

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

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

Also

Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
Al Anderson, Dept. of Commerce
Andrea Pfennig, Dept. of Commerce
Pamela Link, Laborers 563
Members of the Press

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

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the financial report as follows:

Renewable Energy Development Fund
Financial Statement
2013-2015 Biennium

July 28, 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 May 31, 2015	\$ 5,244.08
Expenditures net of returns through May 31, 2015	<u>\$(2,081,385.14)</u>
Cash Balance as of May 31, 2015	\$ 3,681,471.36
Outstanding Administrative Commitments (<i>estimate</i>)	\$(40,147.73)
Outstanding Project Commitments as of May 31, 2015	<u>\$(1,176,564.90)</u>
Uncommitted dollars as of May 31, 2015	\$ 2,464,758.73

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>\$(1,256,393.00)</u>
	\$ 2,471,014.65

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, Chairman of the Renewable Energy Council, presented the Renewable Energy Council's recommendations on the following Grant Round 25 applications: He said of the four applications received, two were passed unanimously and both are continuations' or Phase II of Phase III projects.

R-025-C: Soaring Solar Power Manager Phase II; Submitted by Packet Digital; Principal Investigator: Andrew Paulson; Project Duration: 9 months; Total Project Costs: \$1,000,000; Request for \$350,000. (A copy is available in the Commission files.) In the second phase of this project, the applicant will:

- Produce a solar cell with an average efficiency of 36% and stretch goal of 40%.
- Implement solar soaring algorithms into a prototype of a commercially feasible product.
- Design MPPT and PMAD for the SXBC and ComDel manufactured Altavian UAS.
- Develop a smart battery combining multiple storage technologies to be charged by solar in flight
- Produce an optimized torque motor control prototype, with a target of improving propulsion system efficiency 5% and reducing airframe vibration.
- Test all prototyped solutions integrated in a lab environment and perform test flight.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the recommendation of the Renewable Energy Council to fund the grant application “Soaring Solar Power Manager Phase II” and authorize the Industrial Commission Executive Director to execute an agreement with Packet Digital to provide a total of Industrial Commission Renewable Energy Program funding in an amount not to exceed \$350,000.

In response to a question, Mr. Anderson said he will bring the Phase III request to the Commission through the process – Phase II is nine months and Phase III is six months.

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

R-025-D: Pilot Scale Facility for Biocomposite Development for Industrial and Consumer Projects; Submitted by c2renew; Principal Investigator: Chad Ulven; Project Duration: 1.5 years; Total Project Costs; \$1,250,000; Request for \$500,000. (A copy is available in the Commission files.) He brought a sample of what c2renew is already doing – a coffee cup made out of coffee; they are the only compounder in the State. The objective of this project is to develop a pilot facility to enable the applicant to assess the following:

- Scalability of additional extruder lines.
- Unit economics of expanded production projects such as Toshiba, Intelligent Agricultural Solutions and Fargo 3D Printing.
- Personnel growth.
- ERP system integration, such as production scheduling and inventory management.

Expected results of the project include expanded production from 520,000 pounds of material to 6 million pounds of material per year, increased throughput rate, lower production costs, expanded compounding

capabilities, and new customers and market growth. Ultimately, the applicant plans to establish a production facility in Colfax.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the recommendation of the Renewable Energy Council to fund the grant application "Pilot Scale Facility for Biocomposite Development for Industrial and Consumer Projects" and authorize the Industrial Commission Executive Director to execute an agreement with the c2renew to provide a total of Industrial Commission Renewable Energy Program funding in an amount not to exceed \$500,000. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Fine presented her recommendation that the requests for confidentiality of the following documents be granted: Appendices, I - V of the R-025-A application - Sugar Beet Tailings to Advanced Ethanol as follows:

RE: Confidentiality determination

The Renewable Energy Program statute - Chapter 54-63 - allows the Industrial Commission to determine if certain information is confidential. One of the applicants during Grant Round 25 requested that portions of their application 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 grants their request and determines that the following information is confidential:

Appendices I - V of the Grant Round 25 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:

Appendices I - V of the R-025-A 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 the meeting at 1:18 p.m. and the Commission took up Lignite Research, Development and Marketing Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Held on July 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
Mike Jones, Lignite Research, Development and Marketing Program
Members of the Press

Governor Dalrymple called the Lignite Research, Development and Marketing Program portion of the Industrial Commission meeting to order at 1:18 p.m. following completion of Renewable Energy Program business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented a recommendation regarding a request for confidentiality and a waiver of the state's royalty-free right to practice under patents, patent applications, etc. as follows:

RE: Envergex confidentiality/royalty rights request

The Lignite Research Program statute - Chapter 54-17.5-06 - allows the Industrial Commission to determine if certain information is confidential. Last year one of the applicants that was awarded funding in Grant Round LXXVII requested that portions of their application be determined as confidential. The purpose of this project as summarized by Mike is as follows:

The E-CACHYSTM process uses solid sorbents to affect capture of CO₂ from flue gas streams. The proposed Phase II project will scale-up methods for producing the E-CACHYSTM sorbents to maximize the CO₂ loading capacity. In addition, an enhanced process configuration that (i) reduces sorbent attrition, (ii) accommodates operation with a finer particle size distribution, and (iii) incorporates a method to increase sorbent life, will also be demonstrated.

During our discussions on their contract I requested the information required by the statute to make a determination that the information be held as confidential. They provided the information required to make that determination. Therefore it is our recommendation that the Industrial Commission grants their request and determines that the following information is confidential:

Appendix D of the Grant Round LXXVII application - Enhanced High Capacity Sorbent and Process for CO₂ Capture Using Hybrid Sorption (E-CACHYSTM)

We would note that the reporting on this project will be non-confidential.

Also during the negotiations on the contract the applicant requested that the Commission waive the state's royalty-free right to practice under patents, patent applications, or other new technology developments under the Commission's program. This is not something that the Commission does on a regular basis. There are two provisions in the Commission's Lignite Research Program policies that talk about patents.

43-03-06-03. Use for governmental purposes. The grantee may copyright and publish material developed with commission funding. The state of North Dakota and its consultants, independent contractors, and suppliers, to the extent such are providing services to the state, shall have an irrevocable royalty-free right to practice under any patents, patent applications, or other new technology developed under the commission's programs. The intent of this section is to enable state agencies to purchase or use, or both, new technology products or processes for governmental purposes without having to pay the imputed development costs of the products or processes twice; first in the research and development state under commission funding and then later in the purchase of the processes or products. The state may not

use this provision to enter into the private marketplace through direct manufacture or production of goods and services. The commission may waive the state's royalty-free right if any other governmental entity, state, federal, or foreign, provides matching funds and imposes conditions that do or may conflict with the right provided for by this section. A waiver may be given only if the following are met:

1. The grantee has requested from the other funding source a waiver of its requirements that conflict or may conflict with this section;
2. The other funding source provides at least twenty percent of the project's funding; and
3. It is unlikely the state would ever seek to use the right given the state under this section.

43-03-06-04. Patent rights - Manufacturing in North Dakota. Applicants may retain the principal worldwide patent rights to any invention made with financial support under this program, except the patent holder agrees directly, or through licensing of patents, to assure that any manufacturing thereof shall substantially occur in North Dakota. Similarly, use of any new technology or other technical information derived in part from funding under this program requires that any manufacturing thereof shall substantially occur in North Dakota. For the purposes of this section, the words "substantial" or "substantially" shall mean not that the primary manufacturing must occur in North Dakota, but rather that more than incidental manufacturing must occur in North Dakota. The grantee or licensee or assignee, as determined by the commission, must reimburse the entire grant amount received through the commission should such licensees or assignees relocate or be established out of the state and not continue substantial manufacturing in North Dakota. The commission may choose not to enforce the "substantial manufacturing" requirement of this section if there is no person or entity in North Dakota capable of fulfilling the requirement and it is unlikely that in the near future a person or entity would be capable of satisfying the requirement.

In regards to 43-03-06-03 there are three "tests" that must be met. One of the tests is whether the state would seek to use the technology that is being funded. In this particular case there is a possibility that the technology Envergen is developing could be used by one of the universities. One factor in regard to this project is that the federal government is providing \$1.15 million for this research while the Commission is providing \$50,000. As part of the federal funding the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world. Therefore, although two of the tests are met the third one is not. Under 43-03-06-04 the policies offer an option of allowing the applicant to reimburse the Commission the \$50,000.

This is a project that would be beneficial to the use of lignite and the lignite industry. Therefore, it is our recommendation that the Commission grant the request for a royalty-free waiver and the "substantial manufacturing" requirement with the provision that Envergen will reimburse the Commission the \$50,000 should the technology be developed and sold.

Mr. Mike Jones said the project is looking at dry sorbent use for CO₂ removal. The concept is that you have a material which has a chemical affinity for CO₂ and it bonds onto that, you move it someplace else and remove it. They have already gone through and demonstrated the effectiveness of the general technology but they are looking at options to potentially enhance the capacity of the sorbents to put more CO₂ on it which basically changes the efficiency of the system and also looking at other refinements to the process. There are three industrial sponsors that are all part of the Lignite Research Council – Minnesota Power, BNI and Sakakawea Power. The Commission put in \$50,000 on a \$1.15 million project so we are a minority partner in this activity. It is a small company doing this. If they are successful they would find someone to make a large investment and try to move it into the field.

Our thinking is if they were willing to pay back the \$50,000 – if they get to that stage – that we would recommend that they could retain all of the rights which facilitates any kind of investment by another group to finance the next phase of the activity. That was the request. He noted that it is not commercially viable at this stage, CO₂ is very much an issue the State is looking at right now and the State is a minority

funder of the activity. Based on those points and knowing it would make it easier for them to get that next round of financing we thought it would be a reasonable request for the Commission to consider. He recommended approval of their request.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendations of the Industrial Commission Executive Director and the Lignite Research Program Technical Advisor and determine that the following information is confidential:

Appendix D of the Grant Round LXXVII application - Enhanced High Capacity Sorbent and Process for CO₂ Capture Using Hybrid Sorption (E-CACHYS™)

And further that the Executive Director include a provision in Contract FY15-LXXVII-192 granting the request of Envergen LLC for a royalty-free waiver and a waiver of the “substantial manufacturing” requirement with the provision that Envergen will reimburse the Commission the \$50,000 should the technology be developed and sold.

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

Being no further Lignite Research, Development and Marketing Program business, Governor Dalrymple adjourned the meeting at 1:23 p.m. and the Commission took up Department of Mineral Resources business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Kari Doan, Department of Agriculture
Lynn Helms, Department of Mineral Resources
Bruce Hicks, Department of Mineral Resources
Danette Welsh, OneOk
Members of the Press

Governor Dalrymple called the Department of Mineral Resources portion of the Industrial Commission meeting to order at 1:24 p.m. following completion of Lignite Research, Development and Marketing Program business.

Mr. Lynn Helms, Department of Mineral Resources Director, presented Default Order No. 26733 issued in Complaint Case 23514. (A copy of the Default Order is available in the Commission files.) He said the company in question is Alturas Energy whose home office is in Idaho and operates locally out of an office in Sidney, Montana. He stated the company came in and purchased eight wells and a treating plant in 2010 and the Division staff has struggled with them ever since to keep wells in compliance, keep reports coming in, keep spills cleaned up and the most recent situation is the complaint. (A copy of the complaint is available in the Commission files.) The complaint was issued in the amount of \$900,000 and was properly serviced on Alturas. They ignored it for the entire reply period which is a 21 day period. The following day they called Ms. Fine asking if it was possible to have more time and she contacted the Assistant Attorney General who routinely responds to these companies and says, yes, if you work with us we will give you more time to respond. The opportunity for response expired the third week of June and the Assistant Attorney General made two attempts to contact them with no reply. It would appear it was a stall tactic and this company's record is not good. Of their eight wells, two are in abandoned status and six are inactive, and the treating plant is in abandoned status so it is time to move ahead. This will push the matter into the courts and if the State receives a default judgment from the courts, the State can then move ahead with a hearing regarding the confiscation of equipment, confiscation of saleable oil and the State stepping in to plug and reclaim the abandoned wells and take action on the inactive wells.

Mr. Helms indicated that he thought it was important, especially in light of the lower oil price paradigm, that the Commission send a signal to companies that the State means business. When an operator comes into the State we expect them to comply with the State's rules and regulations. The State will work with them but it is not going to have an infinite amount of patience when the operator doesn't respond or reply and does nothing to get their wells in compliance. He asked the Commission to approve the default order since they never responded to the original complaint which will allow this matter to proceed to court and ultimately a hearing on confiscation and a plan to take care of the wells. It was noted that the fine totals \$900,000.

Case 23514: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Default Order 26733 issued in Case 23514, be approved this 28th day of July, 2015.

In response to a question Mr. Helms stated that there had been two spills on two of these locations that the operator did not clean up. The operator was provided the usual verbal notice of violation, followed up about a month later with a written notice of violation and a deadline which they ignored and that resulted

in one of the counts in the complaint. It isn't just leaving wells in inactive or abandoned status but spills they have not cleaned up and diking that hasn't been brought up to standards.

In response to a question Mr. Helms said the spills have not been cleaned up. The spills are contained; they were on the location and didn't get off location. Ultimately, there is contamination potential, if you have a rain event or when it comes time to reclaim the location you have an existing contamination that has to be taken care of.

Governor Dalrymple said that a \$900,000 fine is certainly in order for the record that this company has. He stated that if they have a hard time paying the \$900,000 fine that staff should look into what we can do from a legal standpoint to get some priority based on the environmental impact – laws get complicated in that area – but hope we can research that. Mr. Helms responded that the Attorney General's Office is already doing research regarding bankruptcy situations. There has already been one North Dakota operator going into Chapter Eleven and with the oil prices where they are, there certainly could be more. The Attorney General's Office is researching that area of law to make sure that the royalty owners and the State are protected to the extent possible. He will keep the Commission informed on what is learned from that research.

In response to a question, Mr. Helms said the company did have bonds in the total amount of \$115,000 which will fall far short of the total cost if the State has to step in and take care of these wells and site. The State is first in line on the bonds.

In response to a question regarding where the wells are, Mr. Helms said these wells are all in McKenzie County over in the Sidney/Fairview area. He thought probably six of the wells are capable of producing; they are in the Mondak Field which is a field discovered in the 1980's and produces low rates of oil but all the wells are capable of production.

In response to a question why the wells are not producing, Mr. Helms said this company is probably very financially distressed – the wells appear to have had pump failures or rod failures – things that are not highly expensive to repair but the company has chosen not to do that.

In response to a question Mr. Helms said there are funds available in the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund to do the reclamation. He reviewed the funding sources for this Fund. It was noted that should the company become able to pay for those costs the State will be able to recoup those dollars. In some situations the State has actually gotten the court to provide the State an assessment against any production that the company has to repay those kinds of expenses. Mr. Helms indicated the staff will pursue all those avenues.

Mr. Bruce Hicks, Oil and Gas Division Assistant Director, indicated that if the State ends up confiscating the wells after a hearing the Division may bid them out to where another company may be interested in purchasing them and cleaning up all the deficiencies. Two of these are disposal wells. It was indicated that might be the best scenario--if the necessary work gets done, the wells are brought into compliance and the State is made whole for any costs it has incurred.

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

Mr. Helms presented orders for the following cases heard on April 23 and June 24, 2015 as follows: (Copies of the proposed Orders are available in the Commission files.)

Case 23916, Order 26732 - termination and creation of spacing units – Mr. Helms stated that after the Commission approved an order last month changing the spacing in this area that overlaps Lake Sakakawea, the Commission received a petition for reconsideration from Mr. Langved. Mr. Langved's attorney raises seven arguments and each one of those has been addressed in the findings of the order that you are being asked to approve. The staff has carefully spelled out the reasoning for the original decision as well as any additional information that the staff felt would be valuable in case this goes to court in response to the petition for reconsideration. None of the seven arguments in the staff's or the Assistant Attorney General's opinion merit a reconsideration. It is the staff recommendation to deny the petition for reconsideration.

Case 23916: It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 26732 issued in Case 23916, denying the petition for reconsideration be approved this 28th day of July, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 24068, Order 26411 - establishment of 640-acre spacing units – He said this involves minerals under Lake Sakakawea. (The handout is available in the Commission files.) This is currently a 1280-acre spacing unit that lies almost entirely under the Lake immediately south of New Town. Petrogulf has drilled the four wells (noted in green on the handout) and desires to drill the four wells (noted in blue on the handout) but because of their inability to get a lease from the Bureau of Indian Affairs for the E/2 of the spacing unit, the risk is too great for Petrogulf to go ahead and develop the W/2 of the spacing unit. What they have petitioned the Commission to do is leave the four green wells on 1280-acre spacing and allow the new (blue) wells to be drilled on 640-acre spacing.

After hearing the evidence the staff does not believe that is protective of correlative rights. The staff believes it is the right thing to do to prevent waste because it will reduce the risk enough that Petrogulf is willing to drill the west 640-acre spacing unit. To protect correlative rights the proposed order places the two wells closest to the center line between the 640-acre spacing units on 1280-acre spacing so the royalties are shared. The proposed Order puts all the other wells on 640 acre spacing so people will receive the royalties from the wells that are truly in their 640-acre spacing unit but they will share the royalties from the wells along that center line. Petrogulf discussed this at length with the Three Affiliated Tribes who are the mineral owners in the W/2 and they agree and there was no opposition to splitting it into 640-acre spacing unit. We think correlative right protection requires that the two wells near the center line be on 1280-acre spacing and the rest be on 640-acre spacing. It was noted this is similar to what the Commission does with section line wells.

Case 24068: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26411 issued in Case 24068, be approved this 28th day of July, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Helms presented draft comments on the Draft Assessment on the Potential Impacts to Drinking Water Resources from Hydraulic Fracturing Activities. He said they are due August 28 at EPA Headquarters. He stated two months ago EPA finished their Draft Assessment and that Assessment is going over to their Scientific Advisory Board for review. He indicated that the draft comments do the following:

- Indicates agreement with the findings or conclusions and the mechanisms they have identified.
- Because the report does not identify how many times one of those mechanisms happened or where and stakeholders would really benefit from that information, the Scientific Advisory Board is

being asked to add that information to their final report. For example: if EPA identified that someone had improperly cleaned up frac flowback water before putting it into a stream – how many times did that happen and where. Mr. Helms stated that it has not happened in North Dakota but we don't know where and we can only comment on what has happened in North Dakota.

- Goes through each of the five mechanisms that EPA had identified as endangering ground water and provides information on what North Dakota has done to reduce or eliminate that mechanism's risk in the State. In a couple cases it is listed that it doesn't apply because of North Dakota's geology. We wanted the Scientific Advisory Board and EPA to have in their hands information specific to each of those mechanisms and to North Dakota.

Mr. Helms asked if the Commission or he was to sign the comments. He said when he was in Casper, Wyoming and the State argued the BLM Hydraulic Fracturing lawsuit, it was a very powerful argument that the comments the Commission submitted on that rule were signed by three statewide elected officials. The Commission indicated that they would sign the comments.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission submit the following comments to the Environmental Protection Agency on the Draft Assessment on the Potential Impacts to Drinking Water Resources from Hydraulic Fracturing Activities.

July 28, 2015

Office of Environmental Information (OEI)
Docket (Mail Code: 28221T)
Docket ID No. EPA-HQ-OA-2015-0245
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW.
Washington, DC 20460

Dear Sirs:

Thank you for the opportunity to comment on the Draft Assessment on the Potential Impacts to Drinking Water Resources from Hydraulic Fracturing Activities.

First, the North Dakota Industrial Commission (NDIC) remains in agreement with the position taken by the NDIC and the Interstate Oil and Gas Compact Commission (IOGCC) as stated by Mr. Lynn Helms at the time the study was initiated. "As the head regulator of oil and natural gas development in the State of North Dakota and an officer of the IOGCC representing all oil and natural gas producing state regulators, I can assure you that we have no higher priority than the protection of our states' water resources," said Lynn Helms, Director of North Dakota's Department of Mineral Resources in a House Energy and Mineral Resources Subcommittee hearing in June of 2009. "It is my firmly held view and that of the IOGCC that the subject of hydraulic fracturing is adequately regulated by the states and needs no further study."

Second, while the NDIC agrees with the conclusions and the mechanisms/vulnerabilities identified in the draft assessment, it is the opinion of the NDIC that the draft assessment would be far more useful to stakeholders if it included quantitative information on how many instances of each mechanism were identified as well as the geological and geographical circumstances of each instance.

Third, the NDIC wants to make certain that the following information regarding applicability of the mechanisms/vulnerabilities to North Dakota is documented. Information below includes the mechanisms

discussed in the Draft Assessment along with the regulations that the State of North Dakota has in place to reduce these vulnerabilities:

Water withdrawals in areas with low water availability

The North Dakota Water Commission <http://www.swc.nd.gov/4dlink9/4dcgi/redirect/index.html> began regulating water appropriations in 1905 and has a well-established process for managing water withdrawals for hydraulic fracturing. The water needs, policies, and process for regulating water withdrawals for hydraulic fracturing in North Dakota have been continually updated since the Bakken resource development began in 2006.

Hydraulic fracturing conducted directly into formations containing drinking water resources

This mechanism does not exist in North Dakota due to the geological conditions of the Williston Basin. The North Dakota Geological Survey (NDGS) <https://www.dmr.nd.gov/ndgs/> has studied the ground water and hydrocarbon producing formations of North Dakota extensively. These published studies demonstrate that drinking water resources in North Dakota do not contain oil and gas resources that would utilize hydraulic fracturing for production.

Inadequately cased or cemented wells resulting in below ground migration of gases and liquids

The state of North Dakota has had regulations in place since 1941 requiring proper casing and cementing of oil and gas wells to prevent gas and liquid migration. Those rules were enforced by the NDGS prior to 1981 and by the NDIC Oil and Gas Division 1981-present. All modern wells are required to demonstrate with cement evaluations tools that gases and liquids are isolated prior to hydraulic fracturing (NDAC 43-02-03-27.1).

<https://www.dmr.nd.gov/oilgas/rules/rulebook.pdf>

Inadequately treated wastewater discharged into drinking water resources

This mechanism does not exist in North Dakota due to the geological conditions of the Williston Basin. The NDIC has required since 1981 (NDAC 43-02-03-53) that all wastewater produced with oil and natural gas be processed, stored, and disposed of without pollution of freshwater supplies by underground injection in accordance with NDAC 43-02-05.

<https://www.dmr.nd.gov/oilgas/rules/rulebook.pdf>

Spills of fluids and hydraulic fracturing wastewater, including flowback and produced water

The NDIC has required since 2000 (NDAC 43-02-03-49) that dikes be erected and maintained around tanks at any production facility built or rebuilt on or after July 1, 2000. However, the number of gathering pipelines and surface locations in North Dakota have been increasing. The NDIC is actively involved in studies to identify solutions and plans to engage in additional rule-making to address this mechanism/vulnerability in 2015-2016. <https://www.dmr.nd.gov/oilgas/rules/rulebook.pdf>

In summary, while the NDIC agrees that EPA's draft assessment is the most complete compilation of scientific data to date and will give state regulators, tribes and local communities and industry around the country a critical resource to identify how best to protect public health and their drinking water resources, NDIC hopes that the Science Advisory Board will add quantitative information on how many instances of each mechanism/vulnerability were identified, the geological and geographical circumstances of each instance, and recognition of effective regulatory processes that have been created by states like North Dakota to address those mechanisms/vulnerabilities.

Please address any questions related to this letter to Mr. Lynn Helms, Director of the NDIC Department of Mineral Resources, 600 E Boulevard Avenues-Dept. 405, Bismarck, ND 58505-0840, (701)328-8020, lhelms@nd.gov

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July 28, 2015

Sincerely,

Industrial Commission of North Dakota

Jack Dalrymple, Chairman
Governor

Wayne Stenehjem
Attorney General

Doug Goehring
Agriculture Commissioner

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

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned the meeting at 1:45 p.m. and the Commission took up Oil and Gas Research Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
Lynn Helms, Department of Mineral Resources
Bruce Hicks, Department of Mineral Resources
Danette Welsh, OneOk
Members of the Press

Governor Dalrymple called the Oil and Gas Research Program portion of the Industrial Commission meeting to order at 1:45 p.m. following completion of Department of Mineral Resources business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented a request for a special grant round - deadline of August 18, 2015 as follows:

RE: Additional Oil and Gas Research Program Grant Round

The Industrial Commission is in receipt of a request from Hell Creek Environment for a special grant round to consider an Oil and Gas Research Program application. The matching funds for this project from Hess Corporation are available during the current calendar year so there is a need for action in the near future rather than waiting for the regular grant round of November 1, 2015. The Oil and Gas Research Program Policies provide (underscoring added):

OGRC – 4.02 Application deadline. Applications in a calendar year must be delivered to the Industrial Commission or postmarked on or before June 1 and November 1. In addition to these two grant rounds, the Commission may establish additional grant rounds and set application deadlines for those rounds. The applicant may amend its application at any time before the application deadline. After the application deadline, the applicant may amend its application only upon the approval of the Commission.

Because of the need to move forward with this application on a more timely basis, it is my recommendation that a special grant round be established for August 18, 2015.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission establishes a special application grant round of August 18, 2015 for the Oil and Gas Research Program. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Being no further Oil and Gas Research Program business, Governor Dalrymple adjourned the meeting at 1:47 p.m. and the Commission took up Outdoor Heritage Fund business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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

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

Also

Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
DeAnn Ament, Public Finance Authority
Wade Moser, Outdoor Heritage Fund
Members of the Press

Governor Dalrymple called the Outdoor Heritage Fund portion of the Industrial Commission meeting to order at 1:47 p.m. following completion of Oil and Gas Research Program business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented a memorandum regarding the naming of a six-person Outdoor Heritage Fund subcommittee as follows:

RE: Outdoor Heritage Fund Advisory Board Subcommittee

On June 3 the Outdoor Heritage Fund Advisory Board recommended to the Industrial Commission that:

A six-person subcommittee of the Outdoor Heritage Fund Advisory Board made up of equal parts from conservation and industry be appointed to develop a strategy to deal with statewide conservation needs in the future.

On June 10 the Industrial Commission accepted the Advisory Board's recommendation. Then at the June 30 Industrial Commission it was clarified that the Industrial Commission wanted to make the appointments to that subcommittee. At your direction I sent out an e-mail to the OHF Advisory Board members asking for volunteers to serve on the subcommittee:

There were eight members volunteering to serve. I am recommending that the following six-members of OHF Advisory Board be appointed to the subcommittee:

Aasmundstad, Eric	(agriculture industry)
Hutchens, Tom	(conservation)
Melchior, Jim	(coal industry)
Moser, Wade	(cattle industry)
Reierson, Kent	(conservation)
Stockdill, Patricia	(conservation)

Based on the discussions at the Outdoor Heritage Fund Advisory Board meetings and the Commission's discussions, here is a proposed mission statement for the subcommittee:

To develop a model conservation project that could be funded from the Outdoor Heritage Fund that would be a win-win for wildlife, agriculture and sportsmen on CRP acreage (or acreage going out of CRP) and adjacent acreage.

Goal would be to have something to the Industrial Commission by their September 17 meeting if you wanted any "model projects" submitted on October 1. Alternative may be to allow for a special grant round just to consider these types of "model projects".

Ms. Fine noted that although it wasn't in her memorandum one of the areas that the subcommittee needs to look at is who should be submitting these model projects on a consistent basis.

In response to a question regarding who the other two interest Board members were, Ms. Fine stated two from the industry side Mr. Blaine Hoffman from the oil and gas industry and Mr. Randy Bina from the park industry. The ones she indicated – Mr. Aasmundstad made the motion at the meeting and led the discussion at the Advisory Board meeting that had a strong feeling about what kind of project they could work out with the conservation community. Jim Melchior had actually discussed this idea at a technical committee meeting and felt it would be very important and they should be moving forward instead of seeing all these applications come in and we say no – but we actually put forth a model we think would be of value. There was discussion regarding who should be appointed and participating in the development of the model project.

It was moved by Commissioner Goehring and seconded by Governor Dalrymple that the Industrial Commission names the following Outdoor Heritage Fund Advisory Board voting members to the six-person subcommittee:

Representing Conservation:

**Tom Hutchens
Kent Reierson
Patricia Stockdill**

Presenting Industry:

**Wade Moser
Jim Melchior
Eric Aasmundstad**

and further that the Commission establishes the following mission for the subcommittee:

To develop a model conservation project that could be funded from the Outdoor Heritage Fund that would be a win-win for wildlife, agriculture and sportsmen on CRP acreage (or acreage going out of CRP) and adjacent acreage.

It was pointed out that the Commission could replace a subcommittee member at any time. Governor Dalrymple said what we are trying to do is an enhancement of CRP and other land, primarily private land, so it is important to have a representative from agriculture. Could the money be used for something different, yes but this is aimed at a specific type of project. He is somewhat optimistic this can work.

Ms. Fine said she reached out to see who would volunteer because it is going to take some time for these people to be involved and these are the ones that came forward. Secondly, they are going to be putting together a model and the discussion the committee has had has really been very good and all the Advisory Board members will be invited to every meeting – it is an open meeting so we may have some of the other Advisory Board members that will come and she thought they would see some active participation from other groups as well.

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

Being no further Outdoor Heritage Fund business, Governor Dalrymple the meeting at 1:57 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 July 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
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 1:58 p.m. following completion of Outdoor Heritage Fund business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a Capital Finance Program Loan for the City of Rugby in the amount of \$500,000 for water treatment plant improvements. She said they requested a ten year loan with revenue bonds being security for the project. The Advisory Committee recommended approval.

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

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 Rugby (the "Political Subdivision") has requested a loan in the amount of \$500,000 (the "Loan") from the North Dakota Public Finance Authority (the "NDPFA") to finance a water treatment plant improvements and upgrades; and

Whereas, the Political Subdivision will issue revenue bonds payable with user fees to repay the loan;

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

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

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

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

Ms. Ament presented a Capital Finance Program Loan for Watford City in the amount of \$38,000,000 to finance approximately half of their events center. She said the total project is about \$101 million and up to \$54 million is going to be financed through two local banks with participation from BND. They will issue sales tax revenue bonds and their maximum annual debt service would be \$2.2 million. They have had a one percent city sales tax in place and the historical collections are there. In November 2014 they got their first remittance of a 1.5% sales tax and half of that sale tax is dedicated toward this project. Based on their most recent collections, that would be about \$3 million. The Advisory Committee recommended approval.

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

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

WHEREAS, the City of Watford City (the "Political Subdivision") has requested a loan in the amount of \$38,000,000 (the "Loan") from the North Dakota Public Finance Authority (the "NDPFA") to finance an Events Center and

Whereas, the Political Subdivision will issue revenue bonds payable with sales tax 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, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Ament presented the Capital Finance Program 2015 Series C Resolution in an amount up to \$50,000,000 and draft Preliminary Official Statement. (A copy is available in the Commission files.) She said this would cover the Rugby and Watford City loans the Commission approved and the City of Zap loan approved in July for \$2.5 million. The schedule is to sell the bonds for these three projects in the near future.

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

**SERIES RESOLUTION FOR
UP TO
\$50,000,000
NORTH DAKOTA PUBLIC FINANCE AUTHORITY
CAPITAL FINANCING PROGRAM BONDS
SERIES 2015 C**

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 2015C" (the "Series 2015C Bonds") to provide moneys to lend to the City of Watford City through the purchase of approximately \$42,000,000 of sales tax revenue bonds to finance the Watford City Event Center, to lend to the City of Zap through the purchase of approximately \$2,500,000 improvement bonds to finance street improvements and water tower rehabilitation, to lend to the City of Rugby through the purchase of approximately \$500,000 water revenue bonds to finance water treatment plant improvements, and to acquire obligations of other Political Subdivisions requesting loans prior to the issuance of the Series 2015C 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 \$50,000,000 and having a final maturity not later than June 1, 2045.

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 2015C 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 2015C Bonds

Section 2.01. Authorization of Series 2015C Bonds. Pursuant to the General Bond Resolution, a Series of Capital Financing Program Bonds to be designated as the "Series 2015C Bonds" is hereby created and authorized to be issued in the aggregate principal amount of up to \$50,000,000; provided that the terms of the Series 2015C 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 2015C 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 November 1, 2015, proceeds of the Series 2015C 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 2015C 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 2015C Bonds when due.

Section 2.03. Date, Payment Dates, and Maturities. The Series 2015C Bonds shall be dated as of a date determined by the Executive Director to be appropriate, except that Series 2015C 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 2015C Bonds shall bear interest from their date, payable semiannually on June 1 and December 1 in each year, commencing December 1, 2015. The Series 2015C 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 2015C Bonds may be issued in any

amount not more than \$50,000,000 and maturing in amounts on each June 1 as determined by the Executive Director.

Section 2.04. Redemption. The Series 2015C 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 2015C Bonds are also subject to mandatory redemption on March 1, 2016, at the amortized issue price as determined by the Executive Director 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 January 1, 2016.

Section 2.05. Interest Rates. The Series 2015C 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 2015C Bonds shall not exceed 5.00% per annum.

Section 2.06. Denominations, Numbers, and Letters. Each Series 2015C 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 2015C 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 2015C 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 2015C Bonds. The Series 2015C 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 2015C 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 2015C 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 2015C Bonds

Section 3.01. Reserve Fund Deposit; Letter of Credit. Upon or prior to the issuance and sale of the Series 2015C 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 2015C Bonds to be paid on maturing principal of and interest on the Series 2015C 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 2015C 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 2015C 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 2015C Bonds and solely from amounts on deposit in the Series 2015C 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 2015C Bonds, the Authority shall deposit in the Costs of Issuance Fund from the proceeds of the Series 2015C Bonds the sum determined by the Executive Director to be used to pay Costs of Issuance of the Series 2015C Bonds in accordance with the provisions of the General Bond Resolution.

Section 3.03. Deposit to Series 2015C Account of Loan Fund. The Authority shall deposit all other proceeds derived from the sale of the Series 2015C Bonds which are not deposited in the Reserve Fund or Cost of Issuance Fund in the Series 2015C 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 2015C Bonds plus accrued interest for the period from the date of the Series 2015C 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 2015C Bonds plus all interest earnings on the amounts deposited in the Series 2015C Account of the Loan Fund under the General Bond Resolution.

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

Section 4.01. Form of Series 2015C Bonds. The Series 2015C 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 2015C 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 2015C Bonds that so long as any Series 2015C 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 2015C 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 2015C 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 2015C 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, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Ament presented a memorandum regarding an increase of \$339,000 to the Gwinner Drinking Water loan from \$2,711,000 to \$3,050,000 as follows:

Re: Gwinner, 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 Gwinner requesting a loan increase in the amount of \$339,000 to the previously approved loan of \$2,711,000 (total \$3,050,000) under the Drinking Water State Revolving Fund (DW SRF) Program to finance a new well, 6" raw water transmission line, renovate the existing treatment plant to increase treatment capacity by 50% and improvements to the existing water reservoir. Total construction costs of this project are \$3,050,000 and will all be financed by the DW SRF. This project qualifies for up to \$915,000 of loan forgiveness; the net amount of the loan will be \$2,135,000 when fully funded. The requested loan term is 20 years. The City will issue improvement bonds payable from special assessments. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds.

The Public Finance Authority's Advisory Committee approved these loans at their July 22, 2015 meeting.

Ms. Ament presented the State Revolving Loan Fund 2015 Series A bond sale report as follows:

In our role as independent financial advisor to the North Dakota Public Finance Authority (the "Authority"), Public Financial Management, Inc. ("PFM") has carefully reviewed the structure and pricing of the Authority's \$119,195,000 State Revolving Fund Program Bonds, Series 2015A (the "Series 2015A Bonds"). The following is intended to serve as a summary of the bond sale.

Transaction Summaries

\$119,195,000 State Revolving Fund Program Bonds, Series 2015A

The Authority competitively sold the Series 2015A Bonds on June 30, 2015 to make loans at below market interest rates to political subdivisions of the State of North Dakota and certain other entities (the "Borrowers") through the purchase of certain obligations (the "Municipal Securities") issued by such Borrowers for use in connection with the financing or refinancing of water pollution control and drinking water projects as described herein; and pay costs of issuance related to the Series 2015A Bonds. The Authority received six bids, as summarized below.

<u>Bidder</u>	<u>Net Interest Cost</u>	<u>True Interest Rate</u>
J.P. Morgan Securities LLC*	\$56,367,566.74	3.3269%
RBC Capital Markets	\$56,759,274.62	3.3563%
Wells Fargo Bank, National Association	\$56,982,896.72	3.3725%
Barclays Capital Inc.	\$57,063,266.97	3.3786%
Citigroup Global Markets Inc.	\$57,145,011.65	3.3852%
Bank of America Merrill Lynch	\$57,563,302.42	3.4174%

*Low bidder.

Spread to MMD

The following table shows the yields for the Series 2015A Bonds and their spread to the AAA Municipal Market Data (MMD) curve. The AAA MMD curve represents the valuation of AAA rated general obligation credits, assuming a 5.00% coupon, based on market activity in both the primary and secondary municipal bond market.

<u>Maturity</u>	<u>Yield</u>	<u>Spread to AAA MMD</u>	<u>Maturity</u>	<u>Yield</u>	<u>Spread to AAA MMD</u>
2016	0.46%	0.03%	2026	2.62%	0.18%
2017	0.77%	0.03%	2027	2.73%	0.18%
2018	1.05%	0.05%	2028	2.79%	0.16%
2019	1.28%	0.08%	2029	2.86%	0.16%
2020	1.53%	0.08%	2030	2.95%	0.18%
2021	1.79%	0.09%	2031	3.01%	0.18%
2022	2.05%	0.11%	2032	3.06%	0.18%
2023	2.21%	0.14%	2033	3.11%	0.18%
2024	2.36%	0.17%	2034	3.15%	0.18%
2025	2.49%	0.18%	2035	3.19%	0.18%

PFM reviewed the results of the Authority's Series 2015A Bonds with regard to prevailing market conditions, and it is our opinion that the interest rate scales, couponing, reoffering yields and underwriting compensation received for the Series 2015A Bonds are fair and favorable to the Authority. The final pricing for the Series 2015A Bonds resulted in a gross underwriting spread of \$284,448.14 or \$2.39 per face amount of bonds.

We also opine that the Authority's Series 2015A Bonds were appropriately priced relative to other issues sold or trading in the secondary market during the same period. PFM believes that the final all-in true interest cost of 3.3497% for the Series 2015A Bonds are favorable to the Authority in light of prevailing market conditions. Additionally, PFM believes that these statistics are comparable to the interest rate levels of similar transactions sold either competitively or through negotiated placement in the market during the week of sale.

Moody's Investors Services, Inc. affirmed the Authority's outstanding "Aaa" credit rating and Standard & Poor's Ratings Group assigned the Series 2015A Bonds a "AAA" credit rating prior to the receipt of bids.

We greatly appreciate the opportunity to have served as financial advisor to the Authority on the Series 2015A Bonds and we look forward to being of continued service on future financing transactions.

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July 28, 2015

As always, we will be available to respond to any questions you may have concerning the contents of this memorandum or on any part of the financing process.

Being no further Public Finance Authority business, Governor Dalrymple adjourned the meeting at 2:06 p.m. and the Commission took up State Mill 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 July 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
Vance Taylor, State Mill
Ed Barchenger, State Mill
Members of the Press

Governor Dalrymple called the State Mill portion of the Industrial Commission meeting to order at 2:06 p.m. following completion of Public Finance Authority business.

Mr. Vance Taylor, State Mill President and General Manager, presented the FY 2015 Fourth Quarter Report and Year-End Report as follows:

**North Dakota Mill
Review of Operations
4th Quarter Ended June 30, 2015
Pre-Audit**

SUMMARY

Operations in the 4th Quarter led to a profit of \$2,375,500 compared to a profit of \$4,779,096 in last year's 4th Quarter. For the year we had a profit of \$16,675,348 compared to \$13,351,343 last year. This sets a new record for profits at the mill.

	<u>Quarter</u>		<u>Year-to-Date</u>	
	<u>6/15</u>	<u>6/14</u>	<u>6/15</u>	<u>6/14</u>
Profits	2,375,500	4,779,096	16,675,348	13,351,343
Sales	75,029,970	76,056,402	305,574,443	310,189,182
Cwt. Shipped:				
Spring	2,996,336	2,778,759	11,554,192	11,124,625
% to Total	92.2%	91.8%	92.1%	91.1%
Durum/Blends	<u>253,953</u>	<u>248,358</u>	<u>996,014</u>	<u>1,093,149</u>
Total	<u>3,250,289</u>	<u>3,027,117</u>	<u>12,550,206</u>	<u>12,217,773</u>
Bag Shipments	632,993	632,095	2,687,654	2,620,509
% to Total	19.5%	20.9%	21.4%	21.4%
Tote Shipments	22,724	25,648	109,528	130,277
% to Total	0.7%	0.8%	0.9%	1.1%
Family Flour Shipments	46,463	61,159	300,578	271,257
% to Total	1.4%	2.0%	2.4%	2.2%
Organic Flour Shipments	32,389	20,367	110,436	149,401
% to Total	1.0%	0.7%	0.9%	1.2%

Wheat Purchased:

Spring	6,236,823	5,583,273	24,809,365	24,036,222
Durum	<u>622,629</u>	<u>367,009</u>	<u>1,946,079</u>	<u>2,192,437</u>
Total	<u>6,859,452</u>	<u>5,950,282</u>	<u>26,755,444</u>	<u>26,228,659</u>

SALES

4th Quarter

Sales for the 4th Quarter were \$75,029,970 compared to \$76,056,402 last year. Shipments of 3,250,289 cwts. are 223,175 cwts. above last year's 4th Quarter. Bag shipments for the 4th Quarter are 632,993 cwts. compared to 632,095 cwts. last year. Tote shipments are 22,724 cwts. compared to 25,648 cwts. last year. Family flour shipments of 46,463 cwts. is 24.0% below last year's 4th Quarter. Organic flour shipments of 32,389 cwts. is 59.0% above last year.

Year-to-Date

Sales for the fiscal year came in at \$305,574,443. This is 1.5% under last year. Shipments of 12,550,206 cwts. are 332,433 cwts. above last year. Year-to-date bag shipments are 2,687,654 cwts. or 67,145 cwts. above last year. Year-to-date tote shipments are 109,528 cwts. compared to 130,277 cwts. last year. Family flour shipments for the year are 300,578 cwts., which is a 10.8% increase from last year. Organic flour shipments are 110,436 cwts. compared to 149,401 cwts. last year.

OPERATING COSTS

4th Quarter

Operating costs for the 4th Quarter are \$6,958,674 compared to \$7,115,327 last year, a decrease of 2.2%. Operating cost per cwt. of production is \$2.25 compared to \$2.43 last year, a decrease of 7.4%.

Year-to-Date

Year-to-date operating costs are \$27,375,789 compared to \$25,255,631 last year, an increase of \$2,120,158. Operating costs per cwt. of production for the year is \$2.21 compared to \$2.10 last year.

PROFITS

4th Quarter

For the 4th Quarter we experienced a profit of \$2,375,500 compared to a profit of \$4,779,096 last year. Gross margins as a percent of gross sales for the Quarter was 12.5% compared to 15.7% last year, a decrease of 3.2%.

Year-to-Date

For the year we had a profit of \$16,675,348 compared to profits of \$13,351,343 last year. Gross margins as a percent of gross sales for the year were 14.5% compared to 12.6% last year, an increase of 1.9%.

Risk Management Position

The table below shows our hedge ratio by futures month going forward. A hedge ratio shows the relationship between our net cash position and our futures position. As the table shows each futures month listed shows we are closely matched in each period. The mill does remain at risk for the basis.

**Position Report
 30-June-15**

Period	Hedge Ratio
Sep-15	1.1
Dec-15	1.2

Mar-16	0.9
May-16	1.0
Jul-16	1.0
Net Position	1.0

The Commission commended the Mill and the Mill employees on a great year. Good job!!

Mr. Ed Barchenger, State Mill, reported on the transfers made to the General Fund and Agricultural Products Utilization Fund as follows:

**North Dakota Mill
 FY 2015 Transfers**

	<u>Dollars</u>	<u>Percent</u>
FY 2015 Profit	\$ 16,675,348.00	100.0%
APUC	\$ 833,767.40	5.0%
General Fund Transfer	\$ 3,408,600.00	20.4%
Total Transfers	\$ 4,242,367.40	25.4%

Mr. Taylor reported on FY 2015 Gain Sharing Plan Results and discussed the FY2016 Gain Sharing Plan. (Copies are available in the Commission files.) He said the 2015 Gain Sharing Plan was successful and played a large role in their record results. Plant employees worked very hard to achieve three out of four goals and to increase shipments. The 2015 Gain Sharing Plan payout was 21.84 percent and the average gain sharing payout for the last ten years was about 13.2 percent. It was a good year for gain sharing with the average payout out per employee of \$13,693.

Mr. Taylor then presented the 2016 Gain Sharing Plan stating it helps to motivate both the hourly and salaried employees. They have adjusted the gain sharing plan by increasing the cost per cwt goal to \$2.10 (up by 3% from their actual number in 2015) to make it achievable and to allow for increased energy and labor costs and some inflation. The cwts per hour goal, yield goal and safety goal will remain the same. All the goals are hard to achieve and are set at levels that require a lot of extra effort. Employees pay attention to the program.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the State Mill FY 2016 Gain Sharing Plan as follows:

**NORTH DAKOTA MILL
 GAIN SHARING PROGRAM
 FY 2016**

- **Eligibility – all full-time employees on June 30, 2015 that worked a minimum of 1,000 hours during the program year are eligible.**

- No pay out of any bonuses if profit before gain sharing expense accrual does not exceed 1.0 million dollars.
- No payout on the profit part of the plan if profit before gain sharing expense accrual does not exceed 2.0 million dollars.
- Payout will be calculated as a percent of earnings from July 1, 2015 to June 30, 2016.
- Goal numbers were set to reflect current realities for the new plan year.
- Goal numbers were set by the General Manager and the Union Negotiating Committee and are attainable with effort.

The plan consists of two independent parts. 4% potential payout is from exceeding gain sharing goals and an uncapped potential payout is from profits.

For the year ending June 30, 2016 the goals are as follows:

Gain Sharing 1st Part - 4% Bonus Potential*

<u>Goals</u>	
Cwt./man-hour (includes all hours)	33.0
Cost per cwt. (before gain sharing exp.)	\$2.10
Yield	77.2%
Safety Record	150 Points

*4% bonus potential if all numbers are met or exceeded. Each goal is worth 1% of the 4%.

Gain Sharing 2nd Part - Uncapped Bonus Potential

Profits (before gain sharing expense accrual):

2.0 million = 2.0% bonus pay out

4.5 million = 4.5% bonus pay out

Each additional 1.0 million in profits = 1.0% additional bonus payout.

NOTE: The 1st Part of the gain sharing goals begin to payout at a profit (before gain sharing expense accrual) level greater than \$1.0 million. The 2nd Part of the Gain sharing Goals begin to payout at a profit (before gain sharing expense accrual) level greater than \$2.0 million.

EXAMPLE #1:

The mill makes \$1.5 million profit (before gain sharing expense accrual) and we exceed the goal for cwt./man-hour and cost/cwt. but not the safety record or yield. The total bonus received would be 2% for goals + 0% for profit = 2.0%.

EXAMPLE #2:

The mill makes \$2.5 million profit (before gain sharing expense accrual) and we exceed the goal for cwt. /man-hour, cost/cwt., and the safety record but not the yield. The total bonus received would be 3% for goals + 2.5% for profit = 5.5%.

In response to a question, Mr. Taylor said he thought it was going to be pretty tough to reach the cost per cwt goal and there was a good chance that they would not reach it again. The last two years in a row they have not been able to make the cost per cwt goal and that relates to all of the projects that the Mill is trying to accomplish. The Mill will have the G-Mill project happening throughout this entire year and it impacts

the Mill's operations such as moving bulk cars around which takes more time. As the Mill starts installing equipment some of the employees get involved in helping get that project completed. It is an aggressive goal and will be tough to make.

In response to a question Mr. Taylor stated the Mill currently has a total of 135 employees. The Mill did get 12 additional FTEs approved through the legislature so when the G-Mill is operating the Mill will be right around 147.

There was discussion regarding whether the minimum profit level should be changed in light of the expansions that have been made. In response to a question Mr. Taylor stated the \$2 million threshold goes back a number of years. Mr. Taylor stated that even though the Mill has been able to achieve some nice results over the past few years the market can be pretty volatile and with the different wheat crops they have to work with, or some new competitive force that comes into the market it is possible to have a year where it is less profitable. He said if they make the threshold too high, as soon as the employees see they are not going to be able to make the lowest threshold, then they kind of give up on that year and it doesn't provide the incentive it provides now—obviously it is working very well. That has been the philosophy they have been following.

In response to a question, Mr. Taylor stated that the gain sharing plan is not negotiated. It is a plan that is developed by management with the goal of motivating all the employees. Management does get input from both the salaried and hourly employees but it is a plan that is determined by management and ultimately the Commission. He noted that the hardest goal to achieve is the safety goal. Having that goal in place has turned the safety program around since the Mill implemented this as a goal. The Mill used to have 3 or 4 times the accidents that they have now.

Mr. Taylor stated he thought the plan was fair but he is willing to take a fresh look at the plan during the year, it doesn't hurt to do that from time to time. He will look back at the history of what the gain sharing plan has been over the years. He felt it was a big reason why the Mill continues to have such good results. Because it works so well he would be hesitant to make any major changes to the program but Mill management can definitely review it over the year to see if they can come up with any new ideas.

Governor Darlymple said he thought it works fine – especially when the Mill is expanding as much as it is. It is not always easy to sustain a profit level when you are expanding so it is a good incentive during that period to keep profits up. There might be a more effective way where the Mill could give a two percent bonus for every million over a higher threshold and wind up in the same place but actually get even more motivation.

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

Mr. Taylor gave an update on the G-Mill project. He said it is moving along nicely and handed out some pictures. (The pictures are available in the Commission files.) It will be a nice looking building inside and out. The BNSF track was moved and all 280 pilings have been driven down 155 feet and has a capacity of 200 tons each. Some concrete footings have already been poured and the next step will be to form and pour the main concrete pile cap which should happen within the next few weeks. After that, we slip form the walls in the building – they are making good progress and are close to being on schedule – we are saying the estimated completion date is now late spring to early summer depending on the weather. He is pleased where they are at now.

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July 28, 2015

In response to a question, Mr. Taylor indicated that the Mill building and the cleaning house building will have enough space for another unit of this size. He said this current project will increase capacity by about thirty percent.

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

Governor Dalrymple reconvened the State Mill portion of the Industrial Commission meeting to order following completion of confidential State Mill business.

Being no further State Mill business, Governor Dalrymple adjourned the meeting at 2:39 p.m. and the Commission took up Western Area Water Supply Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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

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

Also

Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
Jaret Wirtz, WAWSA (By Speakerphone)
Members of the Press

Governor Dalrymple called the Western Area Water Supply Authority portion of the Industrial Commission meeting to order at 2:39 p.m. following completion of State Mill business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the Western Area Water Supply Authority monthly financial report and debt reduction report along with a capital projects update as follows: (A complete copy of the report is available in the Commission files.)

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

Attached is the Western Area Water Supply Authority (WAWS) financial information for the month of June and for the 23 months ending June 30, 2015.

Pages 1 & 2 were prepared by the Bank of North Dakota reflecting debt service payments through the month of June.

The next 3 pages (pages 3, 4 & 5) I prepared based on the information provided by WAWS staff reflecting June revenues and expenses and showing net income. Capital improvement disbursements (highlighted in orange) and prepayments (highlighted in yellow) on Page 3 are noted separately. Excluding the capital expenditures the net income for the month of June was **-\$234,726.39**. With the capital expenditures the net income was **-\$621,182.74**. Revenues in June were \$919,853.21--this was the lowest month since August 2013. Page 6 is the balance sheet prepared by WAWS staff as of June 30, 2015. As noted on the Balance Sheet the Accounts Receivables are \$3,275,003.22. I have added Page 7 which shows the status of the capital projects and shows the balances still outstanding.

Mr. Jaret Wirtz, Western Area Water Supply Authority (WAWS) Executive Director, said he thought this summer is going to be tough--sales will be closer to the \$2 million level. July may be even less. This is an entirely different year with the limited amount of drilling and the backlog of facturing that is on hold.

In response to a question Mr. Wirtz stated that they have been getting inquiries about whether WAWS can offer any discounts on their water. WAWS does get calls saying they have a 300,000 to 400,000 barrel job and asking what is the price of your water. WAWS doesn't have any authority to negotiate on the price. He indicated that they are seeing very few fracturing jobs being done with depot water--mostly done with temporary lines.

In response to a question Mr. Wirtz indicated that the necessary revenue level on an ongoing basis to meet their debt payments is around \$2 million a month. The number of loans impacts that number.

Governor Dalrymple said going forward the challenge will be how to keep that kind of revenue flow coming. He asked Mr. Wirtz to get his ideas ready and if asked, he won't be caught off guard.

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July 28, 2015

Being no further Western Area Water Supply Authority business, Governor Dalrymple the meeting at 2:45 p.m. and the Commission took up Bank of North Dakota business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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

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

Also

Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
Daniel Wassim, Attorney General's Office
Eric Hardmeyer, Bank of North Dakota
Lori Gabriel, Bank of North Dakota
Bob Humann, Bank of North Dakota
Members of the Press

Governor Dalrymple called the Bank of North Dakota portion of the Industrial Commission meeting to order at 2:50 p.m. following completion of Western Area Water Supply Authority business.

Mr. Eric Hardmeyer, Bank of North Dakota President, presented and discussed the Second Quarter 2015 Performance Highlights. (A copy is available in the Commission's files.) He reviewed the entire report. Some of the key points are as follows:

- Balance sheet - up about \$400 million from where Bank management thought they were going to be – a lot of it has to do with the Bank's deposits where a lot of the surge money went out and came right back to the Bank as the political subdivisions begin to deploy those funds. Those funds are reflected as deposits and are part of the assets of \$8 billion.
- Loans are \$104 million which is about where Bank management thought they would be – down \$11 million in commercial but up \$45 million in Ag and up \$64 million in student loans.
- Equity, up \$32 million from where Bank management thought the Bank would be and some of that is just due to the mark-to-market in the securities portfolio.
- Income - through six months, are at just about \$68 million. The Bank anticipates a record year with profits in excess of \$130 million which is the threshold for the Bank providing an additional \$5 million from profits to the Housing Incentive Fund. They will also exceed the threshold for being able to proceed with the construction of the Finance Center building. Last year's profits were \$110+ million.
- Equity is above the Bank's benchmark of 8.5%.

In response to a question, Mr. Hardmeyer provided an update on the planning that they have been doing for the Finance Center building. They will be advertising for an architect in the near future and will continue to do planning prior to the end of the year when the profits for CY2015 will be known. He indicated that right now they are looking at three state agency tenants -- Department of Commerce, Housing Finance Agency and Department of Financial Institutions. The size of the building will be approximately 40,000 to 45,000 square feet depending on costs. Commission members asked to be kept informed as the plans are being developed.

Mr. Hardmeyer presented non-confidential Bank of North Dakota Advisory Board May 28, 2015 meeting minutes.

Mr. Hardmeyer indicated that he had a recommendation for filling an officer position at the Bank as a follow-up to the discussion that took place last month. He again distributed a copy of the new organizational chart. (A copy is available in the Commission files.) He reviewed the responsibilities of the Senior Vice President Chief Development Officer. He reviewed the process the Bank had gone through to fill the position. It was his recommendation that Todd Steinwand be approved as the Senior Vice President Chief Development Officer. He reviewed the qualifications that Mr. Steinwand brings to this position.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Bank of North Dakota President, Eric Hardmeyer, be authorized to hire Mr. Todd Steinwand as the Senior Vice President Chief Development Officer. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Hardmeyer said Standard & Poor's will be at the Bank next week for their annual review of the Bank. They have been doing this annual review for several years. He hopes they continue looking at upgrades or at least keeping the Bank at the same level. They will be looking at the Bank's loan portfolio. This past September they asked the Bank to look at its loan concentrations and to do some stress testing. The Bank has prepared that information for them.

Governor Dalrymple closed the meeting at 3:14 p.m. pursuant to North Dakota Century Code 6-09-35 to discuss the items on the agenda under Bank of North Dakota confidential business.

Following the confidential portion of the meeting, the Commission reconvened in non-confidential session at 3:35 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 a loan identified as Attachment 23. 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 the meeting at 3:37 p.m. and the Commission took up Student Loan Trust 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 July 28, 2015 beginning at 1:00 p.m.
Governor's Conference Room
State Capitol

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

Also

Present: Jason Nisbet, Governor's Office
Kari Doan, Department of Agriculture
Daniel Wassim, Attorney General's Office
Members of the Press

Governor Dalrymple called the Student Loan Trust portion of the Industrial Commission meeting to order at 3:37 p.m. following completion of Bank of North Dakota business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary and the Authorized Officer for the Student Loan Trust, presented the following memorandum regarding transfers from the Student Loan Trust:

RE: Student Loan Trust transfers

During the 2015 legislative session there were several bills authorizing transfers from the Student Loan Trust during the 2015-2017 biennium for a total amount in excess of \$7,600,000:

House Bill 1003 provides for an appropriation of up to \$465,000 from the North Dakota Student Loan Trust to the State Board of Higher Education for the professional student exchange program, \$539,000 for the Connect ND Campus Solutions, \$500,000 for grants to Tribal Community Colleges and \$2,000,000 for Dickinson State University leadership transition needs. (\$3,504,000)

House Bill 1004 provides for an appropriation of \$360,000 from the North Dakota Student Loan Trust to the Department of Health for the Dental Loan Repayment Program. (\$360,000)

House Bill 1014 provides for an appropriation from the North Dakota Student Loan Trust to the North Dakota Industrial Commission. (undetermined at this time)

House Bill 1018 provides for an appropriation of \$1,000,000 from the North Dakota Student Loan Trust to the Department of Commerce for Tribal grants. (\$1,000,000)

House Bill 1049 provides for an appropriation of \$200,000 from the North Dakota Student Loan Trust to the Bank of North Dakota Addiction Counseling Revolving Loan Program. (\$200,000)

House Bill 1151 provides for an appropriation of \$2,500,000 from the North Dakota Student Loan Trust to the State Board of Higher Education for matching grants for the advancement of academics at institutions of higher education. (\$2,500,000)

Although some of the legislation authorized the Director of the Office of Management and Budget to make the transfers, the Student Loan Trust documents require that all transfers be made by the Industrial Commission and only after certification by the Trustee regarding the availability of funds to pay for any outstanding bonds.

In order to be in compliance with the Trust documents I would recommend that the Industrial Commission authorize the transfers of funds from the Student Loan Trust in the amount of \$7,564,000 as outlined in legislation passed by the 2015 Legislature and authorize the Student Loan Trust Authorized Officer (Industrial Commission Executive Director/Secretary) to take the appropriate steps to implement the transfers.

At a future meeting I will bring a recommendation regarding the transfer for the Industrial Commission administrative office.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission authorize the transfers of funds from the Student Loan Trust in the amount of \$7,564,000 as outlined in legislation passed by the 2015 Legislature and authorize the Student Loan Trust Authorized Officer (Industrial Commission Executive Director/Secretary) to take the appropriate steps to implement the transfers. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Being no further Student Loan Trust business, Governor Dalrymple adjourned this portion of the meeting at 3:39 p.m. and the Commission took up Other/Administrative business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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

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

Also

Present: Jason Nisbet, Governor's Office
Daniel Wassim, Attorney General's Office
Members of the Press

Governor Dalrymple called the Administrative/Other business portion of the Industrial Commission meeting to order at 3:40 p.m. following completion of Student Loan Trust business.

Attorney General Stenehjem gave an update on the BLM Fracturing Rule litigation taking place in Casper Wyoming. As he had reported at the last meeting the Judge said he was going to hold the rule in abeyance because he couldn't make a proper ruling until he had the Record of Decision which the BLM promised they would have by the 23rd of July. BLM has now filed a motion with the court saying they need 37 more days to prepare the Record of Decision. He thought that was interesting because BLM have proposed their whole regulatory scheme and they do not have the Record of Decision so we will see if they are done with it at the end of August. We said we do not object to their extension of the time to complete it as long as the abeyance remains in place. He thought on the Waters of the US we are going to wind up with the same thing because that Record of Decision is even longer.

Commissioner Goehring said his office is dealing with another issue where the federal government arbitrarily through a rule of interpretation changed the intent of the rule. There was no opportunity to comment on their interpretation. They stated that it was giving guidance. Attorney General Stenehjem said guidance can have the force and effect of law and are a problem.

Attorney General Stenehjem said he would like the record to reflect, with respect to the Outdoor Heritage Fund Subcommittee, he had no objection to the first five people listed and appreciated their willingness to serve on the subcommittee.

The Commission then discussed the staffing for the Administrative Office and offered their assistance in moving forward with the recruitment of a deputy for the Executive Director, the reclassification of the Executive Director position and to proceed with the hiring of more staff for the office.

Ms. Fine said she would work with HRMS and prepare an updated job description and circulate it to the Commission members for their input. There was a discussion of whether responsibilities should be separated and the consensus was not to do that but rather to bring in someone who could be building a knowledge base in all the different areas and be part of a succession plan. They did note that right now the workload is too much for one person and it would be their hope that whoever was hired would be able to take on some of that workload and that this not become another responsibility that adds to the workload.

Being no further Administrative/Other business, Governor Dalrymple adjourned the meeting at 4:00 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary