30 on March 20. We are waiting to hear whether the Senate will accept the amendments or assign a conference committee.

Ms. Kline discussed the appointment of a public hearing officer for Housing Incentive Fund as follows:

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

Appointment of Public Hearing Representative

Jolene Kline, the Executive Director of the North Dakota Housing Finance Agency (the "Agency"), is hereby appointed to act as the representative of the North Dakota Industrial Commission, acting as the Agency at a public hearing regarding the Agency's proposed Housing Incentive Fund Allocation Plan. The hearing will be held in Bismarck, North Dakota, on April 13, 2015 at 10:00 A.M. (CST), as noticed by the Notice of Public Hearing hereto attached.

Minutes - Page 8  
March 24, 2015

As Hearing Representative, Jolene Kline 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 adoption of the Plan.

**It was moved by Attorney General Stenejem and seconded by Commissioner Goehring that Jolene Kline, North Dakota Housing Finance Agency Executive Director, be appointed as the Industrial Commission's representative at a public hearing regarding the Agency's proposed Housing Incentive Fund Allocation Plan scheduled to be held on April 13, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenejem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Housing Finance Agency business, Governor Dalrymple adjourned this portion of the meeting at 1:55 p.m. and the Commission took up Oil and Gas Research Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 24, 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: Brad Thompson, Bank of North Dakota  
Bonnie Storbakken, Governor's Office  
Members of the Press

Governor Dalrymple called the Oil and Gas Research Program portion of the Industrial Commission meeting to order at 1:55 p.m. following completion of Housing Finance Agency business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, discussed a request for a special grant round - deadline of April 15, 2015. She said the potential applicant needs to do their work this summer so they asked for a special grant round. Under policy, the Commission can establish special rounds.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission establish a special application grant round of April 15, 2015 for the Oil and Gas Research Program. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Oil and Gas Research Program business, Governor Dalrymple adjourned this portion of the meeting at 1:57 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 March 24, 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  
Alison Ritter, DMR-Oil and Gas Division  
Bruce Hicks, DMR-Oil and Gas Division  
Lawrence Bender, Fredrick & Byron  
Danette Nelson, Oneok  
Ron Ness, ND Petroleum Council  
Jan Swenson, Badlands Conservation Alliance  
Josh DeMorrett, Conoco Phillips  
Pamela Link, LIUNA  
Cory Bryson, LIUNA  
Michelle Mielke, Department of Agriculture  
Justin Kringstad, Pipeline Authority  
Brad Thompson, Bank of North Dakota  
Bonnie Storbakken, Governor's Office  
Members of the Press

Governor Dalrymple called the Department of Mineral Resources portion of the Industrial Commission meeting to order at 1:58 p.m. following completion of Oil and Gas Research Program business.

Mr. Lynn Helm, Department of Mineral Resources Director, presented the Gas Capture Enforcement Policy. He stated the staff has prepared at the Commission's request some guidance and a draft policy regarding how the Commission should enforce Commission Order No. 24665 including what the extenuating circumstances would be that the Commission would consider under that Order as well as any penalty provisions.

Mr. Helms went through each section of the document. The first portion reiterates the process leading up to the adoption of that Order No. 24665 including the initial goals the Commission set, the action items they laid out and the findings in the Order in terms of what was discovered in the process of hearings and public input.

North Dakota Industrial Commission Order 24665 Policy/Guidance

**Policy Goals:**

- 1) reduce the flared volume of gas
- 2) reduce the number of wells flaring
- 3) reduce the duration of flaring from wells

**Action items:**

- 1) require Gas Capture Plans for increased density, temporary spacing, and proper spacing cases
- 2) require Gas Capture Plans for all applications for a permit to drill
- 3) semi-annual meetings with midstream gas gathering companies
- 4) develop a web-based pipeline incident report form to better assess right-of-way issues
- 5) direct the Pipeline Authority to track flaring on/off the Fort Berthold Indian Reservation
- 6) report capture status versus goals
- 7) conduct a hearing to review and revise Bakken, Bakken/Three Forks, and/or Three Forks Pool rules governing production curtailment

The initial horizontal well drilled in each spacing unit should be allowed to produce at its maximum efficient rate, regardless if the well is connected to a gas gathering system. Allowing such wells to produce at a maximum efficient rate will allow valuable information to be obtained in order to make decisions regarding future well and infrastructure requirements in the spacing unit.

Commission production records indicate the majority of gas flared in North Dakota is from wells already connected to a gas gathering system. Such wells should not be excluded from gas capture goals adopted by the Commission.

Well payout and economics should not be used to determine production restrictions.

Some spacing units are being developed where the operator is aware that the existing gas gathering infrastructure is insufficient to allow surplus gas to be processed through the gas gathering system. In instances where significant amounts of surplus gas are flared due to the insufficient collection system, production should be restricted unless significant amounts of surplus gas are captured for beneficial consumption, or utilized in a value-added process.

Some flared gas contains components that if improperly combusted could cause air quality degradation and health issues.

On the Fort Berthold Indian Reservation, many Bakken Pools are also within the jurisdiction of the Mandan Hidatsa and Arikara (MHA) Nation and Bureau of Land Management (BLM). In some cases, companies must comply with MHA Nation, BLM, and Commission rules. The Commission should work with federal and tribal authorities to ensure that restrictions imposed herein provide clarity and protection of correlative rights for the oil and gas companies operating in the respective jurisdictions.

---

The next section begins with the gas capture goals the Commission adopted and explains how the gas capture percentage is going to be calculated. Item #3 under compliance with gas capture goals identifies force majeure events. It basically states that if a force majeure event occurs and is properly documented in writing by the company who is doing the gas gathering, then that gas will be subtracted from the calculation. It will be left out of the production number and left out of the flaring number. He gave an example, last month in Lignite there was a power surge and the Lignite Gas Plant went down for two days. It processes six million cubic feet per day so the Division got a force majeure letter from Oneok, the operator of the plant, stating the dates it was down and the compressor stations impacted by that. What the staff would do is allocate that force majeure gas to operators who produce into those compressor facilities and that would be left out of their calculation, it would not count against them or for them in the gas capture calculation. That would be a force majeure event.

The Commission has established the following gas capture goals:

- 74% October 1, 2014 through December 31, 2014
- 77% January 1, 2015 through December 31, 2015
- 85% January 1, 2016 through September 30, 2020
- 90% beginning October 1, 2020
- 95% future potential

The gas capture percentage is calculated by summing monthly gas sold plus monthly gas used on lease plus monthly gas processed in a Commission approved beneficial manner, divided by the total monthly volume of associated gas produced.

In order to allow operators the maximum flexibility to manage their drilling, operation, and gas capture plans within the gas capture goals established by the Commission, the Commission will evaluate compliance with the gas capture goals statewide, by county, by field, then by well for each operator.

- 1) All infill horizontal wells, including overlapping spacing units, completed in a Bakken, Bakken/Three Forks, and/or Three Forks Pool are allowed to produce at a maximum efficient rate for 90 days.
- 2) The operator is allowed to remove the initial 14 days of flowback gas from the total monthly volume calculation.
- 3) The operator is allowed to remove from the total monthly volume calculation gas volumes flared from wells already drilled and completed on the date a force majeure event occurs if the event is properly documented in writing by the gas gathering company.
- 4) The Commission recognizes the following as surplus gas being utilized in a beneficial manner that may be considered as captured gas:
  - a. Equipping the well(s) with an electrical generator that consumes surplus gas from the well
  - b. Equipping the well(s) with a system that intakes the surplus gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting the propane and heavier hydrocarbons
  - c. Equipping the well(s) with other value-added processes as approved by the Director which reduce the volume or intensity of the flare by more than 60%.

If an operator is unable to attain the Commission's gas capture goals at maximum efficient rate, well(s) will be restricted to 200 barrels of oil per day if at least 60% of the monthly volume of associated gas produced from the well is captured, otherwise oil production from such wells shall not exceed 100 barrels of oil per day.

---

Mr. Helms indicated that the next section refers to flexibility. It lists in 1 - 6 six different extenuating circumstances under which the Commission would more than likely grant relief from production restrictions if the gas capture goals were not being met. This is a rewriting of Paragraph 19 of Order No. 24665 He gave an example--a situation where the right of way just could not be secured and for whatever reason they had to continue to produce and flare the gas. Under that circumstance the Commission would lean towards providing a temporary exemption from production restrictions.

He noted that the final paragraph in this section says the Commission will not necessarily limit itself to just this list, there may be other extenuating circumstances that arise and in those cases the Commission will hold a hearing and if operator can demonstrate to the Commission that those circumstances are causing them to not meet the gas capture goals but at the end of that time period you will be capturing significantly measurably more gas than you were going in, then the Commission will consider granting temporary relief. A good example of that would be the 1804 Plant the Commission approved in January for flaring relief December through March so that the 64 miles of gathering line and 45 million per day plant could get up and running. That doesn't fit neatly into the list of six but it is one of those cases where there is some other set of circumstances and coming out, gas capture will be far better than it was going in so the Commission would lean towards approving this. The staff included the last paragraph because they needed to allow for things that they hadn't thought of when putting together the list of six - they didn't know what those situations might be.

In response to a question regarding flushing out new equipment and getting it into operation, Mr. Helms said that situation might fall neatly under number two, a temporary down time for a system upgrade. He said probably a closer fit for that would be the Hess application the Commission discussed last month where Hess upgraded compression at the Hawk Eye Facility in anticipation of the river crossing and they

were down for 24 days and came in and asked for relief from the production restrictions and the gas capture goals for those 24 days.

In response to a question regarding safety issues, Mr. Helms said an example would be a case the Commission will consider today. There was an erosion event and a pipeline washed out of the bank and was exposed and it was not safe for the midstream company to continue operating that pipeline. They had to issue a force majeure letter and say they are shutting the pipeline down and your gas has nowhere to go. Another one example is a case talked about last month where if Hess had idled or shut in all those wells they would have had a freezing problem in their Blue Buttes Gathering System and a buildup of liquids that would have created an unsafe condition. Another one would have been the gas gathering systems for 1804. The only way to bring that plant up safely was to purge it with field gas and that gas is not saleable so it had to be flared during the process. There could be a leak or a pipeline incident where someone digging strikes someone else's pipeline and breaks it and it has to be shut down in order to protect the public.

In response to a question regarding delayed access to electrical power, Mr. Helms said he was told in the hearings that McKenzie Electric, Mountrail-Williams Electric, Burke-Divide are all months behind in building distribution lines. What has happened with a lot of the compressor facilities is the compressors show up and there is no electrical power to drive them. The operators prefer to use electric power because you can run it up and down, it has variable speed and it is cleaner in terms of air quality, etc. There have been several situations where the compressor showed up and they were able to plumb them in but there was no three-phase power there yet and it ended up in a four to six week delay before the power and transformers were there.

In response to a question regarding if that could be a delay because the company realistically had expected service to be available according to their gas capture plan, Mr. Helms said yes. That is why the staff thinks this relief should only be granted after notice and hearing. The staff then has a chance to put witnesses on the stand so to speak and ask for documentation from the gathering company that they had promised electric power as of that date but didn't deliver or those sorts of things. All of those things are the kinds of things that might get claimed but we are asking we have actual evidence that people are testifying to and to justify those six reasons. He pointed out that this would be temporary relief with deadlines that have to be met.

Mr. Helms said on the reservoir damage item, these hydraulically fractured wells do not like to be cycled on and off. If you cycle them on and off, the fractures open and close and they crush that very expensive sand and ceramic beads that you pumped in there. They need to be produced without too big of changes in terms of production rate – that is one of those things we could only figure out at a hearing by asking a lot of questions but it should be on the list. It is very significant because if that's an issue, it could result in permanent harm to the mineral owners and everybody in terms of recovering oil and gas.

Flexibility will be provided in the form of temporary exemptions from production restrictions after notice and hearing if the following extenuating circumstances are validated:

- 1) surface landowner, tribal, or federal government right-of-way delays
- 2) temporary midstream down-time for system upgrades and/or maintenance
- 3) federal regulatory restrictions or delays
- 4) safety issues
- 5) delayed access to electrical power
- 6) possible reservoir damage

Flexibility in the form of temporary exemptions from production restrictions may be considered for other types of extenuating circumstances after notice and hearing if the effect of such flexibility is a significant net increase in gas capture within one year of the date such relief is granted.

---

The last section is what the Commission asked for with regards to penalty provisions. There is a timing issue of when gas capture can be calculated; when we know there is a problem because production is reported two months after it happens. What the staff came up with is that if a company had a bad month and they know they were not meeting the gas capture goals, but they delayed in coming to ask for relief, there could be a penalty starting at \$1,000 for the first month and doubling every month up to a maximum of \$12,500. The Commission should not tolerate someone coming in six months after something happened and asking to go back and get relief. Operators need to be managing their business and at the end of the month running all their gas capture calculations and knowing where they stand.

Mr. Helms stated the second part of the penalty provisions would be if the Commission has to order production restrictions as a result of Order No. 24665 and the operator did not comply with those. This lays out the typical process that the Department follows – a verbal notice of violation, continued ignoring of the restriction would get you a written notice of violation and if it continues beyond that, it would get you a civil penalty.

There was discussion if the penalty for \$1,000 was enough – even if it doubles each month. Mr. Helms indicated that he believes it is adequate. So far without a penalty companies have been notifying the Division.

**Penalty provisions:**

Production and flaring data is two months old when filed (Jan 2014 data filed Mar 2014) and data is frequently amended.

Timely communication between operators and midstream companies as well as with the Commission is of the essence. Lack of compliance with the following requirements will be considered violations:

- 1) Failure to file an application for hearing with the Commission within the month following the month in which the operator was unable to attain the Commission's gas capture goals and oil production exceeded production restrictions may result in a civil penalty of \$1,000 per month up to a maximum of \$12,500 per month beginning at \$1,000 the first month and doubling each additional month that the operator is in violation.
  - 2) Failure to implement production restrictions within the month following the month in which the operator was notified by Commission staff that gas capture goals were not attained and oil production from listed well(s) is to be restricted will result in a verbal notice of violation. The Commission will issue a written notice of violation with a compliance deadline if an operator fails to implement production restrictions for a second month. A third month in violation of production restrictions may result in a civil penalty of up to \$12,500 per well for each day the well has been in violation.
- 

Mr. Helms stated that is the policy that the staff developed as per the Commission's request. He encouraged the Commission to adopt the policy as soon as possible so the staff can give some certainty to industry about how these different circumstances and force majeure situations are going to be viewed going forward.



In response to a question Mr. Helms said that it would be his preference to bring these types of orders to the Commission for their consideration. There was discussion as to whether the Commission wanted to see every order or receive a report each month. The consensus of the Commission members was that these orders be brought to the Commission so they could be discussed. It was noted that in particular they wanted to see the exemptions that might be granted under the final paragraph -- other extenuating circumstances.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the following Gas Capture Enforcement Policy be approved:**

North Dakota Industrial Commission Order 24665 Policy/Guidance

**Policy Goals:**

- 4) reduce the flared volume of gas
- 5) reduce the number of wells flaring
- 6) reduce the duration of flaring from wells

**Action items:**

- 8) require Gas Capture Plans for increased density, temporary spacing, and proper spacing cases
- 9) require Gas Capture Plans for all applications for a permit to drill
- 10) semi-annual meetings with midstream gas gathering companies
- 11) develop a web-based pipeline incident report form to better assess right-of-way issues
- 12) direct the Pipeline Authority to track flaring on/off the Fort Berthold Indian Reservation
- 13) report capture status versus goals
- 14) conduct a hearing to review and revise Bakken, Bakken/Three Forks, and/or Three Forks Pool rules governing production curtailment

The initial horizontal well drilled in each spacing unit should be allowed to produce at its maximum efficient rate, regardless if the well is connected to a gas gathering system. Allowing such wells to produce at a maximum efficient rate will allow valuable information to be obtained in order to make decisions regarding future well and infrastructure requirements in the spacing unit.

Commission production records indicate the majority of gas flared in North Dakota is from wells already connected to a gas gathering system. Such wells should not be excluded from gas capture goals adopted by the Commission.

Well payout and economics should not be used to determine production restrictions.

Some spacing units are being developed where the operator is aware that the existing gas gathering infrastructure is insufficient to allow surplus gas to be processed through the gas gathering system. In instances where significant amounts of surplus gas are flared due to the insufficient collection system, production should be restricted unless significant amounts of surplus gas are captured for beneficial consumption, or utilized in a value-added process.

Some flared gas contains components that if improperly combusted could cause air quality degradation and health issues.

On the Fort Berthold Indian Reservation, many Bakken Pools are also within the jurisdiction of the Mandan Hidatsa and Arikara (MHA) Nation and Bureau of Land Management (BLM). In some cases,

companies must comply with MHA Nation, BLM, and Commission rules. The Commission should work with federal and tribal authorities to ensure that restrictions imposed herein provide clarity and protection of correlative rights for the oil and gas companies operating in the respective jurisdictions.

The Commission has established the following gas capture goals:

- 74% October 1, 2014 through December 31, 2014
- 77% January 1, 2015 through December 31, 2015
- 85% January 1, 2016 through September 30, 2020
- 90% beginning October 1, 2020
- 95% future potential

The gas capture percentage is calculated by summing monthly gas sold plus monthly gas used on lease plus monthly gas processed in a Commission approved beneficial manner, divided by the total monthly volume of associated gas produced.

In order to allow operators the maximum flexibility to manage their drilling, operation, and gas capture plans within the gas capture goals established by the Commission, the Commission will evaluate compliance with the gas capture goals statewide, by county, by field, then by well for each operator.

- 5) All infill horizontal wells, including overlapping spacing units, completed in a Bakken, Bakken/Three Forks, and/or Three Forks Pool are allowed to produce at a maximum efficient rate for 90 days.
- 6) The operator is allowed to remove the initial 14 days of flowback gas from the total monthly volume calculation.
- 7) The operator is allowed to remove from the total monthly volume calculation gas volumes flared from wells already drilled and completed on the date a force majeure event occurs if the event is properly documented in writing by the gas gathering company.
- 8) The Commission recognizes the following as surplus gas being utilized in a beneficial manner that may be considered as captured gas:
  - a. Equipping the well(s) with an electrical generator that consumes surplus gas from the well
  - b. Equipping the well(s) with a system that intakes the surplus gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting the propane and heavier hydrocarbons
  - c. Equipping the well(s) with other value-added processes as approved by the Director which reduce the volume or intensity of the flare by more than 60%.

If an operator is unable to attain the Commission's gas capture goals at maximum efficient rate, well(s) will be restricted to 200 barrels of oil per day if at least 60% of the monthly volume of associated gas produced from the well is captured, otherwise oil production from such wells shall not exceed 100 barrels of oil per day.

Flexibility will be provided in the form of temporary exemptions from production restrictions after notice and hearing if the following extenuating circumstances are validated:

- 7) surface landowner, tribal, or federal government right-of-way delays
- 8) temporary midstream down-time for system upgrades and/or maintenance
- 9) federal regulatory restrictions or delays
- 10) safety issues
- 11) delayed access to electrical power
- 12) possible reservoir damage

Flexibility in the form of temporary exemptions from production restrictions may be considered for other types of extenuating circumstances after notice and hearing if the effect of such flexibility is a significant net increase in gas capture within one year of the date such relief is granted.

**Penalty provisions:**

Production and flaring data is two months old when filed (Jan 2014 data filed Mar 2014) and data is frequently amended.

Timely communication between operators and midstream companies as well as with the Commission is of the essence. Lack of compliance with the following requirements will be considered violations:

- 3) Failure to file an application for hearing with the Commission within the month following the month in which the operator was unable to attain the Commission's gas capture goals and oil production exceeded production restrictions may result in a civil penalty of \$1,000 per month up to a maximum of \$12,500 per month beginning at \$1,000 the first month and doubling each additional month that the operator is in violation.
- 4) Failure to implement production restrictions within the month following the month in which the operator was notified by Commission staff that gas capture goals were not attained and oil production from listed well(s) is to be restricted will result in a verbal notice of violation. The Commission will issue a written notice of violation with a compliance deadline if an operator fails to implement production restrictions for a second month. A third month in violation of production restrictions may result in a civil penalty of up to \$12,500 per well for each day the well has been in violation.

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

Mr. Helms presented an update on the 1804 Gas Plant construction near Springbook, North Dakota. He handed out a graph showing the flaring is now down to 12 percent from 75 percent at the beginning of the process. (A copy of the graph is available in the Commission files.) Mr. Helms noted that it has gone well although the plant is not going to be selling gas on April 1. It will be two weeks delayed past that but they don't need an extension. Their flaring has gone from 75 percent down to twelve percent and they are in compliance. This is the type of relief they like to give because the end result is sixty-three percent reduction in flaring.

Mr. Helms presented orders for cases heard December 18, 2014 and February 25 & 26, 2015 as follows:

Case 22090, Order 26105 - Determination of volume and value of gas flared. He noted that the Commission staff has had a very difficult time getting the information needed to make a determination. Mr. Helms distributed a map which showed where the well was located. (The map is available in the Commission files.) He stated that the wells on both sides of the well under discussion are connected and selling gas but this one operated by Gadeco has continued to flare beyond a year and is not connected. Based on the information that was finally received the staff has prepared the proposed order with the data to determine the volumes the operator needs to be paying taxes on and the value they need to be paying royalties on. He asked for approval of proposed Order 26105. He said there were two mineral owners in the spacing unit that disagreed with Gadeco's gas values. The mineral owners were basing their information on royalty statements they had from other wells in the area. Overall, the average gas values are in agreement but some months Gadeco was high and some low.

**Case 22090: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26105 issued in Case 22090, be approved and effective this 24<sup>th</sup> day of March, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Case 23530, Order 25870 - Gas flaring – Mr. Helms stated that this was a request from Whiting Corporation for one month of relief on gas flaring in the Sand Creek Field. He distributed a graph. (A copy of the graph is available in the Commission files.) The situation is Whiting has some very productive wells and they were counting on this Banks Compressor Station being expanded and running at increased capacity in December. They included a letter that stated the increased capacity is not going to happen until the middle of this year. When looking at this, it was the staff's determination that there was no firm hard commitment on the part of the gas gatherer to the December date, it was just a target and Whiting went ahead and fractured these wells in February – two months after they knew the compressor was not going to be running at full capacity in December. The staff does not believe this application meets one of the six mitigating circumstances tests and is asking the Commission to deny the application and require Whiting to restrict production to be within the gas capture goal in Sand Creek.

In response to a question regarding how long, Mr. Helms said the restriction will probably be in place for a month. Mr. Hicks and Mr. Helms discussed the steps that Whiting is currently undertaking to reduce the flaring.

**Case 23530: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 25870 issued in Case 23530, denying the application be approved this 24<sup>th</sup> day of March, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Case 23644, Order 25985 - Application to extend field boundaries/establish 1280-acre overlapping spacing unit – (A map is available in the Commission files.) Mr. Helms said this is a dispute between two companies over how to drill an overlapping spacing unit and some section line wells. The applicant, XTO wants to do it in a two mile long set of laterals. The other operator, Liberty, wants to do a larger area and drill three mile long laterals. Liberty has never drilled a three mile long lateral and now they are proposing to drill three of them within a 1,000 foot wide strip and fracture them. The record shows that short laterals are economic so staff is recommending approval of XTO's application and deny Liberty's application.

**Case 23644: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 25985 issued in Case 23644, be approved and effective this 24<sup>th</sup> day of March, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Case 23665, Order 26006 - Clarification on prior order regarding spacing units – (A map is available in the Commission files.) Mr. Helms stated that this is a dispute between Marathon and a mineral interest owner over the effective date of reducing the 2560-acre spacing unit to two 1280-acre spacing units. The Commission granted the 2560-acre spacing unit. It turned out that it is right on the edge of the Bakken and is a big water producer. Marathon stated that they would never drill the south portion of the unit and requested that the spacing unit be split into 1280-acre spacing units. The well had already produced about

50,000 barrels of oil. One of the mineral owners in the north 1280-spacing unit said it is not fair, he shared some of his minerals with people in the south who are never going to get drilled and he wants his money back. Mr. Helms stated that the proposed order specifies for Marathon and the mineral owner that April 1, 2014 was when the 2560-acre spacing unit was divided into two 1280-acre spacing units. The determination of the disputed royalty payments will need to be decided in court. This sets the stage for the parties to go to court.

**Case 23655: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26006 issued in Case 23655, be approved and effective this 24<sup>th</sup> day of March, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Case 23672, Order 26013 - Application for a pooling – (A map is available in the Commission files.) Mr. Helms stated this was an application for pooling from Gadeco in the same area that was discussed in the earlier case but was for a different well. In this case the well was improperly drilled and in the process of trying to repair it they junked and abandoned the well. They have not follow through on their commitments and when they made this application for pooling, the company who has picked up their leases objected and said Gadeco has lost all their leases in the spacing unit and they are not an interested person and they can't apply for pooling. Gadeco did not prove that it has any ownership in the spacing unit. The staff recommendation is that the Commission deny the pooling application. In response to a question Mr. Helms reviewed the information that had been entered into the record.

**Case 23672: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26013 issued in Case 23672, denying the application be denied be approved and effective this 24<sup>th</sup> day of March, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Case 23728, Order 26070 - Application to create two overlapping 1600-acre spacing units – Mr. Helms indicated that this is an application to convert some lands east of Williston into some long lay down spacing units. Right now these lands are three standup 1280 spacing units that include portions of the City of Williston, residential and commercial land, railroad and some pasture land. The only realistic way to develop these lands is to lay these 1600 acre spacing units down and drill from out in the cow pasture in under the Little Muddy River and the City of Williston. That way they will avoid the conflicts with the housing developments and the commercial property and railroad, etc. He stated that there was an objection from two mineral owners because they are in a 1280-acre spacing unit and they would like to keep the 1280-acre spacing. However, there is no realistic way to develop this area in that manner. He believes the way to protect correlative rights and get this developed is to lay down the two 1600-acre spacing units which is what is authorized in the proposed order. The operator will drill from an existing well pad in the cow pasture, set casing into the spacing unit and then drill about 2.5 miles under the Little Muddy River. It is the best way to protect the River and the people that live southeast of Williston. He did note that the applicant had requested relief from drilling additional wells at this time but the order denies that relief and requires them to drill in accordance with the Commission's policy for these types of requests. It was noted that this was an example of when the Commission needs to look at a larger spacing unit.

**Case 23728: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26070 issued in Case 23728, be approved and effective**

**this 24<sup>th</sup> day of March, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Case 23730, Order 26072 - Gas flaring and Case 23732, Order 26074 - Gas flaring – Mr. Helms discussed these two cases together. The applications are covering the same area; just a different group of wells in each case but the issues are identical. This is an application by XTO for flaring relief – production restriction relief in Bear Den and Lost Bridge. There is a section of the Oneok gathering line that eroded out of the hill – a nature event, unpredictable and unstoppable, leaving the line exposed and not safe to operate. Oneok has been trying to secure right-of-way to loop around that erosion area and get this back up and running but there have been some delays in getting that done too. This is a case which meets four of the six mitigating circumstances in the policy and the staff recommended the Commission grant the relief.

In response to a question regarding the length of time, Mr. Helms said the applicant could not give a firm end date on this one because they have to negotiate that right-if-way and loop that line. Mr. Hicks said the proposed order grants relief for March and April. Mr. Helms said that is all they asked for – even without the pipeline, they would be able to get back into compliance in May. This would be temporary relief that will end April 30. The Commission requested to be notified when the temporary relief comes to an end.

**Case 23730: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26072 issued in Case 23730, be approved and effective this 24<sup>th</sup> day of March, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

**Case 23732: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26074 issued in Case 23732, be approved and effective this 24<sup>th</sup> day of March, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms discussed the 2015 Williston Basin Petroleum Conference welcome letter as follows:

Twenty-third Williston Basin Petroleum Conference  
April 28 – 30, 2015  
Regina, Saskatchewan

Greetings!

Welcome to the Twenty-third Williston Basin Petroleum Conference. When this conference started in 1992 the goal was to create an avenue for the exchange of ideas and technologies across our international border. Today, this exchange has not only brought about partnerships and understanding but has developed and led to more efficient exploration and production techniques than ever imagined.

The North Dakota Industrial Commission recognizes the exchange of ideas at this valuable conference benefits multiple generations on an international scale. By learning from each other we continue to push the boundaries of exploration, and in turn create tremendous opportunity both economically and educationally.

The Saskatchewan Ministry of the Economy, Petroleum Technology Research Centre, North Dakota Department of Mineral Resources, and the North Dakota Petroleum Council should be proud of growing this conference to what it has become and what it stands for today. Their efforts continue to create opportunities for companies and agencies on both sides of the border.

Best of luck during the Twenty-third Williston Basin Petroleum Conference!

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the 2015 Williston Basin Petroleum Conference welcome letter be approved as presented. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms provided the following update of legislative issues that remain and that they are continuing to testify on and work with the legislators:

Bill number	<b>2015 Legislation Active</b>	Action date
<b>1014</b>	☺ <b>Agency Budget</b>	
	Appropriations Committee	8:30a 1/15/15
	Committee Hearing / Medora	8:30a 1/22/15
	Committee Hearing / Medora	02/05/15
	Reported back, amended, do pass, 17-6-0	02/23/15
	Amended Passed 77-15	02/24/15
	Senate Appropriations Committee Hearing	03/16/15
	Committee Hearing	03/16/15
<b>1021</b>	☺ <b>Appropriation for IT Department</b>	
	Appropriations Committee	8:30a 1/12/15
	Committee Hearing/ Medora	8:30a 1/21/15
	Committee Hearing/ Medora	01/28/15
	Reported back, amended, do pass, placed on calendar, 21-2-0	02/23/15
	Amendment adopted	02/24/15
	Second reading of bills, passed, 79-13	02/25/15
	Committee Hearing/ Harvest	03/05/15
<b>2015</b>	☺ <b>OMB Budget</b>	
	Appropriations /Harvest	9:30a 1/22/15
	Reported back, amended, do pass, 13-0-0	02/23/15
	Consideration of amendments, passed	02/24/15
	Second reading, passed, 45-0	02/24/15
	House Appropriations Government Operations hearing	03/12/15
<b>1358</b>	☺ <b>Relating to the uses of AWPSRF, gathering pipeline</b>	

**regulation, TA wells, and Reclamation**

	Energy Natural Resources/Pioneer	9:00a 1/29/15
	Reported back amended, DP 13-0-0	02/09/15
	Rereferred to Appropriations	02/10/15
	Reported back amended, DP 23-0-0	02/19/15
	Amendment adopted	02/20/15
	Second reading, passed, 93-0, emergency clause carried	02/23/15
	Senate Energy and Natural Resources hearing	03/13/15
	Committee Hearing	8:30a 3/13/15
<b>1032</b>	<b>☺ Relating to AWPSRF</b>	
	Energy and Natural Resources / Pioneer	10:00a 1/15/15
	Reported back, do pass, 8-0-5, place on calendar	01/16/15
	Rereferred to HENR	02/04/15
	Reported back amended, do pass, 12-0-1	02/23/15
	Passed 92-0	02/25/15
	Senate Energy and Natural Resources Hearing	03/20/15
	Reported back do pass 6-0-1	03/20/15
	Second reading, passed, 46-0	03/23/15
<b>1053</b>	<b>☺ Relating to centralized desktop support services</b>	
	Government and Verteran Affairs/ Fort Union	8:30a 1/15/15
	Referred to appropriations	01/19/15
	Committee Hearing	02/09/15
	Reported back, do pass, 22-1-0	02/19/15
	Second reading, passed, 72-21	02/23/15
	Senate GVA hearing	03/12/15
	Committee Hearing	9:45a 3/12/15
<b>1068</b>	<b>☺ Relating to decisions of the Industrial Commission</b>	
	Energy and Natural Resources/ Pioneer	1:45p 1/15/15
	Amended DP 12-0-1	2/6/2015
	Second Reading, Passed 91-0	2/12/2015
	Received from House	2/20/2015
<b>1145</b>	<b>☺ Relating to Tracking water used for oil and gas development</b>	
	Energy and Natural Resources	9:00a 1/16/15
	Reported back, do pass, 12-0-1	01/16/15
	Second Reading, passed, 91-3	01/20/15
	Received from House	02/20/15
	Senate Energy Natural Resources Committee hearing	03/20/15



	Committee hearing	10:45a 03/20/15
<b>1187</b>	<b>⊗ Relating to Orders of the Industrial Commission</b> Industry, Business and Labor Amended DNP 7-4-4 Second reading, passed 61-27 Received from the House	9:00a 1/19/15 02/04/15 02/06/15 02/23/15
<b>1432</b>	<b>⊖ Relating to the environmental impact litigation fund</b> Agriculture/Peace Garden Amended DP 12-0-1 Amendment adopted Rereferred to Appropriations Reported back, amended, do pass, 17-5-1 Amendment adopted Second reading, passed, 72-21 Received from House Introduced, first reading, referred, Agriculture Committee Hearing Reported back, amended, do pass, amendment on calendar, 4-2-0	9:30a 2/5/2015 02/09/15 02/10/15 02/10/15 02/19/15 02/20/15 02/23/15 02/25/15 02/25/15 03/13/15 03/23/15
<b>2190</b>	<b>⊙ Relating to AWPSRF transfers to NDDoH</b> Energy and Natural Resources Reported back, do pass 7-0-0 Second Reading, passed, 47-0 Received from Senate House Energy Natural Resources hearing Rereferred to House Appropriations	9:00a 1/23/15 01/26/15 01/27/15 01/28/15 03/05/15 03/16/15
<b>2271</b>	<b>⊙ Relating to a pipeline restoration and reclamation oversight program; and to provide an appropriation.</b> Agriculture/ Roosevelt Park Reported back amended, do pass, amendment placed on calendar 4 2 0 Rereferred to Appropriations Reported back, do pass, place on calendar 13 0 0 Second reading, passed, 38-8, emergency clause carried House Energy Natural Resources hearing Amended, reported back do pass Reported back, amended, do pass, amendment on calendar 10-3-0	9:00a 1/30/15 02/09/15 02/10/15 02/13/15 02/17/15 03/06/15 03/20/15 03/23/15



Energy and Natural Resources	02/20/15
House Energy and Natural Resources hearing	03/13/15
Reported back amended, do pass, 6-1-0	02/25/15
Amendment adopted	02/25/15
Second reading, passed, 46-1	02/25/15
Received from Senate	02/26/15
Introduced, first reading, Energy Natural Resources	03/04/15
Committee Hearing	9:00a 03/13/15

Mr. Helms reported that the Department of Interior released the Bureau of Land Management (BLM) Final Hydraulic Fracturing Rule last Friday. He noted that the rule is 397 pages--the actual rule is 20 pages but there are 377 pages of explanation of why they didn't accept the comments that had been submitted. He stated that the Commission's hydraulic fracturing rules are 2.5 pages and work extremely well. He presented two handouts. (Copies are available in the Commission files.) He reviewed the summary page that lists the sections of the rule of concern to North Dakota and that the Commission had previously commented on:

- the yellow highlights the areas of major concern that he thought the State will need to take action on
- the orange highlights are the five areas that are 100 percent duplication of North Dakota's rule
- the white or non-highlighted things are unnecessary in North Dakota because of our geology and water sources
- the green highlight show the four areas where they did actually respond positively in the direction of our comments.

He stated that the second handout is a map that shows how the rule will impact North Dakota -32 percent of North Dakota's Bakken and Three Forks spacing units have federal lands in them so 32 percent of Bakken and Three Forks will be impacted very negatively by this rule. The area that really gets impacted is the Fort Berthold Reservation. This rule generates a whole duplication of the permitting process within the BLM and it contains all sorts of unnecessary elements for drilling and fracturing in the Bakken in North Dakota. The backside of the handout has a zoomed in version. Typically in North Dakota federal mineral ownership is very small little tracts in a spacing unit - some cases a little streak of red running across a spacing unit - makes it impossible to drill any wells without federal permits for hydraulic fracturing. It will impact at least one well if not all of the wells in most of those units.

Mr. Helms reviewed the steps the Commission and staff had taken in reviewing the draft rules -- spent an hour participating in their seminar on hydraulic fracturing in Bismarck, the Commission submitted comments three different times from the #2 oil producing state in the nation and North Dakota was the second state to adopt hydraulic fracturing rules and BLM did not even notice - North Dakota was not recognized on the list of states impacted.

Mr. Helms pointed out the real problems with the rule are the over reach and that happens on both sides of the fracturing process. BLM kept in the rule control over the source of the fracture water. The rules still will require getting a permit, that you get BLM approval of where you are going to get the water from, how you are going to move it to your well and what the transportation route is going to be. They are getting into the Water Commission and NDDOT jurisdiction when it involves the production and transport of hydraulic fracturing water. On the other end of the process, the fracturing flowback water, they want the same thing, to know the route it is going to take, transportation method and how it is going to be disposed

of. You may or may not get a permit to hydraulic fracture based on their determination of whether that is good enough. That again is State DOT jurisdiction and Oil and Gas Division jurisdiction through the Underground Injection Control Program. This is major over reach on both ends of the fracturing process by the BLM.

Mr. Helms stated that there has been a lawsuit filed to enjoin these rules from going into effect. It was filed by the Western Energy Alliance and the Independent Petroleum Association of America and he thinks the State or the Industrial Commission needs to explore some options. He stated that the rules should be going into effect around June 1. He thought it justifies either intervening in this lawsuit, doing our own lawsuit or getting together with the other impacted states who made the list and filing a lawsuit. One reason he leans towards intervening and if they proceed to settle this lawsuit, North Dakota needs to be at the table – we can't have a settlement impact that much of North Dakota without a seat at the table. He said he is not sure how best to proceed but we do have a little bit of time – June 1. We have two and a half months but we have to move pretty quickly to determine the right course of action and to act.

Attorney General Stenehjem said one of the options was to intervene in this lawsuit. There is the advantage of being at the table, the disadvantage is that North Dakota would not be in charge of the litigation. The other option is North Dakota files its own lawsuit and the court would probably consolidate all the cases anyway. The first thing is the staff needs to complete their analysis of the new rule.

Attorney General Stenehjem stated that he had visited with some of his counterparts who are similarly affected who are also interested. We need to determine whether it is something that states can all band together or whether North Dakota's situation is so unique that we need to pursue its own case. He noted that the State does have \$1 million set aside for this type of issue. He suggested that a motion be made to authorize him and his office to analyze all of our options and recommend what is the best way to go.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Attorney General Stenehjem analyze the options of intervening in the existing lawsuit regarding the United States Department of Interior hydraulic fracturing rules or North Dakota independently filing a lawsuit or going with other impacted states and filing a lawsuit and provide a recommendation to the Industrial Commission.**

In response to a question regarding when Mr. Helms will complete his review of the BLM Hydraulic Fracturing Rules, Mr. Helms said the first phase is finished which is an analysis of how responsive the BLM was to the Commission's comments. They will need some additional time to look at all the impacts to the State. They do know that 32 percent of North Dakota's spacing units are going to be impacted and that doesn't include the Fort Berthold Reservation. The risk would be that the State can't approve drilling permits and move forward with drilling and completion on all the wells that are proposed. North Dakota is 12,000 wells into a 60,000 well program. Maybe as many as 1/3rd of those 40,000 wells are at risk of the BLM denying a hydraulic fracturing permit.

Mr. Helms indicated that North Dakota's rules have been working well for five years. He indicated that they still need to quantify the impact on the Water Commission and the North Dakota DOT jurisdiction. He also said they need to quantify the impact on the 850 unfractured wells that are waiting for completion-where they are located, etc. The determination of whether to fracture those wells after June 1 would be subject to the Bureau of Land Management.

Governor Dalrymple said if the federal government is asserting that they have jurisdiction over the source of water for wells in North Dakota that is a direct conflict with the State Water Commission's jurisdiction. Similarly, if they are asserting that all waste water is under the jurisdiction of the federal government that is

Minutes - Page 18  
March 24, 2015

a direct contradiction to the State's jurisdiction. He agreed that the State needs to develop a plan on how the State is going to proceed; we need to take action.

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

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned this portion of the meeting at 3:17 p.m. and the Commission took up Bank of North Dakota business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 24, 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: Eric Hardmeyer, Bank of North Dakota  
Joel Erickson, Bank of North Dakota  
Annette Curl, Bank of North Dakota  
Lori Gabriel, Bank of North Dakota  
Brad Thompson, Bank of North Dakota  
Darrel Lingle, Eide Bailly  
Bonnie Storbakken, Governor's Office  
Members of the Press

Governor Dalrymple called the Bank of North Dakota portion of the Industrial Commission meeting to order at 3:17 p.m. following completion of Department of Mineral Resources business.

Mr. Eric Hardmeyer, Bank of North Dakota President, introduced Mr. Darrel Lingle from Eide Bailly to discuss the audits.

Mr. Lingle presented the following audits and noted the following: (Copies of the audits are available in the Commission files.)

Beginning Farmer Revolving Loan Fund - 12/31/14 –

- An unmodified opinion on the financial statements as of December 31, 2014 and 2013. It is the highest level of assurance that the independent auditor can provide--it used to be referred to as an unqualified opinion.
- They did not identify any matters that were required to be reported on in regards to internal controls over financial reporting or on compliance with laws and regulations. It is a clean opinion over those two matters. They did not identify anything that they would consider to be a material weakness or a significant deficiency in the internal controls over the Program.
- The independent auditor's communication to the Industrial Commission which is required under their auditing standards to those charged with governance – under significant audit findings under qualitative aspects to the accounting practice, there were no new accounting policies that were adopted in the current year in the application of existing policies were not changed during 2014.
- The most significant accounting estimate within the financial statements was the testing of the Amortization of Prepaid Interest which is based on the estimated life of the loan for the Chattel and Envest loans, but over five years, based on repayment terms for the real estate loans. Eide Bailly evaluated the key factors and assumptions used to develop the Amortization of Prepaid Interest in determining that it was reasonable in relation to the financial statements taken as a whole.
- We did not encounter any difficulties during the performance of the audit. There were no corrected or uncorrected misstatements so no adjustments to the financial statements, no disagreements with management during the course of financial statement audit.
- They requested certain representations from management at the conclusion of the audit and those were similar to what was requested in prior years.

- There is required supplementary information that is included within the financial statements but we did not audit the required supplementary information and do not express an opinion or provide any assurance on the required supplementary information and that conforms with the auditing requirements and also from what the State Auditor has engaged us to perform for the audit of the Program.

Community Water Facility Loan Fund - 12/31/14 –

- He said they issued an unmodified opinion on the financial statements as of December 31, 2014 and 2013. It is the highest level of assurance that we can provide.
- They did not identify any matters that were required to be reported on in regards to internal controls over financial reporting or on compliance with laws and regulations. It is a clean opinion over those two matters. They did not identify anything that they would consider to be a material weakness or a significant deficiency in the internal controls over the Program.
- The independent auditor's communication to the Industrial Commission which is required under their auditing standards to those charged with governance – under significant audit findings under qualitative aspects to the accounting practice, there were no new accounting policies that were adopted in the current year in the application of existing policies were not changed during 2014.
- The most significant accounting estimate included within the financial statements was management's estimate of the allowance for loan loss. They did evaluate management's estimate of the allowance for loan loss in relation to financial statements as a whole and determined that it is materially correct.
- We did not encounter any difficulties during the performance of the audit. There were no corrected or uncorrected misstatements, no disagreements with management during the course of the audit.
- They had management sign certain representations, a letter with certain representations to us in regards to the conduct of the audit and there were no changes to that letter from the prior year.
- There is required supplementary information that is included within the financial statements but we did not audit the required supplementary information and do not express an opinion or provide any assurance on the required supplementary information and that conforms for the auditing requirements and also from what the State Auditor has engaged us to perform for the audit of the Program.

Mr. Hardmeyer discussed amendments to the Advisory Board of Directors to the Bank of North Dakota Policy. (A copy of the policy is available in the Commission files.) He said there is only one change on the second page which is the responsibilities of the Advisory Board as it relates to the Bank of North Dakota and the duties that the Commission requires them to do. What they have put forth as a suggestion for a change is that on your behalf they will complete an annual performance review of the President of the Bank of North Dakota.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Bank of North Dakota Advisory Board and approve amendments to the Advisory Board of Directors to the Bank of North Dakota Policy as follows:**

**BANK OF NORTH DAKOTA  
OPERATING POLICY**

**SERVICE AREA: ADMINISTRATION  
POLICY TITLE: ADVISORY BOARD OF DIRECTORS TO BANK OF NORTH DAKOTA**

## **PURPOSE**

This policy statement establishes the purpose, duties, and functional responsibilities of Bank of North Dakota Advisory Board of Directors which is established to enlist the help of private enterprise and to encourage more active use of the purposes of which Bank of North Dakota was created pursuant to Chapter 6-09-02.1 and 6-09-02.2 of the North Dakota Century Code.

## **ELEMENTS**

### **I. Membership**

The Governor shall appoint an Advisory Board of Directors consisting of seven persons, at least two of whom must be officers of banks, the majority of the stock of which is owned by North Dakota residents, and at least one of whom must be an officer of a state or federally chartered financial institution. The Governor shall appoint a Chairman, Vice Chairman, and Secretary. The term of directors is four years. The Industrial Commission shall define the duties of the Advisory Board.

### **II. Meetings**

- A. One-half or more of Committee members shall constitute a quorum.
- B. A majority of Committee members present must vote favorably to carry a motion.
- C. Meeting minutes will be kept by the recording secretary and be designated non-confidential or confidential.

### **III. Duties**

- A. Meet regularly with the management of Bank of North Dakota to review the Bank's operations to determine whether recommendations should be made by the Board to the Industrial Commission relating to improved management performance, better customer service, and overall improvement in internal methods, procedures, and operating policies of the Bank.
- B. Make recommendations to the Industrial Commission relating to the establishment of additional objectives for the operation of Bank of North Dakota.
- C. Make recommendations to the Industrial Commission concerning the appointment of officers of Bank of North Dakota.
- D. Meet regularly with the Industrial Commission to present any recommendations concerning Bank of North Dakota.
- E. In addition to the foregoing and pursuant to authorization from the Industrial Commission, act on behalf of the Bank with respect to the powers and functions of the Bank.
- F. Review and approve loans within established lending authority.
- G. Annually review the Advisory Board of Directors to Bank of North Dakota policy.
- H. Complete an annual performance review of the President of the Bank.

## **AUDIT COMMITTEE**

### **I. Purpose**

The Advisory Board will serve as the Audit Committee. The Audit Committee will provide assistance to the North Dakota Industrial Commission in fulfilling its statutory and fiduciary responsibilities for audits and examinations of Bank of North Dakota.



## II. Responsibilities

The Audit Committee will carry out the following responsibilities:

### Financial Statements

Review and discuss with management and the independent auditor the annual audited financial statement of Bank of North Dakota and programs and funds administered by Bank of North Dakota.

- ND Guaranteed Student Loan Program (SLND)
- Ag PACE Fund (Agriculture Partnership in Assisting Community Expansion)
- PACE Fund (Partnership in Assisting Community Expansion)
- Beginning Farmer Revolving Loan Fund
- Community Water Facility Loan Fund
- Rebuilders Loan Program
- College SAVE

### Internal Control

- A. Determine that the Bank has adequate administrative, operating, and internal controls, and that it is operating in accordance with its prescribed procedures.
- B. Determine the Bank has adequate controls to ensure compliance with applicable laws, regulations and other requirements.
- C. Evaluate the adequacy and effectiveness of the Bank's internal accounting control environment through discussions and reviews of reports issued by the Bank's internal auditors, independent auditors, bank examiners and other external audit and review entities. In addition, determine that appropriate corrective action is being taken by management to address noted internal control weaknesses.

### Internal Audit

- A. Annually review the Internal Audit Policy.
- B. Review and approve the annual reports and work plans for Internal Audit and Credit Standards & Review.
- C. Review internal audit findings and ensure appropriate corrective actions are implemented by the affected service area.
- D. Review the activities, staffing, and organizational structure of the Internal Audit function and appraise the effectiveness of internal audit efforts through regular meetings with the internal auditors.
- E. Participate in the selection, compensation, evaluation, and where appropriate, replacement of the Director of Risk Management (DRM). The DRM may only be removed with the approval of the Audit Committee.
- F. Review results of internal and external assessments as described in the Internal Audit Quality Assurance Program and ensure the appropriateness of Internal Audit's corrective action, as necessary.
- G. Provide regular and free access to the Director of Risk Management or Internal Audit Manager, including private sessions and interim communications, as appropriate.

### Compliance

- A. Review quarterly reports and ensure appropriate corrective actions are implemented.

External Audit & Reviews

- A. Review audit and examination plans of the independent auditors and the Department of Financial Institutions.
- B. Review reports issued by independent auditors, bank examiners and other external audit or review entities, including all management responses to such reports.
- C. Appraise the effectiveness of external audit efforts through regular meetings with the independent auditors.

Other Responsibilities

- A. The Audit Committee has the power to conduct or authorize investigations into any matters within its scope of responsibilities, with full access to all books, records, facilities, and personnel of the Bank, its external auditors and its legal advisors. In connection with such investigations or otherwise in the course of fulfilling its responsibilities, the Committee has the authority to independently retain special legal, accounting, or other consultants to advise it, and may request any officer or employee of the Bank, its independent legal counsel or independent auditor to attend a meeting of the Audit Committee.
- B. Establish a mechanism for employees to report concerns about questionable accounting, internal accounting control or auditing matters confidentially to the Audit Committee.
- C. Determine whether restrictions are being placed by management on the scope of examinations and audits.

III. Reporting

- A. Report to the Industrial Commission about BND Audit Committee activities and issues that arise with respect to the quality or integrity of the Bank's financial statements, the Bank's compliance with legal or regulatory requirements, the performance and independence of the Bank's external auditors, and the performance of the internal audit function.
- B. Prepare an annual report to the North Dakota Industrial Commission summarizing the work performed in fulfilling the Audit Committee's responsibilities.

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

Mr. Hardmeyer gave the legislative update. (A copy is available in the Commission files.)

He indicated that Bank management would be meeting with a Senate subcommittee on House Bill 1014 to discuss a couple of amendments. One is an amendment for the financial center. There appears to be support for it on the Senate side. The other amendment is to create a new PACE program called Medical PACE. Currently the funding needed for critical access hospitals has been included in HB 1443-the infrastructure bill. Mr. Hardmeyer outlined how Medical PACE would be structured (Hospital Association would help in determining which hospitals should get funding) and where the funding of approximately \$15 million would come from (within the PACE monies being carried over and in the proposed appropriation). He noted this would fund approximately \$35 million in needed hospital loans. Because of the demand for the infrastructure program dollars they thought it would be best to set up something separate for the hospitals.

In response to a question Mr. Hardmeyer stated that they have seen a list showing a need for at least \$20 million for critical hospital construction. The Commission indicated their support for the amendment.

In response to a question, Mr. Hardmeyer said HB 1443 allows the Bank and Commission to set the priorities for the projects that should receive the low interest loans. He asked the Senate Appropriation Committee to give some direction on what their priorities are for this funding as per the Governor's request to seek the Legislature's input.

In response to a question Mr. Hardmeyer stated that the Bank is currently providing funding from capital in the amount of \$140 million -- \$100 million for HB 1443 (Infrastructure Loan Program) and \$40 million to fund PACE and Beginning Farmer (HB 1014). Their message throughout the session has been that \$140 million is all that the Bank can do this session from their capital.

It was noted that WAWSA was going to be short of capital for what they need to do based on current legislative actions. Bank management was asked to think about some options for meeting that need.

Mr. Hardmeyer briefly discussed SB 2178--the school construction loan program. He indicated that there is more work that needs to be done on the bill; he reviewed how it originally started out and how it had been changed.

Mr. Hardmeyer stated that the GAP Scholarship Program which was proposed in SB 2288 was defeated in the House by a vote of 21 to 67. The House Education Committee did not like the program.

Mr. Hardmeyer presented the non-confidential Bank of North Dakota Advisory Board January 12 and 20, 2015 meeting minutes.

Governor Dalrymple closed the meeting at 3:42 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 4:22 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 six loans identified as Attachments 24 through 29. In non-confidential session, on a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Bank of North Dakota business, Governor Dalrymple adjourned this portion of the meeting at 4:24 p.m. and the Commission took up Building Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 24, 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: Bonnie Storbakken, Governor's Office  
Members of the Press

Governor Dalrymple called the North Dakota Building Authority portion of the Industrial Commission meeting to order at 4:24 p.m. following completion of Bank of North Dakota business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary and an Authorized Officer for the North Dakota Building Authority, requested authorization to issue a Request for Proposals (RFP) for bond counsel as follows:

RE: Authorization for Bond Counsel RFP

The Industrial Commission's Financial Advisor, Public Financial Management, has reviewed the outstanding North Dakota Building Authority bond issues and has identified an opportunity to capture some present value interest savings ranging from \$2.6 million to \$3.3 million over the life of the bond issues depending on interest rates through either an advanced or current refunding. Attached is a resolution naming Pam Sharp and me as the North Dakota Building Authority Authorized Officers, requesting that the Attorney General initiate the bond counsel selection process and directing that the Authorized Officers take the necessary steps to proceed with a bond issuance.

In addition attached is a draft Request for Proposals for North Dakota Building Authority (NDBA) Bond Counsel. The current engagement with NDBA bond counsel - Arnston Stewart Wegner has expired.

It is my recommendation that the Commission adopt the attached resolution.

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

INDUSTRIAL COMMISSION OF NORTH DAKOTA  
RESOLUTION OF INTENT TO ISSUE AND SELL  
NORTH DAKOTA BUILDING AUTHORITY EVIDENCES OF INDEBTEDNESS,  
DESIGNATE AUTHORIZED OFFICERS AND  
INITIATE BOND COUNSEL SELECTION PROCESS

WHEREAS, the Industrial Commission of North Dakota, acting as the North Dakota Building Authority (the "Commission"), pursuant to and in accordance with N.D.C.C. Chapter 54-17.2 (the "Act") is authorized and empowered under the Act to refund and refinance evidences of indebtedness from time to time as often as it is advantageous and in the public interest to do so:

WHEREAS, the Commission's Financial Advisor has completed a refunding feasibility analysis on all outstanding North Dakota Building Authority bond issues and identified some potential present value savings:

THEREFORE, BE IT RESOLVED by the Commission:

1. The Commission hereby directs and authorizes the Authorized Officers to proceed with refunding any outstanding North Dakota Building Authority Bonds (the "Refunding") if the Authorized Officers determine that the net present value of the debt service savings exceeds 2% of the refunded par amount and that such Refunding in the opinion of the Authorized Officers would be beneficial to the State.
2. The Commission hereby requests that the Attorney General begin the selection process for bond counsel for the Refunding.
3. The Commission hereby appoints the Executive Director of the Industrial Commission and the Director of the Office of Management and Budget as its Authorized Officers (the "Authorized Officers") in connection with the issuance and sale of the Refunding, if any.
4. The Commission hereby directs and authorizes the Authorized Officers, and the Commission's counsel to do all things necessary and appropriate to prepare the Refunding for issuance and sale in compliance with the Act.
5. The Refunding, if any, shall be in such form, bear interest at such rates, and have such other terms and provisions as may be specified in subsequent resolutions adopted by the Commission.

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

Being no further Building Authority business, Governor Dalrymple adjourned this portion of the meeting at 4:26 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 March 24, 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: Eric Hardmeyer, Bank of North Dakota  
Joel Erickson, Bank of North Dakota  
Annette Curl, Bank of North Dakota  
Lori Gabriel, Bank of North Dakota  
Brad Thompson, Bank of North Dakota  
Darrel Lingle, Eide Bailly  
Bonnie Storbakken, Governor's Office  
Members of the Press

Governor Dalrymple called the Administrative portion of the Industrial Commission meeting to order at 4:27 p.m. following completion of Building Authority business.

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

Outdoor Heritage Fund Legislative Update - March 24, 2015

- HB 1409 - Establishes some specific guidelines for usage of the Outdoor Heritage Fund dollars.
- This HB 1409 was amended to reflect a new formula for transfers from the oil taxes (8% of the monthly revenues) up to \$20 million per fiscal year for a total of \$40 million for the biennium. Based on the *Legislative forecast* this would be approximately \$33 million for the 2015-2017 biennium. Passed the House 78-15. The new forecast has that number at approximately \$27.5 million.
  - Just as an FYI the new forecast also lowered the amount that would be coming to the Outdoor Heritage Fund during the 2013-15 biennium. The new number is \$18,414,276.
  - Senate Energy and Natural Resources Committee held their hearing. No action has been taken. There were some concerns expressed about the limitation being put in the statute regarding the amount of monies that can be paid to consultants/engineers. There was testimony in opposition to increasing the potential funding level to \$40 million.
- SB 2356 - Proposes a study of abandoned gravel pit reclamation practices and may include the consideration of feasibility and desirability of utilizing state funds for the reclamation of abandoned gravel pits and financially difficult reclamation projects on state and county lands for the purpose of restoring land for farming, ranching or other economic enterprises. ....noting that the study may include consideration of ....use of the North Dakota outdoor heritage fund
- Passed the House 43-3.
  - Senate has it on their calendar today for consideration of amendments. (The amendments do not impact the reference to the outdoor heritage fund.)
- SB 2378 - Not directly related but just as an FYI - establishes a mechanism for tax credits to be used for recreational equipment/projects.
- Passed the Senate 43-3

- House defeated the bill 21 - 67.

Ms. Fine an appointment in regards to Department of Transportation request as follows: (A copy of the attachment is available in the Commission files.)

RE: Department of Transportation Request

Attached is a letter from Grant Levi, Director of the Department of Transportation requesting the Industrial Commission appoint a representative to serve on the State Rail Plan's Executive Committee. The State Rail Plan provides guidance for the rail system and services utilized by North Dakota passengers and freight shippers. The plan will collaboratively establish a shared vision for North Dakota's rail system from present to the year 2040.

The Industrial Commission has two agencies that have a particular interest in rail service -- the State Mill and the Department of Mineral Resources/Pipeline Authority.

I contacted Mr. Levi and asked who the other representatives are on the Steering Committee. He indicated that they are:

Department of Commerce - Al Anderson  
Department of Emergency Services - Greg Wilz  
Public Service Commission - Julie Fedorchak  
Upper Great Plains Transportation Institute - Denver Tolliver  
Department of Transportation - Grant Levi

He indicated that it was their hope that the representative from the Commission would be capable of representing both oil and agriculture issues. So I am not sure who to recommend to serve on the Executive Committee. Justin Kringstad would be good in representing oil and staff from the Mill (either Vance Taylor or Mike Jones) would be good in representing agriculture issues. The third option would be to name me and then I gather information from Justin and Vance/Mike and where appropriate bring them to the table.....

Ms. Fine said that Mr. Levi indicated the time commitment would be approximately two hours every other month.

There was discussion regarding agriculture, pipeline and mill personnel as well as having input from the Grain Dealers Association.

It was the consensus of the Commission that Mr. Justin Kringstad represent the Industrial Commission and that the Grain Dealers be asked to serve on the State Rail Plan's Executive Committee.

Being no further Administrative business, Governor Dalrymple adjourned the meeting at 4:35 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary