

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on April 21, 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
Chad Johnson, Bank of North Dakota
Brad Thompson, Bank of North Dakota
Katie Moch, Eide Bailly
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 Industrial Commission meeting to order at 1:00 p.m. and the Commission took up Bank of North Dakota business.

Mr. Eric Hardmeyer, Bank of North Dakota President, presented the 2014 Bank of North Dakota Annual Report. (A copy of the annual report is available in the Commission files.) He indicated that 2014 had been a great year for the Bank. He highlighted the following points:

- Eleventh consecutive year of record profits at \$111 million.
- The largest level in assets in terms of an ending balance.
- Loan portfolio grew by \$375 million over 2014.
- Introduction of the DEAL One Loan Program. He noted that April 21 was the one-year anniversary of the program and the Bank has issued 4,400 DEAL One loans totaling over \$205 million.
- Adoption of new strategic plan with a new vision statement to be "BND will be an agile partner that creates financial solutions for current and emerging economic needs"
- He noted that the success of the Bank is a result of the hard work of the Bank's employees.

Ms. Katie Moch, Eide Bailly presented the Independent Auditor's Report and Financial Statements - 12/31/2014 (FASB version). (A copy of the audit is available in the Commission files.) She said they issued an unmodified opinion or clean opinion on the financial statements as of December 31, 2014 and 2013. She did note one new item in the 2014 audit which was an interest grade swap contract that the Bank entered into. She stated that a footnote in the audit describes the contract -- basically the Bank entered into a swap agreement to hedge variable rate funds and turn them into fixed interest rates over the term of the contract. Their firm considers this to be something of audit significance due to the complexity of interest rate swap contracts and the accounting treatment can be a little bit more complicated due to needing to determine the fair value of those swap contracts and also determine that they are effective interest rate swap hedges. They determined the fair value was reasonable as of December 31, 2014 and also that it was an effective interest rate swap. She explained how the market value of the swap is reflected on the Bank's financial statements. She stated there were no other issues or findings in the audit.

Mr. Hardmeyer explained the swap and the reasons for entering into them.

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Mr. Hardmeyer reviewed the 10 year summary in the annual report which reflects the Bank's growth over those years. In 2005 the Bank was at \$2 billion; at the end of 2014 it was at \$7.2 billion. Loans ten years ago were at \$1.4 billion and currently are at nearly \$4 billion. Profitability in 2005 was \$36 million and in 2014 it was \$11 million.

Mr. Hardmeyer presented the First Quarter 2015 Performance Highlights. (A copy is available in the Commission files.) He noted that the Bank ended the first quarter at \$8 billion in assets. A significant portion of that was "surge" money that went out and came right back to the Bank as the counties and political subdivisions were not ready to spend it. Equity was up to almost \$700 million; an increase of \$28 million. He stated the Bank is off to a very good year. He gave examples of customers using their programs and reviewed College SAVE.

Mr. Hardmeyer gave the legislative update. (A copy of the legislative update is available in the Commission files.) He noted specifically the status of House Bill 1014; House Bill 1443; Senate Bill 2178. He stated that as of right now there is \$152 million coming out of the Bank's capital for the 2015-2017 biennium.

In response to a question he reported on the changes that had been made in conference committee on House Bill 1443--including a limitation of \$15 million on any one project; and entities that received "surge" money will not be eligible for a loan until next biennium. The Legislature did not establish any priorities for how the monies are to be used--they have left it to the discretion of the Bank/Commission.

Mr. Hardmeyer also discussed House Bill 1049; Senate Bill 2020 (Water Commission bill); and Senate Bill 2039 and how it is connected to Senate Bill 2178. He also reviewed the appropriations that have been made from the Student Loan Trust -- current balance in the Trust Fund is \$35 million; to date they have appropriate \$6.5 million from that balance.

Mr. Hardmeyer presented non-confidential Bank of North Dakota Advisory Board February 19 & 20, 2015 meeting minutes.

Governor Dalrymple closed the meeting at 1:50 p.m. pursuant to North Dakota Century Code 6-09-35 to discuss the items on the agenda under Bank of North Dakota confidential business.

Following the confidential portion of the meeting, the Commission reconvened in non-confidential session at 2:05 p.m. and it was noted that during the confidential portion of the meeting, it had been moved and seconded that the Bank of North Dakota be authorized to participate in two loans identified as Attachments 6 and 7. 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 2:07 p.m. and the Commission took up Housing Finance Agency business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Also

Present: Jolene Kline, Housing Finance Agency
Max Wetz, Housing Finance Agency
Jennifer Henderson, Housing Finance Agency
Al Anderson, Department of Commerce
Andrea Pfennig, Department of Commerce
Brad Thompson, Bank of North Dakota
Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Housing Finance Agency portion of the Industrial Commission meeting to order at 2:07 p.m. after completion of Bank of North Dakota business.

Ms. Jolene Kline, Housing Finance Agency Executive Director, presented the Housing Finance Agency Advisory Board recommendation regarding the Housing Incentive Fund 2015-2017 Allocation Plan as follows:

RE: Housing Incentive Fund 2015-17 Allocation Plan

The NDHFA Advisory Board recommends the Industrial Commission approve the Housing Incentive Fund 2015-17 Allocation Plan (attached).

The Housing Incentive Fund is anticipated to be reauthorized and funded as part of HB 1014. In anticipation of this reauthorization, a public hearing was held on April 13th to hear comments on the proposed draft Allocation Plan to facilitate getting the funds into affordable housing projects in an expedient manner. The final draft Allocation Plan was considered and approved by the Advisory Board during its April 17th meeting.

The proposed plan incorporates staff recommendations taking into consideration public comments received prior to and during the public hearing. Proposed changes include:

- The definition of Rent Restricted is clarified to reiterate that tenant-based rental assistance is included in the total rent calculations. (page 2)
- The definition of Total Development Cost is changed to add capitalization of reserve accounts as part of the calculation. (page 2)
- The Maximum HIF Award has been increased from 30% of total development costs to 50% for projects designed to serve populations requiring permanent supportive services. Projects targeting populations with permanent supportive services will only cash flow with minimal debt repayments. (page 4)
- The recognizable cost per unit target was increased from \$160,000 to \$180,000. This increase was based on prior HIF projects and projections from the development community. (page 4)

- The combined builder profit and developer fee maximum limitations were increased to match those restrictions of the Federal Low-Income Housing Tax Credit Program. This simplifies the application process for developers utilizing both programs. (page 4)
- Operating reserves are required to be capitalized up-front during the development phase or developer must provide a letter of credit in lieu of capitalization. Previously the operating reserve account was allowed to be established as part of the cash flow during the operating phase. This requirement is commonplace for multi-family development and reduces vacancy and interest rate risk of the project owner. (page 5)
- Applicants will pay the entire origination fee of 5 percent at time of first draw. Previously the 2 percent of the fee was paid at time of award and 3 percent at first draw. This change is based off of developer feedback. (page 5)
- Increase point availability for projects targeting special needs (see scoring criteria (K))(page 9)
- Further defined accessibility features for units serving residents with physical disabilities. (see scoring criteria (K) special needs point category serving residents with physical disabilities section (2)) (pages 10-11)
- Add scoring criteria to level scoring capabilities between small and large projects. (See scoring criteria (L)) (page 11)

It was moved by Commissioner Goehring and seconded by Attorney General Stenhjem that the Industrial Commission accept the recommendation of the North Dakota Housing Finance Agency Advisory Board and approve the Housing Incentive Fund 2015-2017 Allocation Plan. (A copy of the 2015-2017 Allocation Plan is available in the Industrial Commission files.) On a roll call vote, Governor Dalrymple, Attorney General Stenhjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Kline presented the Housing Finance Agency Advisory Board recommendation regarding the FY 2015 Helping HAND Grants as follows:

RE: 2015 Helping Hand Program

The NDHFA Advisory Board recommends the Industrial Commission approve the FY 2015 Helping HAND grants as follows:

Applicant	Community	Amount
Community Action Partnership (Regions 1 & 8 Combined)	Dickinson/ Williston	\$ 15,849
Community Action Partnership - Minot Region	Minot	19,816
Dakota Prairie Community Action Agency	Devils Lake	18,724
Red River Valley Community Action	Grand Forks	26,033
Southeastern ND Community Action Agency	Fargo	52,278
Community Action Region VI	Jamestown	13,190
Community Action Program Region VII, Inc.	Bismarck	31,110
Subtotal - CA Agencies		\$177,000

Trenton Indian Service Area	Trenton	\$ 9,166
Turtle Mountain Band of Chippewa	Belcourt	9,166
Subtotal - Tribal Housing		\$ 18,332
Red River Valley Habitat for Humanity	Grand Forks	\$ 3,750
Lake Agassiz Habitat for Humanity	Moorhead	3,750
Subtotal - Habitat for Humanity		\$ 7,500
Rebuilding Together Bismarck/Mandan Area	Bismarck	\$ 1,000
Rebuilding Together Fargo/Moorhead Area	Fargo	1,000
Subtotal - Non-Profits		\$ 2,000
Total		\$204,832

The proposed award of funds is consistent with Program Criteria (attached) as well as the previously established set-asides of \$177,000 for Community Action agencies (distributed by poverty level amongst seven agencies); \$55,000 for tribal entities (six tribal entities with a maximum of \$9,166 per entity); \$15,000 for Habitat chapters (four affiliates with a maximum of \$3,750 per affiliate) and \$3,000 for three eligible non-profits (Rebuilding Together Bismarck/Mandan Area, Rebuilding Together Fargo/Moorhead Area and Camp of the Cross Ministries-Dream Catchers with a maximum of \$1,000 per non-profit). The previously approved eligible entities of Spirit Lake Housing Corporation, Standing Rock Sioux Tribe/HIP office, Dakota Nation Housing Development Corporation, Habitat for Humanity Northern Lights and Camp of the Cross-Dream Catchers did not apply for 2015 funds.

Fergus Falls Area Habitat for Humanity submitted an application which was denied as the project did not meet program criteria. Their grant request was for assistance with the new construction of a single-family home located in Fergus Falls, MN.

Three Affiliated Tribes is currently ineligible to participate in the Helping HAND program due to outstanding audit issues.

The Helping HAND program grant funds are available to eligible entities to support the new construction and/or renovation of existing single family or multi-family housing.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the North Dakota Housing Finance Agency Advisory Board and approve the FY2015 Helping HAND grants as follows:

Applicant	Community	Amount
Community Action Partnership (Regions 1 & 8 Combined)	Dickinson/ Williston	\$ 15,849
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Subtotal - Non-Profits		\$ 2,000
Total		\$204,832

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

Ms. Kline gave a legislative update as follows:

RE: Legislative Update

Since the last legislative report in March, 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 several provisions affecting the Agency. As I reported last month, the only change to the budget was regarding the salaries and wages line item. A slight change was made to that by the Senate to reflect the cost change in switching health insurance providers.

The Senate amended the bill to extend to the end of the 2015-17 biennium the time in which the Flood Impacted Housing Assistance funding may be expended. Funding of \$1.5 million was provided to the Agency in the 2013 session to assist Minot with housing recovery – specifically to support the Minot Housing Authority in transitioning residents of FEMA temporary housing units into permanent housing solutions. The housing authority used less than \$5,000 and, following a 2014 funding round, the remainder was awarded to the City of Minot to acquire and demolish blighted homes. The city expressed concern to local legislators about the ability to expend the entire amount by June 30, when the funds would revert to the state Disaster Recovery Fund.

Regarding the Housing Incentive Fund (HIF), HB 1014 now contains all of the provisions to reauthorize and capitalize the fund. It provides \$30 million in income tax credit authority and a \$10 million appropriation. The Senate amended the reauthorization language to add a sentence to the provision for administrative fees the Agency may collect. Under the Senate amendments, the Agency would be allowed to assess origination fees up to 5 percent of the award amount.

The Senate passed the bill unanimously on April 9 and a conference committee has been assigned to iron out the differences between the two chambers.

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, but the

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Senate Finance and Taxation Committee recommended Do Not Pass on a 4-2 vote. As of writing of this memo, this bill had not yet been placed on the Senate's calendar.

HB 1193 was introduced to expand the allowable securities in which a political subdivision may invest its funds, including obligations of the Agency rated in the highest two categories by a nationally recognized rating agency. The bill passed both houses unanimously and it was signed into law by the Governor.

SB 2257 was a HIF bill that passed both chambers initially, but was killed after it was decided that the program would be advanced in HB 1014. As was reported last month, the Senate included all the pieces of HIF – reauthorization, \$30 million in tax credits and a \$20 million appropriation. The House amended it to remove the appropriation and passed the bill 56-30. The Senate concurred in the House amendments and then killed the bill on a 14-33 vote.

Being no further Housing Finance Agency business, Governor Dalrymple adjourned this portion of the meeting at 2:18 p.m. and the Commission took up Renewable Energy Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA

A handwritten signature in blue ink, appearing to read "Karlene Fine".

Karlene Fine, Executive Director and Secretary

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Andrea Pfennig, Department of Commerce
Jaret Wirtz, WAWSA
Corey Chorne, WAWSA
Brad Thompson, Bank of North Dakota
Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Renewable Energy Program portion of the Industrial Commission meeting to order at 2:18 p.m. after completion of Housing Finance Agency business.

Ms. Karlene Fine, Industrial Commission Executive Director, presented the Renewable Energy Fund Financial Statement as follows:

Renewable Energy Development Fund
Financial Statement
2013-2015 Biennium
April 20, 2015 Industrial Commission Meeting

	<u>Cash Balance</u>
July 1, 2013 Balance	\$ 2,757,612.42
Revenues from Resources Trust Fund	\$ 3,000,000.00
Revenues through March 31, 2015	\$ 4,611.41
Expenditures net of returns through March 31, 2015	<u>\$(1,740,885.14)</u>
Cash Balance as of March 31, 2015	\$ 4,021,338.69
Outstanding Administrative Commitments (<i>estimate</i>)	\$(40,147.73)
Outstanding Project Commitments as of March 31, 2015	<u>\$(1,356,294.90)</u>
Uncommitted dollars as of March 31, 2015	\$ 2,624,896.06

Renewable Energy Development Fund
Continuing Appropriation Authority
2013-2015 Biennium

July 1, 2013 Balance of Uncommitted Dollars	\$ 825,744.42
Transfer from Resources Trust Fund for 2013-2015 Biennium	\$ 3,000,000.00
Interest Income (Estimated)	\$ 10,000.00
Income from Project Applications (Estimated)	\$ 1,500.00
Returned Commitments	<u>\$ 163.23</u>
	\$ 3,837,407.65
Administrative Commitments	\$(110,000.00)
Commitments 2013-2015	<u>\$(1,095,623.00)</u>
	\$ 2,631,784.65

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

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

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

Mr. Al Anderson presented the Renewable Energy Council recommendation regarding an amendment to the Distributed Geothermal Power Project; Submitted by UND; Principal Investigator: Michael Mann; Project Duration: 2 years; Original total project costs: \$200,835; Current Total Project Costs: \$522,000; Previously awarded \$100,230; Currently requesting: \$160,770 for a total amount of \$261,000. He said the Commission saw this project about one year ago. Since that time there have been a couple of major changes. It is a good project set up to generate kilowatts of electricity from low temperature geothermal water. There has been a change in management and partners. The overall project is about \$3.4 million. The portion of the project that the State has been asked to participate in totals \$522,000. It is very near the end of the overall project which started in 2010 and has primarily been funded through the Department of Energy. The Council is still very excited to be involved in the project regardless of the changes. The Council supported it unanimously with one contingency that, because of increased costs for projects in western North Dakota, the applicant must provide confirmation that they have received a “not to exceed” or “fixed” bid. He noted that with a year delay in completion of the project it is not unusual to see additional costs.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Renewable Energy Council and amend the funding for the grant application “Distributed Geothermal Power Project” and authorize the Industrial Commission Executive Director to execute an amendment to Contract R-021-030 with the University of North Dakota to provide an additional amount of \$160,770 for a total of Industrial Commission Renewable Energy Program funding in an amount not to exceed \$261,000 contingent on confirmation that the applicant has received a “not to exceed” bid or a “fixed” bid for the work that is to be completed by the subcontractors and that copies of the bids are provided to the Industrial Commission. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Fine presented the Industrial Commission Executive Director’s recommendation that the requests for confidentiality of the following documents be granted:

RE: Confidentiality determination

The Renewable Energy Program statute - Chapter 54-63 - allows the Industrial Commission to determine if certain information is confidential. Two of the applicants during Grant Round 24 requested that portions of their applications be determined as confidential. They provided the information that is required in the statute to make that determination. Therefore it is my recommendation that the Industrial Commission grant their requests and determine that the following information is confidential:

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Appendix A of the R-024-D application - Developing a Biomass Industry in North Dakota
Appendices I, II and III of the R-024-B application - Sugar Beet Tailings to Advanced
Ethanol

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Industrial Commission Executive Director and determine that the following information is confidential:

**Appendix A of the R-024-D application - Developing a Biomass Industry in North Dakota
Appendices I, II and III of the R-024-B application - Sugar Beet Tailings to Advanced
Ethanol**

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

Being no further Renewable Energy Program business, Governor Dalrymple adjourned this portion of the meeting at 2:25 p.m. and the Commission took up Western Area Water Supply Authority business.

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Bonnie Storbakken, Governor's Office
Jaret Wirtz, WAWSA
Corey Chorne, WAWSA
Robert Harms, Independent Water Providers
Pat Ward, Ames- Savage Water Solutions
Danette Welsh, OneOk
Lynn Helms, DMR
Bruce Hicks, DMR Oil and Gas Division
John Morrison, Fleck, Crowley
Josh DeMorrett
Jan Swenson, BCA
Members of the Press

Governor Dalrymple called the Western Area Water Supply Authority (WAWS) portion of the Industrial Commission meeting to order at 2:25 p.m. after completion of Renewable Energy Program business.

Ms. Karlene Fine, Industrial Commission Executive Director, presented the Monthly Report as follows: (A copy of the complete report is available in the Commission files.)

RE: Western Area Water Supply Authority - Industrial Sales - March, 2015/ Debt Repayment Report

Attached is the Western Area Water Supply Authority (WAWS) financial information for the month of March and for the 20 months ending March 31, 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 March, 2015. During the month of March WAWS made 2 principal prepayments totaling \$1,291,075.42 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 March 31, 2015 the principal owed is down to \$33,361,753.

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 March was \$740,885.23. Revenues in March were \$2,622,446.73--down from \$4 million+ last month. Page 6 is the balance sheet prepared by WAWS staff as of March 31, 2015. As noted on the Balance Sheet the Accounts Receivables are \$6,989,271.95. You are seeing for the first time write-offs for bad debt of approximately \$424,600.00+.

If you have questions I will be available to review the numbers. Jaret Wirtz will be joining the meeting to discuss the numbers from the month of March and to also respond to questions.

Mr. Jaret Wirtz, Western Area Water Supply Authority Executive Director, stated they are starting to see the effects of the downturn in the number of fracture crews in western North Dakota. Wells are getting drilled but they are waiting on completions. He stated WAWS had really good months in January and

February but in March they saw a considerable downturn. March was still a good month but April will be down probably less than \$2 million in sales. At this point they do not plan on making any prepayments in April.

In response to a question Mr. Wirtz discussed the write-off reflected in the financial information. He indicated that even though it has been written off they are still pursuing payment. He stated that this was a company they had done business with for a number of years who had always paid within 30 to 60 days. The company now has millions of dollars owed to entities in western North Dakota and has left the state. He reviewed the steps they are taking to get restitution.

Mr. Wirtz discussed the need for some improved technology at the depots. Because not all of the depots have staff 24-hours a day they have been having problems with water haulers overfilling their trucks, opening the wrong valves, and bringing in flowback water that gets sprayed over the depot site and results in WAWS having to bring in a hazmat crew to clean up the depot site at a cost of \$5,000 to \$15,000. He is currently compiling information on the costs of installing surveillance cameras and will bring those quotes to the Commission at a future meeting.

Mr. Wirtz gave the legislative update as follows:

Western Area Water Supply Authority (WAWS) Legislative Update - April 21, 2014

SB 2020 - Water Commission budget - This bill is now in conference committee. The current version (with House amendments) includes \$20 million for a grant and \$40 million for a loan from the Resources Trust Fund. Just a reminder that WAWS requested \$120 million of funding either from a grant or a loan.

Last month the Commission discussed whether or not the member entities that make up WAWS have the authority to borrow separately from WAWS to obtain funding for the expansion of their domestic operations. To make sure that this authority is in the law the following language was amended by the House to Senate Bill 2020:

WESTERN AREA WATER SUPPLY AUTHORITY MEMBER ENTITIES - DEBT. A western area water supply authority member entity may incur debt as authorized by law, except that an entity may not use any income from industrial water sales relating to oil and gas exploration or production to repay any debt or as collateral to secure debt beginning July 1, 2015.

All the other bills that directly impact WAWS have been defeated.

There was discussion regarding the funding level in the Water Commission bill--the amount that was grant and the amount that was loan. Mr. Wirtz stated that they were supportive of more grant monies but needed at a minimum the \$60 million. There was discussion about the language in the new provision regarding member entity debt and what debt that applied to. Mr. Wirtz stated that the intent is to make sure the member entities are able to borrow monies with the repayment coming from domestic sales.

Being no further Western Area Water Supply Authority business, Governor Dalrymple adjourned this portion of the meeting at 2:37 p.m. and the Commission took up Department of Mineral Resources business.

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Also

Present: Lynn Helms, DMR
Bruce Hicks, DMR Oil and Gas Division
Danette Welsh, OneOK
John Morrison, Fleck, Crowley
Josh DeMorrett
Jan Swenson, BCA
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 2:37 p.m. after completion of Western Area Water Supply Authority business.

Mr. Lynn Hems, Department of Mineral Resources Director, presented Orders for Cases heard on March 25 & 26, 2015: (Copies of the proposed Orders are available in the Commission files.)

Case No. 23789, Order No. 26130 - request for the drilling of three horizontal wells on overlapping spacing units – Mr. Hess indicated that this cases involves QEP and Hess and the drilling of some section line wells. He distributed a handout. (The handout is available in the Commission files.) He noted that the first diagram is what QEP presented at the hearing. QEP operates the wells to the north and to the south and east. Hess operates the wells in the southeast corner of that map so half of their well bores are exposed to QEP's proposed operation. QEP initially proposed five wells on that section line but by the time they got to the hearing they had reduced that to three wells. Those three wells are expected to recover 1.8 million barrels of oil from the section line area. The staff supports drilling the wells in order to prevent waste. Hess presented their concerns at the hearing. Hess has developed their area with Middle Bakken and Three Forks wells and 500 feet from the section line they have a Middle Bakken well. Their concern is that QEP uses very large hydraulic fracturing volumes both fluid and sand and that the way QEP had laid out their wells, one of the 3 wells could potentially be just 500 feet from Hess's well which they feel is too close.

Mr. Helms stated that the staff considered all of the geology and data presented at the hearing and the arguments of the witnesses and they are recommending in the proposed order that the Commission grant QEP's request with the following requirements. First, that the QEP Middle Bakken well be moved as far as possible from Hess's well - meaning it will be 650 to 750 feet away from the Hess Middle Bakken well. Hess stated that 600 feet plus would be acceptable to them. Secondly, the Commission doesn't want to get into the business of specifying how, what size frac stages and things companies should pump. In this case, rather than the standard 7 day notice that is in the Commission's rules, this proposed order will require QEP to provide Hess with 14 to 30 days' notice and the details on where the frac stages will be placed in that well and also what size of frac stages they are going to pump. This will allow time for Hess to properly prepare their well in advance of the frac job. That is the order being recommended – allow QEP

to drill the three wells but that the Middle Bakken well be as far from the Hess well as possible and that they provide the additional notice and detail so Hess can properly prepare and not be negatively impacted by the section line wells.

Case 23789: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26130 issued in Case 23789, be approved and effective this 21st day of April, 2015.

In response to a question, Mr. Helms said the Commission had a very similar case in August 2014 and this order is very similar – really the same essential dispute between Hess and QEP but in that case QEP was encroaching on the toes of some Hess wells. The Commission did similar relief in that case.

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

Case No. 23799, Order No. 26140 - request to terminate a 1280-acre spacing unit and create two overlapping 1280-acre spacing units – Mr. Helms said this is a Liberty proposal to rearrange the spacing in the Stoneview-Bakken field. He distributed a map (the map is available in the Commission files) which showed the current spacing--a 640-acre spacing unit on the north end, 1280-acre spacing unit in the middle and two 320-acre spacing units on the south end with 31 wells proposed. What Liberty proposes is to change that into two 1280-acre spacing units and allow the existing wells to remain, one on its 320-acre spacing unit and one on its 640-acre spacing unit. That would convert this area from four spacing units to two spacing units and reduce the number of wells from 31 wells to 27 wells. The economics of the 1280- acre spacing unit wells is significantly better than the economics of the shorter wells.

Mr. Helms stated that the staff is recommending in the proposed order that the Commission grant Liberty's proposal which would change the four spacing units and 31 wells into two spacing units and 27 wells all located along the center line. It will reduce the footprint on the landscape, improve the economics, and eliminate the drilling of unnecessary wells (at least four) under the current spacing. This would also line up the spacing units to the east which could avoid some section line drilling controversies. He indicated that this will do nothing to line up with the spacing units to the west--those were early Bakken/Three Forks spacing units.

Case 23799: It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 26140 issued in Case 23799, be approved and effective this 21st day of April, 2015.

In response to a question Mr. Helms said the same requirements the Commission put on QEP for drilling next to the Hess well, are included in the proposed Order. Liberty will need to provide notice and details on where the stages will be to XTO so that XTO will know a month in advance where the wells are going to cross and where the stages are going to be and they can deal with that in their XTO well. Likewise with the Continental well.

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

Case No. 23808, Order No. 26149 - request seeking relief from the gas flaring order
Case No. 23809, Order No. 26150 - request seeking relief from the gas flaring order
Case No. 23810, Order No. 26151 - request seeking relief from the gas flaring order
Case No. 23811, Order No. 26152 - request seeking relief from the gas flaring order
Case No. 23812, Order No. 26153 - request seeking relief from the gas flaring order
Case No. 23813, Order No. 26154 - request seeking relief from the gas flaring order
Case No. 23814, Order No. 26155 - request seeking relief from the gas flaring order
Case No. 23815, Order No. 26156 - request seeking relief from the gas flaring order
Case No. 23816, Order No. 26157 - request seeking relief from the gas flaring order

Mr. Helms took the remainder of the above listed cases together because they are all requests by XTO for relief from the flaring order and the flaring goals in the area around Bear Creek. He distributed a map. (The map is available in the Commission files.) He stated that this has all come about because of the dotted line which was to have been a OneOK pipeline that was going to cross 1.8 miles of the Figure 4 Ranch which is Three Affiliated Tribes property. They tried for many months to negotiate a right-of-way and were completely unsuccessful. The alternative was about five miles to cross federal government property, a Big Horn Sheep area and they were not successful there either. OneOK let XTO and other operators know in mid-December that a likely outcome was going to be the cancellation of that project and they gave them a letter January 23 saying the project was off. The alternative is to build the Bear Creek Plant and a pipeline along the existing corridor over to the Grasslands Plant area to get the gas to Northern Border and the liquids to the Grasslands Plant but that will happen in 2016; the original plan was going to happen in the 2015 construction season. Through no fault of XTO or any of the operators or OneOK, this situation arises. Mr. Helms stated that in his opinion, they were offered the best pipeline right of way deal he has ever heard of but they turned it down which is their right as a surface owner to do but it changes the whole paradigm in here.

In response to a question regarding the Tribe refusing to let them cross some land, Mr. Helms said yes and was 1.8 miles. He understands they wanted a tariff which has not happened before in North Dakota. In other words, as opposed to a payment for use of the land, a one-time payment or an annual payment – they wanted a tariff on every mcf of gas that moved through that pipeline during the life of the pipeline. That was a no go with the operators and the very large one-time payment was a no go with the Tribe. OneOK broke off negotiations about mid-January and sent the letter out to the operators that it was not going to happen.

In response to a question regarding how much they wanted for 1.8 miles, Mr. Helms said he can't give an exact number but it was pretty close to \$10 million per mile.

In response to a question, Mr. Helms stated that the setting of a precedent of paying a set fee for a product that was moving through a pipeline was very much a concern--more than the right-of-way payment. The idea that we would begin to pay surface owners who have no mineral ownership a tariff for oil and gas to cross their land would be a new precedent. What would

happen is they would end up paying that to everyone for every barrel and every mcf everywhere in North Dakota.

In response to a question, Mr. Helms stated that OneOK did try to make the deal and now they have come up with an alternate route which will be more expensive than the price they had been prepared to pay on the original route. The tariff obviously was going to make the project uneconomic and set a terrible precedent. The cost of this new gas plant and that pipeline will be significantly more than what the dotted pipeline (ten miles of pipe) would have been. OneOK is moving forward with an alternative – it will cost a lot more and it will take 12 to 15 months longer to get it in place.

It was noted that the question in regards to these requests is when XTO should have known or could have known with reasonable diligence that the original project was not going forward.

In response to a question regarding if there was mediation anywhere, Mr. Helms said no, they did not. That is a process that requires both parties to voluntarily enter it and if either party says no, then it doesn't happen. One party wanted a tariff or no pipeline across their land.

Mr. Bruce Hicks, Oil and Gas Division Assistant Director, clarified that it was actually 4.8 miles across the Three Affiliated Tribes property and 1.6 miles across the Corps of Engineers property. The Corps would not deal with OneOK because they said go through the Tribes property and when the negotiations ended with the Tribes it was really too late to go through the Corps which would take another 12 months to get their approval. OneOK then decided to build the gas plant at Bear Creek.

Mr. Helms said XTO as a result is in a bind and they are asking the Commission for relief in total on 156 wells. XTO realized, before they got to hearing, that the 16 wells that were just planned but permits hadn't been submitted yet, were very unlikely to get approved so they withdrew those 16 wells that from the application at the time of hearing. There are 19 not 16 wells in what's called the permitting phase. That leaves the Commission looking at 143 wells. The proposed order denies the relief on the 19 wells in the permitting category. There are no lease expiration issues. These wells have been filed with the Commission and permits have been requested but there has not been any investment made on those wells other than the cost of submitting the permit. The staff doesn't think it would be prudent with XTO having known – they were told verbally in mid-December and testified to that fact that this situation was likely to develop and then it was confirmed by letter January 23 that it had happened. These permits would all have been subsequent to that date and he is recommending that anything subsequent to that mid-December date should be denied. He noted that it doesn't mean XTO couldn't go ahead and drill those wells, it's just that they would have to find a way to compensate for the gas production by doing something somewhere else in the State or putting a well site unit on there; do something to capture gas.

Mr. Helms then discussed the 28 wells that were listed in the drilled/drilling category. He stated that these are May/June drills and extend all the way through the end of January. Of the 28 wells 17 wells were spud and drilled before that mid-December communication that OneOK has a problem. They were drilled under the expectation that this pipeline was going to move forward,

that an agreement would be reached and they would be able to get the gas captured. Eleven of the wells were drilled after the “heads up” or right about the time of the letter arriving indicating that there would be a delay in the construction of the pipeline. The recommended order grants the relief on the 17 wells and denies it on the 11 wells. They made a \$3 to \$5 million investment per well on 17 wells fully expecting the pipeline to be built but the other 11 wells they knew the pipeline was not going to be built.

In response to a question Mr. Helms said mid-December is the key date. There was verbal notification from OneOK to operators that the negotiations on this pipeline (Lost Bridge Pipeline) had hit a serious snag and that there was a good probability that they were not going to get the right-of-way and they confirmed by letter on January 23 that negotiations had broken off and it was over.

In response to a question regarding if there was any additional time in the first half of December when – for whatever reason – they might have been able to surmise this problem before they got written notice from OneOK, Mr. Helms said it may be but he does not have any evidence that there was. He stated one thing that is significant about this period of time is that XTO didn't spud any wells between September 16 and January 17. XTO was not doing a great deal of work at that point in time. Maybe they had some idea that there was a problem but they were not investing the money. None of the 11 wells being discussed fall into that time period.

In response to a question, Mr. Helms said XTO didn't make investments during that time where we would question should they really have known – in the gray area. No real investments between September 16 and January 17. The September wells clearly fall in the “fully expecting the pipeline to go in” category and the January wells clearly fall into the “should have known” category.

Mr. Helms discussed the 96 wells in the Active category saying eight of those wells have well site liquid stripping units installed that captures the gas. It is his recommendation that the Commission should not grant the relief for those wells. If they do, those well site liquid stripping units will be removed and they will go somewhere else and XTO has another dozen or so units on order. He thinks it is important to pressure XTO to keep those liquid stripping units there in the area rather than granting the relief and having them removed and go somewhere else and the wells just be allowed to flare. The 96 active wells number would then change to 88.

Mr. Helms noted that there were two other points that are reflected in the proposed order. The first one is something that the Commission doesn't typically require on active producing wells. The proposed order requires gas capture plans for the 88 active wells to be submitted by June 30- a gas capture plan on a field basis. This is needed so that when they come to the end of the temporary relief period everyone isn't scrambling to figure out if there is a possibility to capture this gas.

The second point is their request for relief through the third quarter of 2016. The Commission has a new gas capture goal coming January 1 and XTO asked for relief nine months past the new goal. He is recommending the Commission keep the relief truly temporary – six months. Through the development of the gas capture plan work, they may be able to fix some things in

the area. If they need another temporary extension, then they can come back. To grant relief all the way through September 30, 2016 when there are so many things going on, didn't seem prudent. Six months will take us through the entire 2015 summer construction phase. By that time we should have a good idea of what the winter looks like for them and the matter could be reviewed at that time.

In response to question, Mr. Helms indicated that if the pipeline had been built XTO's expectation was that they would be at 85% capture--they would have been where they needed to be on January 1, 2016. The latest numbers indicate they are at 77% capture. They have just made the 2015 goal that is statewide. In this area because of this pipeline problem they are at 65%. They are truly in a bind and have actually reduced their rig count in this area by 1--they have gone from 2 to 1 rig to try to let infrastructure get in place and let this process work itself out. This relief will take them to 82% capture statewide. It doesn't get them relief that puts them over the top for the January 1 goal but gives them some breathing room to continue working here and to work in the other areas where they operate. They are still going to have to make significant investments and do a lot of work to meet their 85% goal.

In response to a question Mr. Hicks stated that the Bear Creek Plant will process 80 MMcfd a day. The Lost Bridge Pipeline that didn't go forward would have had the capacity for 40 MMcfd a day. The Bear Creek Plant will process twice as much gas. Mr. Helms stated that net net, the Commission is gaining 40 MMcf of gas capture capacity and through no fault of XTO it is going to take another year to get it. He believes some careful partial relief here is appropriate; it certainly is not everything XTO asked for.

In response to a question, Mr. Helms stated that the Commission is going to wind up better than it would by not doing this--you go from 40 MMcf capture in the area to 80 MMcf capture through this revised plan. He noted that it is for the entire region and not just for this application. It was indicated that the relief that is being proposed is 14 MMcf a day for 6 months. This helps the Commission achieve the end result of eventually reaching 90 or 95% capture. This is the type of relief that encourages companies to make the Bear Creek type of investment and move these efforts for gas capture forward.

Mr. Helms stated that the relief for the wells the Commission approved a month ago because of a pipeline washout roll into this proposed order. Instead of just getting relief through the end of April they will be included in this order and the relief will be extended to October 31. The staff is looking at the whole picture in this area.

In response to a question, Mr. Helms stated that the Commission will actually get 9 gas capture plans--one for each field--by June 30. That is going to force XTO back to the table with OneOK to talk field by field about whether there are any interconnects, line loops, some place a compressor could be installed this summer--something that could be done to capture more gas.

Mr. Helms noted that gas capture or the state was at 81% in February--great results. Industry has really been performing exceedingly well. So January 1 the goal went to 77% and in February the statewide capture was at 81%.

Governor Dalrymple reviewed what was in the proposed order -- denying relief on the 16 wells that were being planned, denying relief on 19 wells that were in the process of permitting, denying relief on 11 wells that were in the drilling phase or the process of being drilled and denying relief for 8 wells that already had processing units in place and XTO is to provide gas capture plans on the 88 active wells by June 30 and they will be granted relief for six months. It was noted that the 88 active wells are past their peak as far as flaring is concerned as a whole; they are already in a diminishing flaring mode.

In response to a question, Commissioner Goehring stated that it is his understanding that surface owners in this area are being offered between \$45,000 to \$70,000 per mile depending on the situation.

There was discussion about the implications of establishing a tariff not only for oil and gas lines but water lines, electric transmission lines, etc.

In response to a question, Mr. Helms indicated that they are asking XTO to provide in their gas plans information on how much gas they are producing, what percent they are capturing, what percent they are able to capture through the existing well site units, what out of the Commission's list of alternatives for beneficial uses they could apply, are there interconnects to another gas gatherer or ability to reroute some gas to another processing plant. It was indicated that Mr. Helms should communicate to XTO that the Commission wants to see their best efforts - that will make a difference if the Commission knows that they have done everything that they could come up with to capture the gas.

Case 23808: It was moved by Commissioner Goehring and seconded by Attorney General Stenhjem that Order 26149 issued in Case 23808, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenhjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 23809: It was moved by Commissioner Goehring and seconded by Attorney General Stenhjem that Order 26150 issued in Case 23809, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenhjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 23810: It was moved by Commissioner Goehring and seconded by Attorney General Stenhjem that Order 26151 issued in Case 23810, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenhjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 23811: It was moved by Commissioner Goehring and seconded by Attorney General Stenhjem that Order 26152 issued in Case 23811, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple,

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

Case 23812: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26153 issued in Case 23812, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 23813: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26154 issued in Case 23813, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 23814: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26155 issued in Case 23814, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 23815: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26156 issued in Case 23815, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 23816: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26157 issued in Case 23816, be approved and effective this 21st day of April, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Helms reviewed a legislative update on legislation impacting the Department of Mineral Resources. (A copy of the legislation listing is available in the Commission files.) Mr. Helms indicated they are down to 3 bills that they are tracking in conference committee -- HB 1014 (appropriation bill), HB 1021 (IT equipment consolidation), and SB 2015 (OMB bill - energy impact housing allowance pool).

Mr. Helms went into detail regarding HB 1358 and highlighted the following points:

- On the gathering pipeline side - 5 significant changes. No other state will even be close to what is required under this new bill - on new pipelines there is going to be real time review of construction drawings and the independent inspectors that are hired by the pipeline operators and the leak detection and monitoring plans - real time by three FTE's in the DMR. There will also be a record of the pressure test of the pipeline that has to be

submitted in 60 days; on new and existing pipelines, there is going to be bonding for pipelines that aren't already covered by a well or facility bond, there is going to be 7 month \$1.5 million study by EERC -- construction standards, materials, burial depths, pressures, monitoring and maintenance systems, spill and leak histories and when that is all done December 1 the Industrial Commission shall write rules to incorporate those study results into regulations on pipelines.

- Some really good items for landowners. Four big changes - saltwater disposal volumes, spill report information, and surface owner pipeline data are no longer going to be confidential. \$1.5 million a biennium is going to be spent on a priority list of legacy sites--old flowing seismic shotholes pre- 1983 sites where the reclamation was maybe up to standards at the time but didn't get the job done and reclamation demonstration projects. Seven year review and hearing on TA wells, so TA wells have a limited life to them. Finally a \$500,000 pilot study on reclaiming salt contaminated soil.

There was discussion on the work that needs to start immediately on all the various aspects of HB 1358. In regards to the work on salt contaminated soil, Mr. Helms mentioned a new treatment that he had seen the previous week that when you have a salt water spill you can put this chemical on it and it foams the saltwater out of the ground so it can be scrapped up--gets it off the land. What remains is a 70% reduction in salinity. He said there is exciting technology that is being developed.

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

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned this portion of the meeting at 3:40 p.m. and the Commission took up **confidential** Lignite Research, Development and Marketing Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on April 21, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: Jason Bohrer, Lignite Energy Council
Mike Jones, Lignite Research, Development and Marketing Program
Tyler Hamman, Lignite Energy Council
Chuck Kerr, Great Northern Power Development
Todd Joyner, Great Northern Power Development
Rich Voss, Great Northern Power Development
Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Lignite Research, Development and Marketing Program portion of the Industrial Commission meeting to order at 3:51 p.m. after completion of **confidential** Lignite Research, Development and Marketing Program business.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring to authorize the Industrial Commission Executive Director to execute an amendment to Contract FY08-LXIII-161 with Great Northern Project Development granting a No-Cost Time Extension – extending the project schedule from April 1, 2015 to March 31, 2016. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Jason Bohrer, Chairman of the Lignite Research Council, discussed the status of legislation that impacts the lignite industry -- sales and use tax exemption for CO₂ capture equipment; additional monies for the Lignite Research Fund that would provide a path forward for the construction of new power plants; Senate Bill 2318 which dealt with retrofit applications of existing plants; a resolution that supported the coal industry; IT consolidation as it impacts the Public Service Commission; and House Bill 1432 - the Environmental Impact Litigation Fund.

Being no further Lignite Research, Development and Marketing Program business, Governor Dalrymple adjourned this portion of the meeting at 4:01 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 April 21, 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
DeAnn Ament, Public Finance Authority
Members of the Press

Governor Dalrymple called the Public Finance Authority portion of the Industrial Commission meeting to order at 4:01 p.m. after completion of Lignite Research, Development and Marketing Program business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented the North Dakota Public Finance Authority Capital Financing Program Bonds Series 2015B Resolution. She said they plan on selling the bonds competitively on Thursday.

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

SERIES RESOLUTION FOR
UP TO
\$35,000,000
NORTH DAKOTA PUBLIC FINANCE AUTHORITY
CAPITAL FINANCING PROGRAM BONDS
SERIES 2015B

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

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

WHEREAS, the Industrial Commission of North Dakota has determined that it is necessary and expedient that the Authority issue at this time a Series of Bonds to be designated "North Dakota Public Finance Authority Capital Financing Program Bonds, Series 2015B" (the "Series 2015B Bonds") to provide moneys to lend to the City of Watford City through the purchase of approximately \$28,000,000 of improvement bonds to finance street, utility, sidewalk and other infrastructure improvements related to a new high school and an event center, to lend to the City of Forman through the purchase of approximately \$3,100,000 improvement bonds to finance an edge milling and overlay project for its Street Improvement District No. 2015-1 and to acquire obligations of other Political Subdivisions requesting loans prior to the issuance of the Series 2015B Bonds (the "Municipal Securities"), all pursuant to the General Bond Resolution;

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

WHEREAS, the Municipal Securities are expected to mature on June 1 of each of the years and in the principal amounts determined by the Executive Director, not exceeding an aggregate of \$35,000,000 and having a final maturity not later than June 1, 2036.

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

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

ARTICLE I
Authority, Definitions and Findings

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

Section 1.02. Definitions. All terms defined in Article I of the General Bond Resolution or in the Act shall have the same meanings, respectively, in this Series Resolution and with respect to the Series 2015B Bonds as such terms are given in said Article I of the General Bond Resolution or the Act.

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

ARTICLE II
Authorization of Series 2015B Bonds

Section 2.01. Authorization of Series 2015B Bonds. Pursuant to the General Bond Resolution, a Series of Capital Financing Program Bonds to be designated as the "Series 2015B Bonds" is hereby created and authorized to be issued in the aggregate principal amount of up to \$35,000,000; provided that the terms of the Series 2015B Bonds may be established or revised to provide for any additional obligations authorized by the Commission or for the reduction in the amount of the Municipal Securities.

Section 2.02. Purposes. The Series 2015B Bonds are being issued to provide funds to be loaned to the Political Subdivisions by purchasing such Municipal Securities to be issued by the Political

Subdivisions as are approved by this Commission pursuant to the Act. In the event any Political Subdivision receiving such approval fails to issue its Municipal Securities as contemplated by September 1, 2015, proceeds of the Series 2015B Bonds allocated for such purpose may be used for the purchase of any other Municipal Securities subsequently approved by the Commission or for the redemption of Series 2015B Bonds as provided in Section 2.04. It is hereby found and determined in accordance with Section 2.11 of the General Bond Resolution that the Municipal Securities will be in an amount and will mature and bear interest at rates sufficient to pay the principal of and interest on the Series 2015B Bonds when due.

Section 2.03. Date, Payment Dates, and Maturities. The Series 2015B Bonds shall be dated as of a date determined by the Executive Director to be appropriate, except that Series 2015B Bonds issued on or subsequent to the first interest payment date shall be dated as of the most recent date to which interest has been duly paid or provided for. The Series 2015B Bonds shall bear interest from their date, payable semiannually on June 1 and December 1 in each year, commencing December 1, 2015. The Series 2015B Bonds shall mature, or at the option of the purchaser be subject to mandatory redemption, on June 1 in each of the years and in the principal amounts determined by the Executive Director to be necessary to accommodate the needs of the Political Subdivisions. The Series 2015B Bonds may be issued in any amount not more than \$35,000,000 and maturing in amounts on each June 1 as determined by the Executive Director.

Section 2.04. Redemption. The Series 2015B Bonds maturing on or after June 1, 2026, are subject to redemption and prior payment at the option of the Authority at par plus accrued interest on June 1, 2025, and any date thereafter, in whole or in part in such order as the Executive Director may determine. The Series 2015B Bonds are also subject to mandatory redemption on January 1, 2016, at par plus accrued interest, in whole or in part in such order as the Authority may determine, to the extent that the net proceeds of such Series exceeds the net proceeds of the Municipal Securities which have been purchased by the Authority with the proceeds thereof on or prior to November 1, 2015.

Section 2.05. Interest Rates. The Series 2015B Bonds shall bear interest at such rate or rates as the Executive Director may approve based on the public sale procedure described in Section 2.08, provided that the net interest rate for the Series 2015B Bonds shall not exceed 5.00% per annum.

Section 2.06. Denominations, Numbers, and Letters. Each Series 2015B Bond shall be in an integral multiple of \$5,000 and shall be numbered separately from R-1 consecutively upwards in order of issuance.

Section 2.07. Registrar and Paying Agent. The principal of the Series 2015B Bonds shall be payable upon presentation and surrender thereof at the main office of the Bank of North Dakota, Bismarck, North Dakota, which is hereby appointed Registrar and Paying Agent under the General Bond Resolution. Interest on the Series 2015B Bonds shall be payable by wire transfer or by check or draft mailed to the registered Owners of record as of the 15th day of the month preceding each interest payment date at their registered addresses.

Section 2.08. Sale of Series 2015B Bonds. The Series 2015B Bonds shall be sold at public sale pursuant to and in accordance with the Official Terms of Offering which shall be prepared by the Executive Director in customary form and shall be mailed to prospective bidders in advance of the sale. Upon receipt and acceptance of a bid conforming to the Official Terms of Offering, the Executive Director is authorized to execute the bid form submitted by the successful bidder in acceptance thereof and to return the good faith deposits of the unsuccessful bidders.

Section 2.09. Official Statement. A Preliminary Official Statement of the Authority in respect of the Series 2015B Bonds, similar in form to previous official statements shall be prepared by the Executive Director and made available to members of the Commission, and a final Official Statement shall be distributed with such changes, omissions, insertions and revisions as the Executive Director shall deem advisable in order to make such Official Statement a complete and accurate disclosure of all material facts to prospective purchasers of the Series 2015B Bonds. The Executive Director shall sign one or more copies of such final Official Statement on behalf of the Authority, and at least one such signed copy shall be filed with the permanent records of the Commission.

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

ARTICLE III Use of Proceeds of Series 2015B Bonds

Section 3.01. Reserve Fund Deposit; Letter of Credit. Upon or prior to the issuance and sale of the Series 2015B Bonds and as a condition to the delivery thereof, the Authority shall have received a letter of credit provided by the Bank of North Dakota in accordance with the Reimbursement Agreement (the "Letter of Credit") in an amount equal to the largest amount of money required by the terms of the Series 2015B Bonds to be paid on maturing principal of and interest on the Series 2015B Bonds in any period of 24 consecutive months (the "Series Reserve Fund Requirement"), less such amounts as may be deposited in the Reserve Fund from the proceeds of the Series 2015B Bonds as directed by the Executive Director or from funds deposited by the Political Subdivisions. The Executive Director is authorized to deposit up to one half of the Reserve Fund Requirement into the Reserve Fund from Series 2015B Bond proceeds. The proceeds of any draw on the Letter of Credit are pledged to the Reserve Fund and may be applied only for the purposes for which the Reserve Fund may be applied. The Authority shall make a draw on the Letter of Credit at any time funds thereunder are necessary to pay principal of or interest on Bonds issued under the General Bond Resolution when due. In the event of a draw on the Letter of Credit which has not been reimbursed by legislative appropriation, the Authority shall reimburse the Bank of North Dakota only after payment of the Series 2015B Bonds and solely from amounts on deposit in the Series 2015B Account of the Reserve Fund, subject and subordinate to the prior pledge to the holders of Bonds under the General Bond Resolution.

Section 3.02. Deposit to Costs of Issuance Fund. Upon receipt of the proceeds of sale of the Series 2015B Bonds, the Authority shall deposit in the Costs of Issuance Fund from the proceeds of the Series 2015B Bonds the sum determined by the Executive Director to be used to pay Costs of Issuance of the Series 2015B Bonds in accordance with the provisions of the General Bond Resolution.

Section 3.03. Deposit to Series 2015B Account of Loan Fund. The Authority shall deposit all other proceeds derived from the sale of the Series 2015B Bonds which are not deposited in the Reserve Fund or Cost of Issuance Fund in the Series 2015B Account of the Loan Fund, which is hereby created, to be applied to the making of loans to the Political Subdivisions through the purchase of the Municipal Securities at the prices corresponding to the percentages of par bid for the Series 2015B Bonds plus accrued interest for the period from the date of the Series 2015B Bonds to the date of purchase; provided that such accrued interest shall not in any event exceed the amount of accrued interest received from the sale of the Series 2015B Bonds plus all interest earnings on the amounts deposited in the Series 2015B Account of the Loan Fund under the General Bond Resolution.

ARTICLE IV
Form, Execution and Other Details of Series 2015B Bonds

Section 4.01. Form of Series 2015B Bonds. The Series 2015B Bonds, the Registrar's Authentication Certificate and the form of assignment shall be in substantially the form set forth in Exhibit A to the General Bond Resolution, with all such insertions as may be consistent with this Series Resolution and the successful bid. The approving legal opinion of bond counsel may be printed on the reverse side of the Bonds and certified by the Executive Director.

Section 4.02. Execution and Delivery. The Series 2015B Bonds shall be executed by the facsimile signatures of the Chairman and Executive Director and delivered as provided in the General Bond Resolution.

ARTICLE V
Special Covenants

The Commission and the Authority covenant and agree with the persons who at any time are Holders and Owners of the Series 2015B Bonds that so long as any Series 2015B Bonds remain outstanding and unpaid:

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

Section 5.02. Maintenance of Tax-Exempt Status. Neither the Commission nor the Authority shall take, or permit the Political Subdivisions to take, any action that would cause the Series 2015B Bonds to be "private activity bonds" (other than "qualified 501(c)(3) bonds") within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended. The Commission and the Authority shall comply with all the rebate requirements imposed under Section 148(f) of the Internal Revenue Code of 1986, as amended, and regulations thereunder, which are necessary to preserve the tax exempt status of the Series 2015B Bonds, including (if applicable) the requirement to make periodic calculations of the amount subject to rebate thereunder and the requirement to make all required rebates to the United States. The Authority agrees to use any moneys on deposit in any Fund or Account maintained under the General Bond Resolution to pay any such rebate (or penalty in lieu thereof) when due. In addition, the Authority shall make no investment of funds or take or permit any Political Subdivisions to take any action that would cause the Series 2015B Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations thereunder. All terms used in this Section 5.02 shall have the meanings provided in the Internal Revenue Code of 1986, as amended, and regulations thereunder. The Executive Director shall execute any certificates as may be necessary or appropriate to establish the tax exempt status of the Bonds.

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

ARTICLE VI
Book-Entry Bonds

Section 6.01. Depository. The Bonds shall be initially issued in the form of a separate single typewritten or printed fully registered bond. Upon initial issuance, the ownership of each such Bond shall

be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, and its successors and assigns (“DTC”). Except as provided in Section 6.03 hereof, all of the outstanding Bonds shall be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the registration books kept by the Bond Registrar in the name of Cede & Co., a nominee of DTC, the Authority, the Bond Registrar and the Paying Agent shall have no responsibility or obligation to any broker dealers, banks and other financial institutions from time to time for which DTC holds Bonds as securities depository (the “Participants”) or to any other person on behalf of which a Participant holds an interest in the Bonds, including but not limited to any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person other than a registered owner of Bonds, as shown by the registration books kept by the Bond Registrar, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other person, other than a registered owner of Bonds, or any amount with respect to principal of, premium, if any, or interest on the Bonds. The Authority, the Bond Registrar and the Paying Agent may treat and consider the person in whose name each Bond is registered in the registration books kept by the Bond Registrar as the holder and absolute owner of such Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal of, premium, if any, and interest on the Bonds only to or on the order of the respective registered owners, as shown in the registration books kept by the Bond Registrar, and all such payments shall be valid and effectual to fully satisfy and discharge the Authority’s obligations with respect to payment of principal of, premium, if any, or interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner of Bonds, as shown in the registration books kept by the Bond Registrar, shall receive a certificate Bond evidencing the obligation of the Authority to make payments of principal, premium, if any, or interest pursuant to this Bond Resolution. Upon delivery by DTC to the Executive Director of a written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to record dates, the words “Cede & Co.” shall refer to such new nominee of DTC; and upon receipt of such a notice, the Executive Director shall promptly deliver a copy of the same to the Bond Registrar and Paying Agent, if the Bond Registrar or Paying Agent is other than the Executive Director.

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

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

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

ARTICLE VII
Miscellaneous

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

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

On a roll call vote, Governor Dalrymple and Attorney General Stenehjem voted aye with Commissioner Goehring absent and not voting. The motion carried.

Ms. Ament presented the following Capital Financing Program loan requests:

City of Forman - \$2,900,000 – She said the City opened their bids and the bids are actually closer to \$2.3 million. The City is doing a street improvement project and will be special assessing it. The loan will be repaid over a term of fifteen years.

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

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

WHEREAS, the City of Forman (the "Political Subdivision") has requested a loan in the amount of \$2,900,000 (the "Loan") from the North Dakota Public Finance Authority (the "NDPFA") to finance an edge milling and overlay project; and

Whereas, the Political Subdivision will issue improvement bonds payable with special assessment collections to repay the loan;

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

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

1. The Loan is hereby approved.

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

On a roll call vote, Governor Dalrymple and Attorney General Stenehjem voted aye with Commissioner Goehring absent and not voting. The motion carried.

Watford City - \$27,750,000 – She said Watford City will be doing a special assessment for water sewer, storm sewers, etc. for infrastructure for their new high school and event center area of town. It will be a twenty year loan with improvement bonds and the Advisory Committee recommended approval.

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

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

WHEREAS, the City of Watford City (the "Political Subdivision") has requested a loan in the amount of \$27,750,000 (the "Loan") from the North Dakota Public Finance Authority (the "NDPFA") to finance infrastructure improvements; and

Whereas, the Political Subdivision will issue improvement bonds payable with special assessment collections to repay the loan;

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

Whereas, the NDPFA will charge an administrative fee of \$50,000 rather than the half of one percent set forth in NDPFA Policy P-4; and

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

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

On a roll call vote, Governor Dalrymple and Attorney General Stenehjem voted aye with Commissioner Goehring absent and not voting. The motion carried.

Ms. Ament presented a Drinking Water State Revolving Fund Program loan request from the City of Gwinner in the amount of \$2,711,000. She said this is to renovate their existing treatment plant and increase the capacity. They are eligible for \$813,000 of loan forgiveness so the net loan will be \$1,897,000 and will be improvement bonds. Based on that information, the Advisory Committee recommended approval.

It was moved by Attorney General Stenehjem and seconded by Governor Dalrymple 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 Gwinner (the "Political Subdivision") has requested a loan in the amount of \$2,711,000 from the Program to finance a water treatment plant expansion and a new well; 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 and Attorney General Stenehjem voted aye with Commissioner Goehring absent and not voting. The motion carried.

Ms. Ament presented the following memorandum regarding a Cooperstown Drinking Water State Revolving Fund \$750,000 loan:

Re: Cooperstown, Drinking Water State Revolving Fund

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 Cooperstown requesting a \$750,000 loan under the Drinking Water SRF (DW SRF) Program to finance the replacement of five miles of transit (asbestos concrete) pipe water transmission lines. Total construction costs are estimated at \$3,000,000, with \$2,250,000 coming from an Army Corps of Engineer's grant. The requested loan term is 30 years. The City of will issue revenue bonds payable with user fees.

The Public Finance Authority's Advisory Committee approved this loan at their April 15, 2015 meeting.

Ms. Ament gave an update on the status of the North Dakota Natural Beef property as follows:

Re: ND Natural Beef (NDNB) Update

Timeline

May 28, 2008 Closed a \$2 million bond issue with NDNB the recipient of the proceeds.

July 6, 2012 Last payment received from NDNB.

November 8, 2012 NDNB provides written notice that they are vacating and abandoning the property.

November 9, 2012 Notice before Foreclosure was served.

August 2013 Met with four realtors each representing different agencies and conducted tours of the facility.

December 5, 2013 NDSU agreed to a monetary settlement for the unexpired lease.

February 12, 2014 The fully executed NDSU Settlement Agreement was returned.

February 4, 2015 Sheriff's sale; no bids were received.

April 6, 2015 Expiration of redemption period for all parties except SBA.

April 14, 2015 For a consideration of \$5,000, SBA waives their one year redemption.

April 22, 2015 SBA waiver and Sheriff's Deed are recorded; PFA may now dispose of the property.

Recommendation

My recommendation is that the Industrial Commission appoint the Public Finance Authority Executive Director to negotiate and finalize the sale of the property previously owned by Natural Beef as per the Industrial Commission's instructions.

It was moved by Attorney General Stenehjem and seconded by Governor Dalrymple that the Industrial Commission accept the recommendation of the Public Finance Authority Executive Director and authorize the Public Finance Authority Executive Director to negotiate and execute the necessary documents, after review by legal counsel, to complete the sale of the 1901 and 1909 Great Northern Drive Property located in Fargo, North Dakota and all contents as per the instructions of the Industrial Commission. On a roll call vote, Governor Dalrymple and Attorney General Stenehjem voted aye with Commissioner Goehring absent and not voting. The motion carried.

It was moved by Attorney General Stenehjem and seconded by Governor Dalrymple that the Industrial Commission be closed pursuant to N.D.C.C. §44-04-19.1 to discuss the strategy and provide instructions to the Public Finance Authority Executive Director regarding the sale of the 1901 and 1909 Great Northern Drive Property located in Fargo, North Dakota and all the contents. The motion carried.

Being no further non-confidential Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting at 4:08 p.m. and the Commission took up **confidential** 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 April 21, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem

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 4:19 p.m. after completion of **confidential** Public Finance Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary and North Dakota Building Authority Authorized Officer, discussed the Attorney General's recommendation for selection of bond counsel for the North Dakota Building Authority for a four-year engagement as follows: (Copies of the attachments are available in the Commission's files.)

RE: North Dakota Building Authority (Authority) Bond Counsel Proposals

On behalf of the Attorney General and the Industrial Commission the attached Request for Proposal (RFP) was distributed to nine bond counsel firms. As noted in the RFP I informed the firms that the Authority is considering the refunding of its outstanding bonds and that there has not been any authorization for additional new financings at this time. Four proposals were received from the following firms (listed in alphabetical order):

Arntson Stewart Wegner PC
Dorsey & Whitney LLP
Kutak Rock LLP
Ohnstad Twitchell, P.C.

As per the Bond Counsel Selection Policy (copy attached) the Attorney General is reviewing the proposals and will be making a recommendation at the April 21, 2015 Commission meeting. The proposals are being evaluated on the following criteria:

- Experience and acceptable performance history (with Industrial Commission and with lease revenues bonds or comparable financings)
- Expertise of personnel assigned to the Authority's bond issuance
- North Dakota Bar licensure status
- National Association of Bond Lawyers membership status
- Service delivery capabilities
- Responsiveness of proposal
- Fees
- Recommendations from references (if needed)

I have attached a matrix that was developed by our financial advisor, Jessica Cameron from Public Financial Management, Inc., summarizing the proposals. Karlene

cc: John Fox, Attorney General's Office
Pam Sharp, OMB & NDBA Authorized Officer

Enclosures: RFP, Bond Counsel Selection Policy, Summary Matrix

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Attorney General Stenehjem said based on Ms. Fine and Mr. Fox's recommendation, his recommendation is to retain Arntson Stewart Wegner PC.

It was moved by Attorney General Stenehjem and seconded by Governor Dalrymple that the Industrial Commission accept the recommendation of Attorney General Stenehjem and appoint Arntson Stewart Wegner PC as the North Dakota Building Authority bond counsel for a 4-year engagement. On a roll call vote, Governor Dalrymple and Attorney General Stenehjem voted aye with Commissioner Goehring absent and not voting. The motion carried.

Being no further Building Authority business, Governor Dalrymple adjourned this portion of the meeting at 4:22 p.m. and the Commission took up Administrative business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA

A handwritten signature in blue ink that reads "Karlene Fine". The signature is cursive and fluid.

Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on April 21, 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 Administrative portion of the Industrial Commission meeting to order at 4:22 p.m. after completion of North Dakota Building Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, discussed the following legislation:

Outdoor Heritage Fund Legislative Update - April 21, 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 amended the bill and reduced the funding level to \$30 million.
 - Two conference committee meetings were held. The Senate receded from their amendments and further amended. The amended bill passed the House this morning as attached. We are back at the \$40 million level with 8% of the 1% of the oil taxes coming to the Outdoor Heritage Fund. Based on March forecast that would provide less than \$30 million for the upcoming biennium. The amended bill also revised the entities that are to be represented on the Outdoor Heritage Fund; further reduced the amount of monies for playgrounds and included some language regarding contracts. Representative Porter stated on the floor that with these amendments the Outdoor Heritage Fund would be focusing its attention on big statewide projects.
- 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 ofuse of the North Dakota outdoor heritage fund. This bill has been signed by the Governor.
- HB 1176 - This is the oil formula tax distribution bill. This bill has the same language that is in HB 1406 regarding the amount of funding that would go to the Outdoor Heritage Fund. Since I believe it will be dealt with after HB 1406 I am monitoring the bill for impact to the Outdoor Heritage Fund.

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SB 2020 - This bill also has a reference to the Outdoor Heritage Fund. However, it is focused on the level of funding that the Water Commission would provide if a project comes to them with a portion of the dollars coming from the Outdoor Heritage Fund.

Being no further Administrative business, Governor Dalrymple adjourned the meeting at 4:26 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary