

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on February 16, 2016 beginning at 11:30 a.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Lynn Helms, DMR  
Bruce Hicks, DMR - Oil and Gas Division  
Alison Ritter, DMR  
Kevin Connors, DMR  
Alexis Baxley, ND Petroleum Council  
Ron Ness, ND Petroleum Council  
Jan Swenson, Badlands Conservation Alliance  
Danette Welsh, ONEOK  
Zac Weis, Marathon Oil  
John Ward, Savage  
Bonnie Storbakken, Governor's Office  
Christy Schafer, Agriculture Department  
Members of the Press

Governor Dalrymple called the Industrial Commission meeting to order at 11:30 a.m. and took up Department of Mineral Resources business.

Mr. Lynn Helms, Department of Mineral Resources Director, presented Order 27096 for Case 24733 heard on January 13, 2016. (A copy of the order is available in the Commission files.) He said this is a case to review the Corral Creek-Bakken Unit. Five years ago when the unit was formed there were concerns expressed about development of the unit. To deal with those concerns within the unit order the Commission included a provision requiring that a hearing be held to review the development status of the unit prior to the January 2016 hearing. He indicated that the hearing was held on January 13 and the proposed order spells out in the findings what was learned at that hearing.

Those findings show that Conoco Phillips, the operator of the unit, has met or exceeded all of the promises or requirements stated in the unit order including seasonal drilling, seasonal completions, the number of wells is greater than the amount that was proposed in the original unit proposal and they have either drilled, are drilling or completing a well in each 1,280 tract within the unit so there isn't any holding of leases by unit operations. They, at their own expense, moved a number of wells up from the Little Missouri River Valley at increased expense in order to drill the wells in a safer, better location. They moved several wells back from the access road to Little Missouri State Park and actually built their own road on the other side of the well locations so that the oil field traffic would not interfere with people accessing the park.

Mr. Helms indicated that for the first time the staff was presented in unit exhibits and expert witness testimony a cautionary statement. The proposed order addresses this from the fact that it is not appropriate for an expert witness, testifying on behalf of an operator, to include a cautionary statement about the fact that some of the things he offered might be his own opinion and not the opinion of Conoco Phillips. The witness was told that the Commission is not after his opinion; we are after the opinion of the operator. The fact is that the cautionary statement was all about cautioning investors that although the full number of wells would be drilled, the timing might change from what was in the testimony. The proposed order recognizes that in the findings and makes it very clear that is not something that belongs in expert testimony at oil and gas hearings. That is the only controversial issue in the proposed order.

Mr. Helms indicated that there was one mineral owner who appeared and expressed concern about the fact that Conoco Phillips only operated two rigs when they said they were going to operate three but rig

efficiency has almost doubled in the five year time period and so those two rigs are able to do more work than three rigs would have done. That individual also had a number of other questions that were provided to the staff in a letter and that was responded to. Mr. Helms indicated that it was the recommendation of the staff that proposed Order 27096 which says the Commission held the hearing as promised, that Conoco Phillips has properly and adequately developed the unit and continues to do so and that cautionary statements do not belong in expert witness testimony be approved as presented.

**Case 24733: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 27096 issued in Case 24733, be approved this 16<sup>th</sup> day of February, 2016.**

Mr. Bruce Hicks, Oil and Gas Division Assistant Director, said the operator has now also targeted the Three Forks Formation and it is going to essentially double the reserves in that unit and more than double the number of wells that they are going to drill.

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

Governor Dalrymple requested that Mr. Helms encourage the operator to continue to stay back from the Little Missouri River and continue to preserve the view scape as much as possible. He understands that the operator knows that but staff is requested to keep reminding them that continues to be the wishes of the Commission.

Governor Dalrymple indicated that there have been some comments/concerns about the completeness of the royalty statements coming to royalty owners in the unit. It is not an uncommon complaint in North Dakota--he has heard many royalty owners complaining that their statements are incomprehensible. In this particular case where the Commission created this mega unit, the Commission doesn't want anybody saying that the division of the royalties is not correct and it should be understandable for the mineral interest owners.

Mr. Helms stated they will follow up with the operator as requested. He stated that the staff has looked at the unit formula in terms of how they are distributing proceeds to the individual tracts within the unit and the operator is doing that appropriately. He indicated that he is not aware of anyone bringing a royalty statement to the Oil and Gas Division asking if the operator is in compliance with the Commission's rule on the information that needs to be on the royalty statement. The staff will encourage mineral owners that have concerns to provide the Oil and Gas Division with their royalty statement so staff can check to make sure the operator is complying with the rule. The Commission has a rule about that because it has been a long time problem in North Dakota and concerns were raised about whether royalties were being paid accurately.

Mr. Helms distributed a Summary Page for the 2016 Proposed Rule Amendments. (A copy of the rule changes summary is available in the Commission files.) He asked the Commission to approve publication of the draft rules for a public comment period. He indicated that if the Commission takes that action the staff would file the proposed rules with the Legislative Council and made the proposed rules public by the end of the week and the anticipated hearings will occur the week of April 12.

Mr. Helms indicated that the list looks longer than it really is. There are 40 separate rule changes but the changes touch 20 sections of the rules; it is about half of what it really looks like. Mr. Helms noted that the yellow highlighted sections on the summary page are the rule changes that are required by legislative action--House Bill 1358 and HB 1476. He noted that the main change is 43-02-03-29.1 which is the new

underground gathering pipeline rules section. He indicated that Kevin Connors is the supervisor of that new program. The legislation required an Energy and Environmental Research Center study and following that study, which the Commission received on December 1, these underground gathering rules for crude oil and produced water pipelines were drafted. He stated that the staff was very careful within these rules to distinguish between gas gathering, crude oil and produced water gathering pipelines so that should be clear to anyone reading them which ones apply to whom and which ones apply to all the above. The legislation also required that the staff come up with a bonding mechanism for these pipelines so there is a change to 43-02-03-15 to introduce bonding for pipeline systems.

Mr. Helms noted two other significant rule changes. 43-02-03-53 is a very short rule on saltwater handling facilities. He stated that what has been happening is hedge funds and different companies have been raising money and purchasing salt water handling facilities and systems from operators. That then removes these facilities from the responsibility of the operator. The staff is proposing rules expanding 43-02-03-53 into a major section of rules similar to the treating plant section. These entities, who are not oil and gas operators, will then have rules to regulate their activities on these salt water handling facilities that may be independent of an operator or a well bond of any kind. That is a very significant change.

He indicated that the other change he wanted to highlight, for the first time in fifteen years, the staff is updating the Commission's diking rule. What the staff has found over the last couple of years is that the percent of spills that are contained on the well site or facility site has been dropping. The staff is proposing in these rules that all well pads and all facility pads have a perimeter berm of at least one foot in height so that the types of spills that should stay on the well pad stay on the well pad. He indicated that this is something Canada has had for a long time and, in view of what the statistics are showing, the Commission should take another step and move ahead with perimeter berms. It will create some difficulties - snow melt and precipitation will collect inside that berm and that will have to be dealt with. The staff has had conversations with the Health Department regarding how they will deal with that storm water issue that's going to be created by these perimeter berms. He expects a lot of comments on that so the Commission will get to see what industry thinks about it and how that might all work but they think it is important. Those are the three significant proposed rules: pipelines which were required by statute, salt water handling facilities and perimeter berms.

In response to a question regarding how Canada has dealt with the accumulation of storm water within the perimeter berms, Mr. Helms stated that the Canadians have a record keeping system. They allow the operator to test the water, snow melt or rain and if it is below a certain salinity or minimum requirements then the operator is allowed to discharge the water and keep the records for a period of time. What has been proposed is that the records are kept for six years. The records will need to show that the operator has tested that snow melt to make sure that it is not going to harm surface water or ground water. The operator must maintain the records so they can be inspected if there was ever a question about what it was that the operator discharged off the pad. Mr. Helms stated that is what Canada uses and that is what has been discussed with the Health Department and the staff believes it is workable. He noted that there may be some other unforeseen consequences to the perimeter berms rules but the staff believes that this should be considered--spills need to stay on the well pads.

Mr. Helms stated that the process is, upon Commission approval, the proposed rules will be published and the public will get a chance to comment. Hearings are being scheduled in Bismarck, Minot, Williston and Dickinson. Following those hearings the comments will be compiled and considered by the staff and then changes will come back to the Commission for final approval and then go to the Attorney General's Office to make sure that we have complied with the Administrative Practices Act and the intent of the statutes and then the proposed rules would be considered by the Administrative Rules Committee. The proposed rules would not go in effect until October 1 under the most aggressive timeframe.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Department of Mineral Resources be authorized to proceed with the administrative hearing process to publish for hearing and comment draft amendments to general rules of statewide application which have been adopted by the Industrial Commission to conserve the natural resources of North Dakota, to prevent waste, and to provide for operation in a manner as to protect correlative rights of all owners of crude oil and natural gas.**

The Attorney General stated that he was glad that the staff was going to have hearings around the affected areas. In response to a question, Mr. Helms said in the 17.5 years he has been with the Division, they have never done that. This will be the first time.

Governor Dalrymple said he had an opportunity to review the draft rules and he complimented Mr. Connors on the conscientious work that had been done in drafting the rules in regards to the new pipeline rule. He stated that the berms around all sites is very significant. There is also a section that says that no pipeline may exceed the pressure that is authorized by manufacturer's specifications and they must have devices that can prove that they are in compliance with those pressures – that's a very significant rule and we are going to want to talk about how we enforce that over time.

Governor Dalrymple pointed out that he has questions about whether what is being proposed is the right amount for bonding for pipelines. Mr. Helms had informed him that \$50,000 has been working for oil wells. He still considers this to be an open question--what is the right level of the bond.

Mr. Helms said the Interstate Oil and Gas Compact Commission has assigned one of its committees to study financial assurance for gathering systems and wells nationwide which will probably take a year or so to complete. The Industrial Commission will have a lot more information down the road about how different states are handling that and there may be some new ways of dealing with financial assurance. The Oil and Gas Division is participating in that study and he would expect revisiting this issue the next time rule change are considered--what are the appropriate bond amounts and methods. He noted that North Dakota stands out amongst the 30 oil and gas producing states in terms of having no orphan wells. (There are three wells that might turn into orphan wells.) Wyoming has about 5,000 orphan wells and Ohio has more than 20,000 orphan wells--they aren't sure how many they have. North Dakota's rules and statutes were written a hundred years after oil was discovered in Pennsylvania and have always stayed ahead of the curve so we will be aggressive in updating those rules once the study is completed.

In response to a question regarding if it is \$10.00 per foot on the bonding for a pipeline, Mr. Helms said that is what they have in the Division's policy. The staff put together a policy to guide us – within the Commission's rules a well of less than 2,000 feet can have a lower bond or a pipeline system of less than one mile can have a lower bond. The Division has a policy that right now sets that bond at about \$10.00 per foot. If it was 1,000 foot pipeline it would be a \$10,000 bond. The staff got that number from the State of Wyoming--it is the number they are using for their coalbed methane pipelines.

Governor Dalrymple said another thing he has questions about was throughout the rules in a number of places there is a provision for the Oil and Gas Division to waive a rule under certain circumstances – he realizes there are a lot of different situations out there. There are certainly situations that need special consideration but he thinks the Commission may want to have a policy attached to these rules that if anything is waived or supposed to be waived that the Commission get an explanation of why the waiver was granted. Otherwise, the Commission won't know whether the rules were 100 percent being enforced. When the time comes and it is appropriate he would like to revisit that issue.

In response to a question, Mr. Helms said there are two levels of waivers – one is that we have a rule in place that says after notice and hearing any rule can be waived meaning the person who wants relief from the rule has to make an application, then a public hearing is held and an order is issued. If there is any opposition to the request an order is brought to the Commission to be voted on. The other way that waivers are considered is through the processing of sundries. The staff processes about 110 sundries a day so within the well file system all of these waivers are recorded as to which one of the employees approved that waiver under the Division's policies. It is an enormous amount so the staff will have to take a look at how the Commission wants that reported. Certainly any waivers that come through the hearing process end up with a signed order - those are the significant ones and if there is any controversy over that waiver, they come to the Commission for a vote and consideration of the order.

Governor Dalrymple said he would like to understand the reasons why certain things are waived and if they fall into a certain number of categories that is fine but he needs to understand what those situations are and why they are appropriate for a waiver.

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

Mr. Helms presented the Geological Survey Division Quarterly Report. (A copy of the report is available in the Commission files.) He noted the following highlights

- 2015 was the fourth busiest year ever even though the core library has been under construction a good portion of the year;
- Update on construction progress; on track for a dedication on October 14;
- Geothermal permits way down;
- Most popular map is the Inyan Kara Sandstone Isopach - water handling is the number one cost for oil and gas operators and water disposal is a key so this mapping of the disposal zone and the computer simulations that EERC is going to run is very popular.

Mr. Helms presented the Department of Mineral Resources Geological Survey Division 2015 Strategic Plan Review and the proposed 2016 Strategic Plan. (A copy of the 2015 Strategic Plan Yearend Review and the proposed 2016 Strategic Plan is available in the Commission files.)

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Department of Mineral Resources Geological Survey Division 2016 Strategic Plan be approved as presented. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms discussed a motion authorizing the Department of Mineral Resources Director under the provisions of NDAC 43-02-03-55 part 3 to allow waivers for marginal wells in a similar manner approved for not-completed wells. (A copy of the rule is available in the Commission files.) He indicated that back in October the Commission talked about not-completed wells which are typically Bakken/Three Forks wells that have been drilled but not completed. The Commission agreed to provide one year at a time waivers of the Temporarily Abandoned well requirement to complete or plug those wells so that industry could respond to the extremely low oil prices we are seeing right now. What has happened is the marginal wells are being impacted by these oil prices even more. North Dakota Sour today is selling for \$10.00 per barrel and got as low as \$1.50. Currently there are 1,183 inactive wells--about 370 above normal. If there is a well failure like a rod string failure or something similar, the companies would like to be able to leave that well in inactive status for up to one year in order to wait for better oil prices. The alternative would be that these producing assets, which belong to the mineral owner and the operator, would disappear – they will never be economic to re-drill. He indicated that this had been done in 1999 when the State had the

same situation and it worked very well. The staff is asking that under the same type of policy where if there are surface owner objections the staff will look at it differently, or if there is a potential public health safety or environmental issue with the well the staff will not approve the extension but if it is just about oil price and economic production, the staff will grant the one year extension. He indicated that if any well in Bottineau or Renville Counties went down now for rod failure, it would not be economic to put a workover rig on the well and put it back on production – but the wells are definitely assets to the mineral owners and operators and to the State of North Dakota. The Division wants to avoid unnecessary expenditures or plugging or actually putting oil on the market when the market is already oversupplied.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission authorize the Department of Mineral Resources Director under the provisions of NDAC 43-02-03-55 part 3 to allow waivers for marginal wells in a similar manner approved for not-completed wells. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms presented copies of the comments submitted to US Fish and Wildlife. (A copy is available in the Commission files.) He said often times the comment period doesn't match up with the Commission's meeting schedule. This rule would enact very stringent oil and gas regulations that we don't think US Fish and Wildlife has authority under their federal statutes to actually do. Those concerns are expressed in the comments as well as the State's intention to defend State jurisdiction over oil and gas in any manner necessary. He asked the Commission to affirm the comments because when these comments come from the Commission as state-wide elected officials, they carry more weight than if they just come from an agency director. He pointed out the map attached to the comments which shows the lands that would be affected – it is not just refuge lands, it is not just waterfowl production areas but it is every single easement the Fish and Wildlife Service has signed across the State of North Dakota – it is massive in terms of the amount of land that is impacted. When you get into oil and gas production, Divide, Williams, Burke, Renville, Bottineau, McHenry and McLean Counties have enormous impacts and this is another layer of federal regulation where they are trying to layer on another area hoping to get one agency to get some rules through. He asked for the Commission's approval and affirmation of the comments.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the comments submitted by Department of Mineral Resources Director on February 9 to the U.S. Fish and Wildlife Service proposed rule regarding Management of Non-Federal Oil and Gas Rights. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2 the Industrial Commission close the meeting to the public and enter executive session for the purpose of attorney consultation regarding the pending adversarial administrative proceedings for the following cases:**

- Case 23230
- Case 24180
- Case 24595
- Case 24686
- Case 24891
- Case 23087
- Case 23088.

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

Governor Dalrymple stated for the record: I remind the Commission members and those present in the executive session that the discussion during executive session must be limited to the announced purpose for entering into executive session which is anticipated to last approximately thirty minutes. The Commission is meeting in executive session to consult with the Commission's attorney(s) regarding the previously identified adversarial administrative proceedings. Any formal action by the Commission will occur after it reconvenes in open session. Commission members, their staff, employees of the Department of Mineral Resources and counsel with the Attorney General staff will remain but the public is asked to leave the room at this time. When the executive session ends the Commission will reconvene in open session.

At 12:10 p.m. the Commission entered into executive session for purposes of attorney consultation regarding pending adversarial administrative proceedings.

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EXECUTIVE SESSION

**Members Present:**

Governor Jack Dalrymple  
Attorney General Stenehjem  
Agriculture Commissioner Doug Goehring

**Department of Mineral Resources Personnel Present:**

Lynn Helms	Department of Mineral Resources Director
Bruce Hicks	Department of Mineral Resources Oil and Gas Division Assistant Director
Alison Ritter	Department of Mineral Resources Public Information Officer
Kevin Connors	Department of Mineral Resources Pipeline Program Supervisor

**Others in Attendance:**

Hope Hogan	Assistant Attorney General, Office of the Attorney General
Bonnie Storbakken	Governor's Office
Christy Schafer	Agriculture Department

No action was taken during the Executive Session which was adjourned at 1:18 p.m. and the Commission returned to open session and the public was invited to return to the meeting.

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Governor Dalrymple reconvened the open portion of the meeting at 1:18 p.m.

Governor Dalrymple said Case 23230, Case 24180, Case 24595, Case 24686, Case 24891, Case 23087 and Case 23088 were reviewed and at this time the Commission is not going to be taking any final action on these seven cases as a result of the discussion. The Commission has provided its attorney guidance regarding the development of orders for the cases discussed.

Mr. Helms said the Bureau of Land Management has come out with their final proposed rule for venting and flaring and the comments are due April 7. He has prepared a draft set of comments for the Commission's consideration. (The draft comments are available in the Commission files.) Mr. Helms noted that the biggest issue is the hard and fast number that the Bureau of Land Management has proposed at 60 mcf a day as the maximum for flaring. It is not a good approach to controlling flaring and the Commission's approach has been far more effective.

He indicated that the Bureau of Land Management is going to hold a listening session March 3 in Dickinson and he would like to be able to address verbally some of these comments on March 3. He will be looking for feedback from each of the Commission members and their staffs on these draft comments

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for him to discuss on March 3 and then the final draft comments would be considered by the Commission at their March meeting for submission prior to the April 7 deadline. Governor Dalrymple said the members will do that and give him any comments they may have.

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned this portion of the meeting at 1:21 p.m. and the Commission took a five minute break prior to taking up State Mill business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary



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

Also  
Present: Vance Taylor, State Mill  
Ed Barchenger, State Mill  
John Ward, Savage  
Lacey Anderson, Savage  
Jaret Wirtz, WAWSA  
Jackie Miner, Armstrong  
Bonnie Storbakken, Governor's Office  
Christy Schafer, Agriculture Department  
Members of the Press

Governor Dalrymple called the State Mill portion of the Industrial Commission meeting to order at 1:26 p.m. following completion of Department of Mineral Resources business.

Mr. Vance Taylor, President and General Manager of the State Mill, presented the North Dakota State Mill FY 2016 Second Quarter Report as follows:

North Dakota Mill  
Review of Operations  
2<sup>nd</sup> Quarter Ended 12/31/15

SUMMARY

Activities in the 2<sup>nd</sup> Quarter of the year resulted in a profit of \$1,564,883 compared to \$4,558,970 last year. For the six months ending December there is a profit of \$4,955,843 compared to \$9,096,493 last year.

	<u>12/15</u>	<u>Quarter</u> <u>12/14</u>	<u>12/15</u>	<u>Year-to-Date</u> <u>12/14</u>
Profits	1,564,883	4,558,970	4,955,843	9,096,493
Sales	71,550,047	77,939,449	140,975,134	155,970,286
Cwt. Shipped:				
Spring	3,102,993	2,822,577	6,029,665	5,700,951
% to Total	91.3%	91.8%	92.1%	91.7%
Durum	<u>293,901</u>	<u>253,755</u>	<u>513,703</u>	<u>513,589</u>
	<u>3,396,894</u>	<u>3,076,333</u>	<u>6,543,368</u>	<u>6,214,541</u>
Bag Shipments	688,205	706,411	1,344,002	1,414,402
% to Total	20.3%	23.0%	20.5%	22.8%
Tote Shipments	32,511	33,096	65,044	59,645
% to Total	1.0%	1.1%	1.0%	1.0%
Family Flour Shipments	76,808	91,467	153,695	183,049

Organic Flour Shipments	52,741	35,110	97,286	53,322
Wheat Purchased				
Spring	6,366,911	5,996,980	12,037,811	12,301,217
Durum	<u>506,878</u>	<u>559,864</u>	<u>910,737</u>	<u>1,001,722</u>
Total	<u>6,873,789</u>	<u>6,556,826</u>	<u>12,948,548</u>	<u>13,302,939</u>

### SALES

#### 2<sup>nd</sup> Quarter

Sales for the 2<sup>nd</sup> Quarter were \$71,550,047 compared to \$77,939,449 last year. Shipments of 3,396,894 cwts. are 320,561 cwts. above last year, an increase of 10.4%. Bag shipments for the 2<sup>nd</sup> Quarter are 688,205 cwts., which is 2.6% below last year's 2<sup>nd</sup> Quarter. Tote shipments for the 2<sup>nd</sup> Quarter are 32,511 cwts., which is 1.8% below last year's 2<sup>nd</sup> Quarter. Family flour shipments of 76,808 cwts. is 16.0% below last year's 2<sup>nd</sup> Quarter. Organic flour shipments were 52,741 cwts., which is 50.2% above last year's 2<sup>nd</sup> Quarter.

#### Year-to-Date

Sales for the six months ended December were \$140,975,134 compared to \$155,970,286 last year, a decrease of 9.6%. Shipments of 6,543,368 cwts. are 328,827 cwts. above last year, an increase of 5.3%. For the first six months the average settled price of grain is \$1.46 per bushel lower than last year. Year-to-date bag shipments are 1,344,002 cwts., a decrease of 70,400 cwts. from last year. Tote shipments are 65,044 cwts., an increase of 5,399 cwts. from last year. Family flour shipments for the six months ending are 153,695 cwts., a decrease of 16.0%. Organic flour shipments of 97,286 cwts. is an increase of 82.5% from last year.

### OPERATING COSTS

#### 2<sup>nd</sup> Quarter

Operating costs for the 2<sup>nd</sup> Quarter were \$6,649,748 compared to \$7,041,381 last year, a decrease of 5.6%. Operating cost per cwt. of production was \$2.10 compared to \$2.25 last year, a decrease of \$0.15 per cwt.

#### Year-to-Date

Year-to-date operating costs are \$13,041,831 compared to \$13,584,225 last year, a decrease of 4.0%. Operating cost per cwt. of production for six months ending is \$2.13 compared to \$2.17 last year, a decrease of \$0.04 per cwt.

### PROFITS

#### 2<sup>nd</sup> Quarter

Operating activity for the 2<sup>nd</sup> Quarter led to a profit of \$1,564,883 compared to a profit of \$4,558,970 last year. Gross margins as a percent of gross sales for the Quarter were 11.6% compared to 15.0% last year, a decrease of 3.4%.

#### Year-to-Date

Operating activity for six months ending December led to a profit of \$4,955,843 compared to a profit of \$9,096,493 last year. Gross margins as a percent of gross sales for the year are 12.9% compared to 14.6% last year, a decrease of 1.7%.

**RISK MANAGEMENT POSITION**

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

**Position Report  
31-Dec-15**

<b>Period</b>	<b>Hedge Ratio</b>
Mar-16	1.0
May-16	1.0
Jul-16	1.2
Sep-16	1.4
Dec-16	1.1
Net Position	1.1

Mr. Taylor gave an update on capital projects. He said work continues on the new G-Mill and it is progressing well. He handed out pictures. (The pictures are available in the Commission files.) The project is on schedule and on budget. Initial startup should be in July. Work is also progressing on Phase I of the track and grain unloading project. The engineering and approval should be done within the next two to three weeks on the track portion and then it will go out for public bid. The engineering on the unloading pit and equipment should be finished just shortly after that and be out for bid in March. Completion is still scheduled for sometime late this summer or fall with the goal of running sometime during harvest or in the fall. The projects are progressing well.

In response to a question regarding the price the Mill is paying for 14 protein today, Mr. Taylor stated \$4.80 and the Minneapolis March number is in the high \$4.00 range. There was discussion regarding the price and the Mill's current margin.

In response to a question regarding where wheat is headed, Mr. Taylor said the talk out there now is that it is going to stay at fairly low levels for the near future, at least until we start seeing what is going to happen with next year's crop. Winter Wheat plantings were down a little bit, Spring Wheat plantings will probably end up similar to last year – if it stayed at that level it would be good for the Mill.

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

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Present: Jaret Wirtz, WAWSA  
John Ward, Savage  
Lacey Anderson, Savage  
Jackie Miner, Armstrong  
Bonnie Storbakken, Governor's Office  
Christy Schafer, Agriculture Department  
Members of the Press

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

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the January financial report and Debt Reduction Report as follows: (A complete copy is available in the Commission files.)

RE: Western Area Water Supply Authority - Industrial Sales - January, 2016 & Debt Repayment Report

Attached is the Western Area Water Supply Authority (WAWS) financial information for the month of January, 2016.

Page 1 prepared by the Bank of North Dakota, reflects debt service payments through the month of January, 2016. In January interest was paid on the two BND loans and two Water Commission loans and principal was paid on the \$40 million BND loan.

The next 3 pages (pages 2, 3 & 4) I prepared based on the information provided by WAWS staff reflecting January revenues and expenses and net income. On page 2 you will see that there was a capital improvement disbursement (highlighted in orange) for the surveillance cameras and the one principal payment made in January is highlighted in yellow. Net income for the month of January was (\$243,431.31) before making their principal payment. Page 5 is the balance sheet prepared by WAWS staff as of January 31, 2016. As noted on the Balance Sheet the Accounts Receivables are \$1,902,100.98 which is included in the assets of \$2,157,959.58. I have added the Capital Projects report since there was one payment during the month - Page 6. Note: Baseline Sales in the amount of \$399,982.09 continued to be paid.

In response to questions regarding the baseline payments, Mr. Wirtz said the baseline payments for January have been put on the books but they have not been disbursed--the payments are being held in accounts payable right now. The WAWS Board made a motion to suspend those payments for now, but the WAWS Board still needs to reach an agreement with each of the WAWS members and they are in the process of doing that. He indicated that he has had discussions with all of the members and WAWS is going to keep these expenses in accounts payable until all the members have acted on the Board's recommendation. He indicated if that cost had not been included as an expense in January WAWS would have had a positive month.

He reviewed the information on why there were baseline payment agreements; entered into when WAWS was created (cities/entities agreed to give up their industrial sales in return for receiving a payment each month from WAWS); how the baseline payment amounts were determined (based on the industrial sales

each entity had had in 2010); and the obligation by the Legislature in 2013 in SB 2233 to place the baseline sales higher in the payment priorities in return for the member entities not using their 1926 fee rights and franchise protections. What the Board is discussing with the member entities is that if there are fewer industrial sales, then the baseline payments also need to be reduced in order for WAWS to meet its obligations on the state guaranteed loans. He indicated that the conversations are going pretty good. Because the communities had built their budgets last fall based on the receipt of those baseline payments they have to look at their budgets to determine how they are going to handle that impact. All the entities understand the situation but they also have to figure out to cover that reduction in income. It is his hope that all the member entities will have acted on the Board's recommendation in March or April with the action being retroactive to January 1, 2016. WAWS will continue putting these payments on their books as accounts payable until the member entities have taken official action.

Ms. Fine discussed the capital projects request in the amount of \$41,150.00 as follows:

RE: Western Area Water Supply Authority (WAWS) Capital Projects

Attached is information on two capital projects that WAWS is requesting reimbursement from the industrial sales. Both of these projects relate to industrial sales -- installation of a hydrant and installation of power to a meter at an industrial site. Therefore I recommend approval in the total amount of \$41,150.00.

In response to a question Mr. Wirtz indicated that the two completed capital projects were for the following:

- 1) Installation of a flush hydrant (cost of \$15,150) off the ground water line from the City of Watford, WAWS is utilizing the Watford City old ground water industrial permit. WAWS ran a water line to the depot at the beginning of the project and just installed a flush hydrant on it so WAWS can actually have a connection point for a temporary fracture jobs to come off that line and also to flush water out of that line as needed.
- 2) Installation of meter vault electrical hookup (cost of \$26,000) right across from the Williston plant. There are a group of Continental wells that WAWS provides maintenance water to. They have been doing that since 2011/2012. The company has requested that WAWS install power to that site for the water sales. That is a service connection that WAWS estimates to be in place for the next twenty to thirty years – it is a good thing for WAWS because this is a long term commitment.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the capital improvement cost for the installation of a hydrant and electric power connection totaling \$41,150.00 be approved for payment from the Western Area Water Supply Authority industrial account. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Fine reviewed the following memorandum regarding industrial water rates.

RE: WAWSA industrial rate credits

Subsequent to the Commission meeting last month, I had discussions with Jaret Wirtz, Executive Director of Western Area Water Supply Authority (WAWS), about getting more specifics on the industrial rate credits.

Jaret has proposed the following industrial rate schedule for volume commitment of industrial water sales:

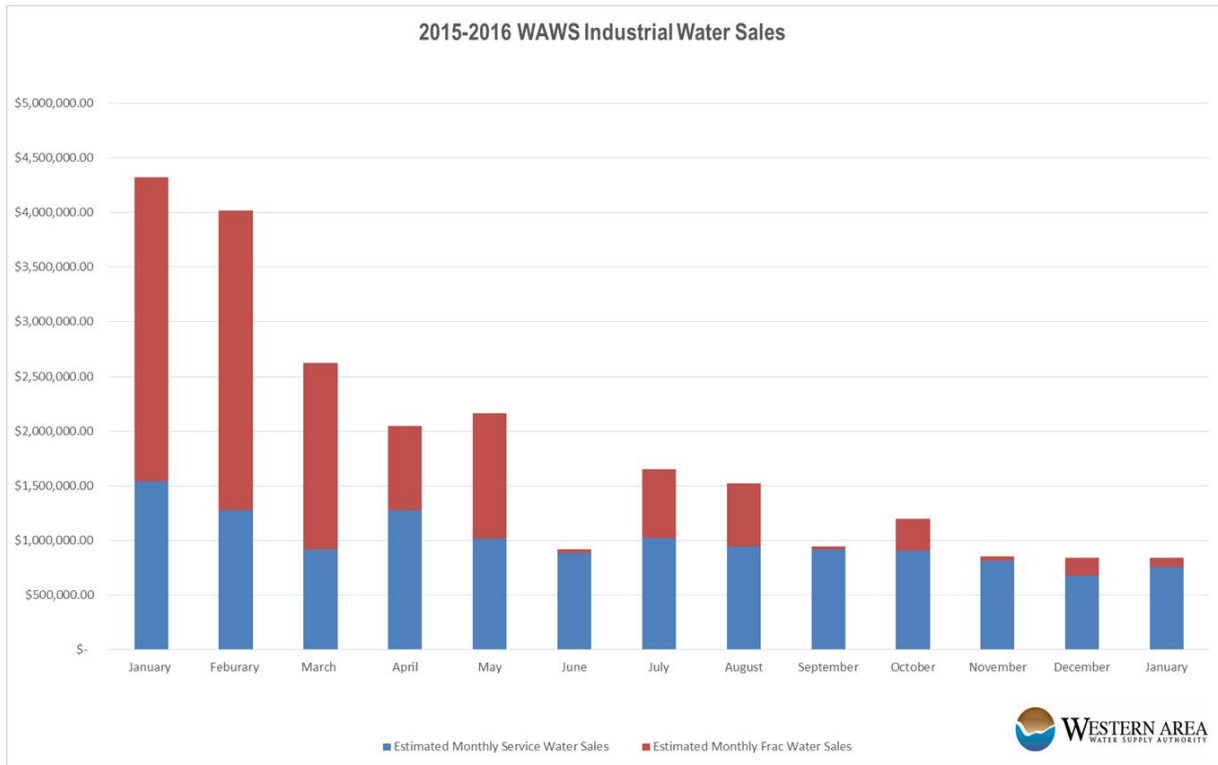
Volume Commitment in Barrels	Industrial Water Rate
0-250,000	\$.84/barrel
250,001-500,000	\$.75/barrel
500,001-750,000	\$.70/barrel
750,001-1,000,000	\$.65/barrel
1,000,000+	\$.60/barrel

Therefore I am recommending that the Commission supplements its action taken on January 11, 2016 and specifically approve the proposed industrial rate schedule and allow WAWS to make sales based on the volume commitments outlined in the schedule.

Jaret has provided two charts regarding WAWS Industrial Water Sales. The first is a report on Western North Dakota Industrial Water Supply Market Share for the years 2012 - 2015 (thru Nov.) which was developed based on information from the State Water Commission. The second chart shows the WAWS Industrial Water Sales for 2015-2016 broken down by monthly service water sales and frack water sales.



Mr. Wirtz reviewed the information presented on the Industrial Water Supply Market Share chart that had been developed based on the latest data from the State Water Commission (through November 2015). In 2012 WAWS provided 8%; in 2013 they provided 18.5% and in 2014 WAWS was at 19.6% - nearly 20% of the market share and then in 2015 (through November they were at 15.8%. He noted that during the legislative sessions WAWS had stated that they would need about 20 to 25% of the market share to be able to cash flow their project. He indicated that they expect that 15.8% number to drop even further. He indicated that if the Commission needed more detailed information as it relates to the location of these water sales (perhaps by county) he would be willing to ask the Water Commission if they could provide that level of information.



Mr. Wirtz said this chart shows that WAWS has had fewer water sales for fracking wells and currently they are not selling any water for fracking; WAWS is supplying the water for well maintenance. He noted that there are nearly 1,000 wells waiting to be fractured. Mr. Wirtz stated there is a little bit of fracking going on--four to five wells a month. Whether the operator will use WAWS water is dependent on the location and the price of the water.

Mr. Wirtz and the Commission discussed a number of issues related to the proposed price structure:

- Limited amount of fracking that is being done is impacting all the water suppliers along with WAWS;
- How the location of the wells and accessibility to the WAWS water are factors in determining WAWS sales and market share;
- Neither the Legislature nor the Industrial Commission has provided a guarantee that WAWS would get a certain percentage of the market share;
- Purpose of the proposed pricing structure is to allow WAWS to be more competitive resulting in more industrial water sales and their ability to service the debt on the Bank of North Dakota and State loans;
- Will this pricing structure result in more industrial water sales for WAWS or just result in the price for water being lower for the oil companies--what are the consequences of this proposed pricing structure--will 15% of the market share at a reduced price impact the overall price of the water?;
- The need to have multiple water suppliers in place when the price of oil goes back up and there is more fracking being done and there is more demand for water;
- The desire of WAWS to at least be in the market for a potential sale for a fracking job;
- Advantage that the non-WAWS water suppliers have in knowing what the WAWS price is;
- The locations and amounts of water that the non-WAWS water suppliers have available--the investments that have been made by water suppliers in drawing water out of the river and installing pipelines in areas where there are already water suppliers;

- The competition between the non-WAWS water suppliers whether they are large companies or small operations that have been developed throughout the five-county area;
- WAWS pipelines have been built to serve residents and communities--it is a rural water system and when there is an opportunity for an industrial sale they wish to be competitive in their pricing;
- The dual role of the Industrial Commission -- to assure that the loans made by the State and the Bank of North Dakota are repaid yet at the same time not undercut private competition so both WAWS and the private water suppliers are unable to do business;
- Clarification that the price for water at the depots would remain at \$.84/barrel;
- Volume of water that is used when a well is fracked--generally three to four wells per pad--250,000 to 500,000 barrels which at \$.60 ranges from \$150,000 to \$300,000 in sales;
- At the point in time when more wells are being fracked, then the price could go back up to \$.84 -- this proposed pricing structure isn't a permanent structure--the Commission could change it at any time;
- WAWS needing to be able to explain to the Legislature the steps they took to meet their debt service obligations;
- Responsibility of WAWS to make the debt payments; and
- If the proposed price structure should be revised.

In response to a question, Mr. Wirtz indicated that he did not know for sure if this proposed pricing structure would result in additional industrial water sales for WAWS; what he did know is that at \$.84/barrel WAWS is not competitive for industrial water sales for fracking wells. He noted that he has had some conversations with companies about the WAWS price and what level of commitment a company would have to make in order to obtain a lower price. He explained that location also is a key factor when an oil company is determining whose water to use--the company's costs for transporting the water also impacts their decision of whose water to use.

In response to a series of questions, Mr. Wirtz stated that with this proposed pricing schedule he thought WAWS would have a chance at getting a fracking job sale but it would take at least a couple of months to know that because of how oil companies are bidding out their water needs.

Governor Dalrymple indicated that the Commission needs to set its price rate according to what it thinks the market is--not too high and not too low--publish the price, which is an advantage for the WAWS competitors, and see how the market reacts. He did not know how else the Commission should do this.

Commissioner Goehring stated that he could not support the proposed pricing structure--he thought it would create a scenario where everyone is hurt--WAWS as well as the private water suppliers.

Attorney General Stenehjem said he would be willing to try this for three months at this proposed rate schedule and see what happens as it relates to WAWS and see what complaints and issues the Commission hears from the private sector as well and what impact it has had on them.

There was discussion regarding the requirements in the law on the Industrial Commission establishing the water rates and the need to be more specific than what had been stated at the January 11, 2016 Industrial Commission meeting.

**It was moved by Attorney General Stenehjem and seconded by Governor Dalrymple that as a substitute motion for the action taken on January 11, 2016 the Industrial Commission specifically approve that the Western Area Water Supply Authority may offer the following industrial rate schedule for three months based on volume commitments:**



<b>Volume Commitment in Barrels</b>	<b>Industrial Water Rate</b>
<b>0-250,000</b>	<b>\$.84/barrel</b>
<b>250,001-500,000</b>	<b>\$.75/barrel</b>
<b>500,001-750,000</b>	<b>\$.70/barrel</b>
<b>750,001-1,000,000</b>	<b>\$.65/barrel</b>
<b>1,000,000+</b>	<b>\$.60/barrel</b>

Mr. Wirtz asked if the commitment is made and the company says they will use a million barrels within the next six months is that okay? Attorney General Stenehjem said WAWS needs to have an enforceable contract signed within the next three months.

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

Being no further Western Area Water Supply Authority business, Governor Dalrymple adjourned this portion of the meeting at 2:17 p.m. and the Commission took up Bank of North Dakota business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on February 16, 2016 beginning at 11:30 a.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Eric Hardmeyer, Bank of North Dakota  
Todd Steinwand, Bank of North Dakota  
Jeff Weiler, Bank of North Dakota  
Kirby Evanger, Bank of North Dakota  
Joel Erickson, Bank of North Dakota  
Kelvin Hullet, Bank of North Dakota  
Darrell Lingle, Eide Bailly  
Bonnie Storbakken, Governor's Office  
Christy Schafer, Agriculture Department  
Members of the Press

Governor Dalrymple called the Bank of North Dakota portion of the Industrial Commission meeting to order at 2:17 p.m. following completion of Western Area Water Supply Authority business.

Mr. Eric Hardmeyer, Bank of North Dakota President, introduced Mr. Kelvin Hullet who started with the Bank four weeks ago heading up the Bank's government programs and economic development and Mr. Jeff Weiler who also started four weeks ago and is the Bank's new Risk Officer overseeing compliance, internal audit and enterprise risk management.

Mr. Darrell Lingle, Eide Bailly, presented the ND Guaranteed Student Loan Program Audit. (A copy of the report is available in the Commission files.) He said Eide Bailly had issued an unmodified opinion or an unqualified opinion on the financial statements as of September 30, 2015. They did have an "emphasis of a matter paragraph" on the financial statements under the Federal Student Loan Reserve Fund – all the guarantee responsibilities related to the Federal Family Education Loan Program or the FELP Program will be transferred to the Department of Education. The transfer has a target date of March 31, 2016. He noted that Eide Bailly's opinion is not modified with respect to that matter.

Mr. Lingle pointed out that in the Management's Discussion and Analysis under *Factors Bearing on the Program's Future* there is discussion with regard to the FELP Program and the transfer of the FELP Program. That discussion provided the following information: On June 30, 2015 the Industrial Commission approved the transfer of the FELP Program responsibilities to the Department of Education. A target date of March 31, 2016 has been set for the transfer to be completed. At that time, all the assets and liabilities of the FELP Program will be transferred to Great Lakes Higher Education Corporation and at the same time the Agency Operating Fund will be transferred to the Alternative Loan Fund. With that transfer of the FELP Program to the Great Lakes Higher Education there is no longer going to be some earnings from that program that are earned by the Agency Operating Fund and as a frame of reference, for the year ended September 30, 2015 the FELP Program related revenue and expenses – revenues were \$1.153 million compared to expenses of \$1.189 for that year ended September 30, 2015. He noted how the Combining Statement of Net Position will look subsequent to that transfer. The FELP Reserve Fund will go away; it just has assets and liabilities so there is no net equity or net position that will go away with that transfer. The net position of the Agency's Operating Fund will be transferred over into the Alternative Loan Fund. In the future there will just be the singular presentation of the Alternative Loan Fund as it would be merged with the Agency Operating Fund.

Mr. Lingle continued that the Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters – based on audited financial statements performed in accordance with government auditing standards indicates that there were no control matters to report as a result of the audit over financial

reporting and no instances of non-compliance or other matters that were required to be reported for the financial statements. He indicated that in regards to the Independent Auditor's Report on Compliance for the Major Federal Program and Report on Internal Control over Compliance required by OMB Circular A133, Eide Bailly had issued an unmodified opinion on the compliance requirements related to the major federal programs and had no internal control matters over compliance of the major federal programs – so it is a clean opinion.

Mr. Hardmeyer stated the Bank is on track for the March 31, 2016 transfer so everything is going fine. It looks like \$3.7 million plus will be coming over to the Alternative Loan Fund in April.

Mr. Hardmeyer discussed the 2016 BND budget and provided a memorandum as follows:

RE: 2016 Budget

Attached you will find a copy of the 2016 budget compared to the actual for 2015. For 2016, we project a decrease in assets of approximately 2.7% to \$7.2 billion and net income to be \$135.3 million, a 3.6% increase over 2015.

Our budget projections are based on three assumptions:

1) North Dakota's economy will continue to be challenged by downturns in both the energy and Ag sectors. With this current downturn, the decrease in state revenues and proposed legislative spending will impact BND's deposit base. In line with recent discussions regarding state revenues, we are forecasting a 17% decrease in deposits. This decrease in deposits will be made up in part by utilizations of alternative funding sources, chiefly advances from the Federal Home Loan Bank.

2) Loan demand will continue to be steady, generating consistent growth. We are projecting solid growth in commercial loans and a slight increase in residential and student loan volumes. We are projecting significant growth in our agriculture portfolio due mainly to the roll out of our Farm Financial Stability program. As we continue to monitor the impact to the economy, we will continue to be aggressive with loan loss reserve and consequently have budgeted an additional \$6 million. This may be adjusted as we review our loan loss formula throughout the year.

3) Though the Fed has begun its gradual increase in interest rates, we believe interest rates will remain flat through most of 2016 as the national and global economies struggle. Based upon our projections, BND will end 2016 with net interest income of \$170 million, an increase of \$8 million over last year.

The majority of the increase in the non-interest expense items comes from salaries and benefits, data processing costs, and other operating expenses. For salaries and benefits, we are budgeting for the legislative authorized increase. Data processing costs will increase as several projects that were budgeted for in 2015 will be addressed in 2016.

There will be challenges in 2016. As mentioned earlier, the commodity based part of ND's economy is experiencing a downturn led by global issues beyond local control. As such, we need to ensure our balance sheet is structured properly which will enable us to act responsibly as these economic events play out. We are also mindful of our unique mission and must be willing to provide our services where needed and as appropriate.

Overall this is an achievable budget, but not a certainty. Our continued vigilance in providing competitive products and pricing models, improving efficiencies and controlling costs will play a significant role in determining our success in meeting our objectives for 2016.

He noted that as the Bank's deposits decrease the Bank will be utilizing the Federal Home Loan Bank to be the Bank's source of funding. The Bank could fund the projected growth out of the Bank's security portfolio--by cashing in the securities-- but because those securities have a good earning yield the Bank can borrow at less cost from the Federal Home Loan Bank and earn a spread. He stated that the Commission can expect to see a significant increase in short and long term borrowing. This is what the Bank did in 2004 and 2005.

He indicated that the Bank is looking for another good year.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approve the Bank of North Dakota 2016 Budget as follows:

BANK OF NORTH DAKOTA  
ENDING BALANCESHEET

ACTUAL 2015 v. BUDGET 2016

	(In thousands)			
	Actual 2015	Budget 2016	Difference	% Change
Cash and due from banks	318,354	185,000	(133,354)	-41.89%
Federal funds sold	77,905	55,000	(22,905)	-29.40%
Securities	2,657,527	2,028,376	(629,151)	-23.67%
<b>Loans</b>				
Commercial	1,811,259	2,023,778	212,519	11.73%
Farm	513,899	843,705	329,806	64.18%
Residential	693,712	706,000	12,288	1.77%
Student loans	1,320,748	1,349,564	28,816	2.18%
	4,339,618	4,923,047	583,429	13.44%
Less allowance for loan loss	(69,294)	(70,672)	(1,378)	1.99%
	4,270,324	4,852,375	582,051	13.63%
Other assets	83,832	87,098	3,266	3.90%
<b>Total Assets</b>	<b>7,407,942</b>	<b>7,207,849</b>	<b>(200,093)</b>	<b>-2.70%</b>
Deposits -				
Non-interest bearing	641,264	750,000	108,736	16.96%
Interest bearing	5,160,878	4,084,000	(1,076,878)	-20.87%
Federal funds purchased and repurchase agreements	119,500	175,000	55,500	46.44%
Short and long-term borrowings	727,322	1,395,738	668,416	91.90%
Other liabilities	9,485	10,213	728	7.68%
<b>Total liabilities</b>	<b>6,658,449</b>	<b>6,414,951</b>	<b>(243,498)</b>	<b>-3.66%</b>
Equity	749,493	792,898	43,405	5.79%
<b>Total Liabilities and Equity</b>	<b>7,407,942</b>	<b>7,207,849</b>	<b>(200,093)</b>	<b>-2.70%</b>

BANK OF NORTH DAKOTA  
ENDING INCOME STATEMENT

ACTUAL 2015 v. BUDGET 2016

	(In thousands)			
	Actual 2015	Budget 2016	Difference	% Change
Interest Income	194,298	214,983	20,685	10.65%
Interest Expense	32,164	44,441	12,277	38.17%
Net Interest Income	162,134	170,542	8,408	5.19%

<b>Provision for Loan Losses</b>	<b>12,500</b>	<b>6,000</b>	<b>(6,500)</b>	<b>100.00%</b>
<b>Net Interest Income After Provision</b>	<b>149,634</b>	<b>164,542</b>	<b>14,908</b>	<b>9.96%</b>
<b>Non-Interest Income</b>	<b>7,688</b>	<b>7,375</b>	<b>(313)</b>	<b>-4.07%</b>
<b>Non-Interest Expense</b>				
<b>Salaries and benefits</b>	<b>14,817</b>	<b>16,699</b>	<b>1,882</b>	<b>12.70%</b>
<b>Data processing</b>	<b>4,838</b>	<b>7,893</b>	<b>3,055</b>	<b>63.15%</b>
<b>Occupancy and equipment</b>	<b>726</b>	<b>1,154</b>	<b>428</b>	<b>58.95%</b>
<b>Other operating expense</b>	<b>6,287</b>	<b>10,840</b>	<b>4,553</b>	<b>72.42%</b>
	<b>26,668</b>	<b>36,586</b>	<b>9,918</b>	<b>37.19%</b>
<b>Net Income</b>	<b>130,654</b>	<b>135,331</b>	<b>4,677</b>	<b>3.58%</b>
<b>Return on Average Assets</b>	<b>1.68%</b>	<b>1.83%</b>		
<b>Return on Average Equity</b>	<b>18.13%</b>	<b>17.33%</b>		

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

Mr. Hardmeyer presented the Fourth Quarter 2015 Performance Highlights. (A copy of the report is available in the Commission files.) He noted the following items:

- Leverage ratio for the fourth quarter ending 2015 we are at 10.02 percent. The last time BND had equity over 10% was 1997 – BND management anticipates equity being close to 11% for capital by the end of 2016.
- Net loans to earning assets at the end of the 2015 were 60%.
- Mr. Hardmeyer reviewed the various loan programs and activities. The first Farm Financial Stability Loan Program loans were funded in December. The residential portfolio is up significantly over last year \$158 million compared to \$117 million. That is the result of the Bank making the decision to be more market sensitive. He noted that this isn't related to the origination of residential loans but the Bank purchasing more of these loans from the local banks and servicing the loans at the Bank. DEAL One Consolidation – the Bank did \$186 million last year with almost 4,000 loans. Overall the Bank ended the year 2015 at \$4.3 billion in loans. The Bank experienced the best year in five years in loan growth.
- FELP loans. He stated that even though the Bank is going to transfer the guarantor duties to another entity, these loans will stay on the Bank's books. These loans are running off very quickly.
- Delinquency report – looking at the student loan portfolio there is a really good trend there. The DEAL One/Consolidation loans--\$307 million have a 0.64% delinquency rate. FELP loans are at 15.45%. Overall there is a good likelihood the Bank may not have to put as much into loan loss as they did the past year.
- College SAVE 529 Plan – BND ended the year at \$388 million of assets under management – at one point that was over \$400 million but because of retraction in the stock markets and other markets the amount fell down below \$400 million. Contributions were the highest they have ever been at \$41.3 million last year and of that \$19.6 million came from North Dakotans. BND has 29,000 total College SAVE accounts and 17,000 of those are North Dakotans.

Mr. Hardmeyer gave an update on the Farm Financial Stability Loan Program. He said as of today the Bank has done 132 loans for \$62.5 million. He reminded the Commission that the Bank has proposed that \$300 million be made available for this loan program. In response to a question, Mr. Todd Steinwand, Bank of North Dakota,

stated that the interest in this program is picking up – more applications are starting to come in, more phone calls. He noted that the turnaround for working through these applications is approximately 2.5 weeks.

Mr. Kelvin Hullet, Bank of North Dakota, updated the Commission on the Infrastructure Loan Program. The first round closed and there were five applications for \$34 million all for streets, roads, sewer, etc. The Bank just reopened the second round of applications that will close on April 29 which will give them two city commission meetings to go through and figure out their applications. He thought there would be more interest in the second round. The Bank is making sure information is being made available to the League of Cities and the engineers so they can alert their communities.

Mr. Hardmeyer presented the non-confidential Bank of North Dakota Advisory Board December 17, 2015 meeting minutes.

Governor Dalrymple closed the meeting at 2:48 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 3:08 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 15. 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 business, Governor Dalrymple adjourned this portion of the meeting at 3:09 p.m. and the Commission took up Oil and Gas Research Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on February 16, 2016 beginning at 11:30 a.m.  
Governor's Conference Room  
State Capitol

Present: Governor Jack Dalrymple, Chairman  
Attorney General Wayne Stenehjem

Also

Present: Bonnie Storbakken, Governor's Office  
Christy Schafer, Agriculture Department  
Members of the Press

Governor Dalrymple called the Oil and Gas Research Program portion of the Industrial Commission meeting to order at 3:10 p.m. following completion of Bank of North Dakota business. Commissioner Goehring left the meeting at this time as he received word of the death of his mother.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented a request for a special grant round - deadline of March 1, 2016 as follows:

RE: Additional Oil and Gas Research Program Grant Round

House Bill 1390 (copy attached) authorized the Department of Health to "establish one or more operating pilot projects to examine and determine standards for rules governing operations and permitting of commercial oilfield special waste recycling facilities for oilfield special waste from oil and gas drilling and production operations;"

Health Department personnel contacted the Industrial Commission and indicated that there are six companies in various stages of their pilot projects. However, with the down turn in oil prices some companies have put their projects on hold and released their consulting firms that were on retainer. A couple of the consulting firms wish to continue their research and have contacted the Commission asking for a special grant round for the Oil and Gas Research Council/Commission to consider applications for funding to complete this work.

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 deadline imposed in the legislation, it is my recommendation that a special grant round be established for **March 1, 2016.**

**It was moved by Attorney General Stenehjem and seconded by Governor Dalrymple that the Industrial Commission establishes a special grant round for March 1, 2016. On a roll call vote, Governor Dalrymple and Attorney General Stenehjem voted aye and Commissioner Goehring was absent and not voting. The motion carried.**

Being no further Oil and Gas Research Program business, Governor Dalrymple adjourned this portion of the meeting at 3:11 p.m. and the Commission took up Public Finance Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on February 16, 2016 beginning at 11:30 a.m.  
Governor's Conference Room  
State Capitol

Present: Governor Jack Dalrymple, Chairman  
Attorney General Wayne Stenehjem

Also

Present: Bonnie Storbakken, Governor's Office  
Christy Schafer, Agriculture Department  
Members of the Press

Governor Dalrymple called the Public Finance Authority portion of the Industrial Commission meeting to order at 3:11 p.m. following completion of Oil and Gas Research Program business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary presented a Capital Financing Program loan request for the City of Hope in the amount of \$650,000. Ms. Ament and Ms. Merkel were at a meeting in Fargo and unable to join the meeting. She said the Public Finance Authority Advisory Committee recommended approval.

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

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

WHEREAS, the City of Hope (the "Political Subdivision") has requested a loan in the amount of \$650,000 (the "Loan") from the North Dakota Public Finance Authority (the "NDPFA") to refinance a USDA Rural Development loan; and

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

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

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

1. The Loan is hereby approved.

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

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

Being no further Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting at 3:12 p.m. and the Commission took up Housing Finance Agency business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary



Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on February 16, 2016 beginning at 11:30 a.m.  
Governor's Conference Room  
State Capitol

Present: Governor Jack Dalrymple, Chairman  
Attorney General Wayne Stenehjem

Also

Present: Bonnie Storbakken, Governor's Office  
Christy Schafer, Agriculture Department  
Members of the Press

Governor Dalrymple called the Housing Finance Agency portion of the Industrial Commission meeting to order at 3:12 p.m. following completion of Public Finance Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented a resolution regarding carryforward allocation of private activity bond authority for the North Dakota Housing Finance Agency.

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

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

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

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

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

BE IT RESOLVED by the Commission as follows:

1. The Commission affirms the actions of the Executive Director to the Commission in submitting on behalf of the Commission in its capacity acting as the North Dakota Housing Finance Agency (the "Agency") all applications and additional information which were required and requested pursuant to the Order to obtain a 2015 "carryforward allocation", as the term is described by the Code and the Order, in an amount not to exceed \$292,515,000.
2. The Commission affirms the actions of the Governor acting on behalf of the Agency upon the advice of counsel to the Commission, as the authorized public official and representative of the Agency, in executing and submitting to the Internal Revenue Service the appropriate forms pursuant to and in compliance with all necessary (i) requirements of Section 146 of the Code, and (ii) requirements of the Order.

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

Being no further Housing Finance Agency business, Governor Dalrymple adjourned this portion of the meeting at 3:13 p.m. and the Commission took up Industrial Commission Administration 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 February 16, 2016 beginning at 11:30 a.m.  
Governor's Conference Room  
State Capitol

Present: Governor Jack Dalrymple, Chairman  
Attorney General Wayne Stenehjem

Also

Present: Bonnie Storbakken, Governor's Office  
Christy Schafer, Agriculture Department  
Members of the Press

Governor Dalrymple called the Administration portion of the Industrial Commission meeting to order at 3:13 p.m. following completion of Housing Finance Agency business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented draft minutes for the Commission's approval. The Commission stated that Ms. Fine must have the draft minutes done so the minutes can be considered at the subsequent meeting of the Commission. She indicated that she will be presenting the remaining draft minutes for 2015 at the Commission's March meeting. She stated that in the future minutes will be given a higher priority so they can be considered at the subsequent Industrial Commission meeting. She apologized for the delay in getting the draft minutes to the Commission for their consideration.

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

08/26/14 Confidential and Non-Confidential  
09/17/14 Confidential and Non-Confidential  
10/27/14 Confidential and Non-Confidential  
11/13/14 Confidential and Non-Confidential  
12/09/14 Non-Confidential  
12/17/14 Non-Confidential  
01/09/15 Confidential and Non-Confidential  
01/28/15 Confidential and Non-Confidential  
02/25/15 Confidential and Non-Confidential  
03/24/15 Confidential and Non-Confidential  
03/31/15 Non-Confidential  
04/21/15 Confidential and Non-Confidential  
01/11/16 Confidential and Non-Confidential

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

Ms. Fine provided the Commission with a draft Industrial Commission Executive Director and Secretary job description for their review.

Being no further Administration business, Governor Dalrymple adjourned the meeting at 3:15 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary