

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on March 28, 2016 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

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

Also
Present: Lynn Helms, Department of Mineral Resources
Bruce Hicks, DMR – Oil and Gas Division
Alison Ritter, DMR – Oil and Gas Division
Hope Hogan, Attorney General's Office
Matthew Sagsveen, Attorney General's Office
Jan Swenson, Badlands Conservation Alliance
Marlin Hanson, BHT
Jim Dona, BHT
John Morrison, Crowley Fleck
John Bloustrom, Black Hills Trucking Inc.
Kevin Cook, Black Hills Trucking Inc.
Bonnie Storbakken, Governor's Office
Jessie Pfaff, Agriculture Department
Blake Crosby, ND League of Cities
Members of the press

Governor Dalrymple called the Industrial Commission meeting to order at 1:00 p.m. and the Commission took up Department of Mineral Resources business.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem 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. On a roll call vote Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye and no one voted no. The motion carried unanimously.

The purpose of the executive session will be to consult with the Commission's attorneys regarding the following pending adversarial administrative proceedings:

Case 24595

Case 23088

At 1:01 p.m. the Commission entered into executive session for purposes of attorney consultation regarding pending adversarial administrative proceedings.

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

Others in Attendance:

Hope Hogan	Assistant Attorney General, Office of the Attorney General
Matthew Sagsveen	Assistant Attorney General, Office of the Attorney General
Bonnie Storbakken	Governor's Office
Jessie Pfaff	Agriculture Department

No action was taken during the Executive Session which was adjourned at 1:23 p.m. and the Commission returned to open session and the public was invited to return to the meeting.

Governor Dalrymple reconvened the open portion of the meeting at 1:23 p.m. He stated that the Commission had consulted with its attorney regarding Case Nos. 24595 and 23088 and no specific action had been taken by the Commission at this time. The Commission had provided the attorney guidance regarding the development of orders for the pending two cases.

Mr. Lynn Helms, Department of Mineral Resources Director, presented proposed default Order No. 27348 (a copy of Order No. 27348 is available in the Commission files) involving a complaint case against Strike Oil, Inc. He indicated that Strike Oil is the operator of five wells on a \$100,000 blanket bond. The company has no production; one of the wells is a dry hole that has not been properly reclaimed; another well is plugged but hasn't been properly reclaimed and there are several other counts in this complaint. The total penalty sought is \$550,000. Strike Oil was properly served with the complaint and there was no response. The staff is recommending that the Commission approve proposed default Order No. 27348 which will then allow the appeal period to begin. If there is no appeal the Commission will then go to court to seek a judgement that would allow the Commission to confiscate the bond and any or all of the equipment and oil on the five well sites and get the sites cleaned up.

Case 24684: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 27348 issued in Case 24684, be approved this 28th day of March, 2016. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Helms presented proposed Order 27182 in Case 24819 and proposed Order 27183 in Case 24820. (Copies of Order No. 27182 and Order No. 27183 are available in the Commission files.) He indicated Black Gold Energy Resource Development owns the two wells near Dickinson that are involved in these cases. The owner of Black Gold Energy Resource Development is in bankruptcy. The bankruptcy trustee has no prospects for selling or transferring these two wells. A hearing was held in January to confiscate the wells and the equipment and any saleable oil on the well sites and proceed with plugging and reclamation. The proposed orders allow the Commission to take possession of the wells and equipment and any saleable oil and to direct the surety company, who has the bonds on these wells, to either turn over the bonds or plug and reclaim the wells. Mr. Helms stated that he anticipates the surety company will turn over the bonds because the estimated plugging and reclamation costs are \$355,000 and the bonds total \$100,000. Equipment could be anywhere from \$20,000 to \$50,000 in value. So the net cost to the Abandoned Well Plugging and Site Restoration Fund is \$200,000 to \$250,000 by the time everything is done. In response to a question, Mr. Helms indicated that the bankruptcy trustee has indicated that they will abandon any claims on these wells.

Case 24819: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 27182 issued in Case 24819, be approved this 28th day of March, 2016. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 24820: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 27183 issued in Case 24820, be approved this 28th day of March, 2016. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Helms presented proposed Order No. 27261 in Case No. 24869 which relates to an application of Denbury Resources (Denbury) for the Industrial Commission to approve placing a pumping unit on the Ranchos #1 well located in the Eland Lodgepole Field and putting it on beam pump. (A copy of Order No. 27261 is available in the Commission files.) Mr. Helms provided an exhibit from the hearing which showed the well location and the distance from the homes in the subdivision in west Dickinson and the Denbury proposal. He indicated that Denbury had already installed the pumping unit on the well and their proposal is to fence the location to plant trees to screen the location from the surrounding homes.

Mr. Helms provided a history on this well--Duncan Oil permitted the Ranchos well back in January of 1995. They originally had it permitted in a different location outside the subdivision. Because of the nature of Lodgepole Mounds they needed to move the well. They made that request and the tradeoff was that since they wanted to put the well in this subdivision the Commission's order and subsequent orders for the Eland Lodgepole Field required that the well be pumped with a submersible pump--no beam pump. Denbury is now the fourth operator - Duncan transferred to Westport who sold it to Kerr McGee who sold it to Encore who sold it to Denbury. Denbury, unaware of the requirement in the order put the pumping unit on here. One of the homeowners reported this to the Division's field inspector who required that it not go into operation until there was a hearing to discuss the matter. All but one of the homeowners strongly objects to the pumping unit. The one homeowner whose land is 568 feet to the south conditionally agrees to the pumping unit - the conditions are no fence and that he be contracted to maintain the trees. Mr. Helms stated that the staff recommendation is to deny Denbury's application and have Denbury go back and work on cleaning out the well out and produce it with an electric submersible pump or some similar type of artificial lift but not allow the beam pump on the well.

In response to question, Mr. Helms reviewed the other types of artificial lift that were discussed at the hearing (hydraulic lift, gas lift) and it came down to a submersible pump or a beam pump in Denbury's opinion.

In response to a question, Mr. Helms indicated that the submersible pump is installed 6,000 feet down in the ground and there is very little noise. Noise is a concern of the neighbors along with safety. There are children in this subdivision. There was discussion about safety and the installation of a fence to keep children off the well location and the lack of consensus among the homeowners.

Mr. Helms indicated that Denbury testified that whether it was a beam pump or a submersible pump the pump would need to be replaced once a year. There was discussion about the size of the submersible pump (150 to 300 horsepower) and the work on the well that has resulted in a fine material -- metal fragments -- in the wellbore that got into the pump and plugged it up resulting in poor production. It was unclear from the testimony whether the clean out efforts were adequate.

Case 24869: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 27261 issued in Case 24869 denying the application of Denbury, be approved this 28th day of March, 2016. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Matthew Sagsveen, Assistant Attorney General, Attorney General's Office stated that the Commission has been provided with copies of the recommended decision, findings of fact and conclusions of law and Memorandum of Decision from ALJ Pat Ward regarding North Dakota Industrial Commission, Complainant vs. Black Hills Trucking, Inc. Respondent. He summarized the ALJ decision as follows:

- The ALJ concluded that the Commission does not have jurisdiction over saltwater spills outside of facilitates.
- The ALJ determined that the word waste, as defined by Chapter 38-08, does not include saltwater.
- The ALJ determined that the Commission must give notice to the county for saltwater spills when it has an enforcement action against the company.
- The ALJ determined that the Commission does not have jurisdiction over a trucking company on a public roadway.
- The ALJ determined that the Department of Health has jurisdiction over saltwater spills and a township may also have jurisdiction.
- The ALJ determined that the Commission has met its burden of proof, assuming it has jurisdiction.
- The ALJ determined that the Excessive Fines Clause of the North Dakota Constitution bars the Commission from levying the fines the Commission seeks in its complaint. The complaint indicates that the fines sought were approximately \$950,000.
- The ALJ determined the Commission's fines violate Black Hills' Due Process because the fines are fundamentally unfair.

He indicated that if the Commission would like to further review the ALJ recommendation he suggested that the Commission enter into executive session for that discussion.

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

The purpose of the executive session will be to consult with the Commission's attorney regarding the following pending adversarial administrative proceeding:

Case 22057

At 1:42 p.m. the Commission entered into executive session for purposes of attorney consultation regarding pending adversarial administrative proceedings.

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

Others in Attendance:

Matthew Sagsveen Assistant Attorney General, Office of the Attorney General

Bonnie Storbakken Governor's Office

Jessie Pfaff Agriculture Department

The Executive Session was adjourned at 2:05 p.m. and the Commission returned to open session and the public was invited to return to the meeting.

Governor Dalrymple reconvened the open portion of the meeting at 2:05 p.m. and noted that the public had been invited to return to the meeting room. He stated that during its executive session the Commission consulted with its attorney regarding the pending adversarial administrative proceeding in Case 22057.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Commission reject for the most part the recommended order of the Administrative Law Judge and that the Commission direct its counsel, Mr. Sagsveen, of the Attorney General's Office to draft an appropriate alternative order for consideration by the Commission. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Bruce Hicks presented the Department of Mineral Resources Oil and Gas Division Quarterly Report. (A copy is available in the Commission files.)

Mr. Hicks highlighted the following points in the Quarterly Report (final quarter of 2015):

- Permits are down 32% from the previous quarter

- Wells Waiting on Completion were up to 975

- Oil production is down but gas production is up

- Gas Capture at 86% at the end of December and the goal for April 1st is 80%

- Inspections were over 40,000 the fourth quarter

- Gas flaring percentages are going down as well as the total gas volume

In response to a question, Mr. Helms stated that the operators have indicated that the needed price point to trigger reactivation of frack crews to work on "wells waiting on completion" is \$50+ WTI for 90 days or more. There is some fracking being done but it is limited. He stated that the industry has gone from 50 frack crews in the state to between 5 and 10 depending on the day. Current number of wells waiting on completion is 916.

Mr. Helms reported that the current number for inactive wells is currently at 1,658 wells. The price point for those wells is \$40 WTI for 90 days. Those are wells that have some type of mechanical failure or operating cost that can't be met when the price of oil is below \$40. These are wells that have previously

been producing and now have gone inactive. He stated that the Oil and Gas Division doesn't count them as inactive until they have had no production for 3 consecutive months.

There was discussion regarding gas capture. The point was made that current gas capture is already meeting the gas capture goal of 85% set for November. It is looking very good. Mr. Helms indicated that two more gas plants are scheduled to come on line this year. Lonesome Creek came on in January and is running at full capacity and Wild Basin and Bear Creek will come on line the second half of this year. When those come on line he believes the gas capture will be at or above 90% capture this fall. It was noted, however, that when the price point of \$50 is reached there could be some challenges in certain areas when operators start fracking wells and wells start producing--there are some wells that are shut in right now that could in a very short period of time begin producing again if the price comes back up. Mr. Helms stated that the gathering and gas processing companies plan as big a summer as ever.

Mr. Hicks also provided an end of the year report on performance: (The graphs are available in the Commission files.)

- Oil & Gas Permits Issued
- UIC Permits Issued
- Orders Signed-Cases Heard (Orders are down to 500 from 1500 that need to be drafted/issued)
- Well Construction
- Field Inspections
- Mechanical Integrity Tests
- Sales Meter Tests

Mr. Helms reviewed how the staff is being reassigned to different areas within the department.

There was discussion on the production levels and how it has continued to remain above 1.1 million barrels when there have been two quarters of low prices. It was noted that when the wells begin to be fracked there could be a surge in sales tax income.

In response to the question there was discussion about a new fracking model -- increasing the amount of sand and the research has shown results in a longer production life for the well and also increases the production overall in the beginning and middle stages. Mr. Helms noted that the Industrial Commission through the Oil and Gas Research Program has provided funding for the Bakken Optimization Project. The Oil and Gas Research Program dollars are matched with funding from several oil operators and they are looking at various fracking models including a 50 stage model and a super frack which includes a higher amount of water and sand. He indicated that the staff is seeing year over year increases of 10 to 12% in the number of fracks that fit into the super frack category. This research is also looking at heel and toe setbacks. It was noted that the increased volumes of sand used in the fracking operations will increase the amount of sales tax revenues since sand is taxed.

In response to a question, Mr. Helms indicated that production in North Dakota has been relatively stable; Alaska's production is declining slowly; Oklahoma's production is declining similar to North Dakota, Texas is declining quite rapidly. The wells in the Eagle Ford have a higher decline rate and the wells are closer spaced and so the decline rate in the Eagle Ford is much higher than in North Dakota. The month over month production declines for the United States are primarily in the Eagle Ford and the Permian Basin. He indicated that in talking with operators, Bakken always ranks in the top three in terms of places to invest. It ranks #3 in the \$40 to \$50 WTI range and in the \$50 to \$60 WTI range it jumps to number two above the Eagle Ford and above \$60 WTI it is number one. It out performs the Eagle Ford and the Permian at above \$60. The oil prices and production will come back but when is impossible to predict. He indicated that the Secretary General of OPEC had stated: "We had no idea how low the oil price

would go when we opened up the valves.” He noted that it is difficult to do revenue forecasting when the entity that engineered the oil price reductions did not know what the results would be.

Mr. Hicks presented the Department of Mineral Resources Oil and Gas Division 2016 Strategic Plan. (A copy is available in the Commission files.) He noted the changes that were being proposed from the previous year. The Commission discussed the work that is being planned regarding the RBDMS platform - indicated that the staff should be cautious with information technology investments.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the Department of Mineral Resources Oil and Gas Division 2016 Strategic Plan as follows:

**OIL AND GAS DIVISION
STRATEGIC PLAN
March 28, 2016**

MISSION

Encourage and promote the development, production, and utilization of oil and gas in the state in such a manner as will prevent waste, maximize economic recovery, and fully protect the correlative rights of all owners to the end that the landowners, the royalty owners, the producers, and the general public realize the greatest possible good from these vital natural resources.

GOALS

- 1) Give timely hearing, consideration, and processing to all forms and applications.
- 2) Open communication with the Industrial Commission.
- 3) Achieve clean audits, high employee morale and professionalism, and efficient use of division employees and assets.
- 4) Leadership in maintaining good relationships with other state agencies, federal agencies, and the legislature.
- 5) Service over 3,000 website subscribers and the data needs of seven state agencies through our current Risked-Base Data Management System (RBDMS) and web servers by avoiding legislative attempts to consolidate our servers into the Information Technology Department.

IMPLEMENTATION

1-YEAR

- 1) Provide regular quarterly reports to Industrial Commission members.
- 2) Collaborate with Industrial Commission members to develop policy and procedure for complaints and penalties.
- 3) Develop web-based forms and batch systems to implement electronic filing of “most used” Oil and Gas Division forms.
- 4) Provide computer and job skill training for appropriate agency staff.
- 5) Review and revise Rules and Regulations as appropriate.
- 6) Review and recommend revisions to Century Code as appropriate.

- 7) Develop tier-subscription services to provide daily, weekly, and monthly data downloads for industry.
- 8) Provide funding to contract database and business needs assessment interviews with RBDMS users and analyze results to recommend best platform to implement.
- 9) ~~Coordinate with TOPCORP to provide training courses for OGD staff in petroleum geology & engineering, petroleum technology, communication, and environmental management.~~
- 10) Develop a regulatory pipeline program and rules pursuant to Energy and Environmental Resource Center recommendations per study due December 1, 2015.
- 11) Coordinate with Oil and Gas Research Council and research facilities in North Dakota to determine best techniques for remediating salt and other contamination from soil surrounding legacy waste pits.
- 12) ~~Provide funding through AWPSRF to Agriculture Department in establishing a pilot program to provide technical assistance and support to surface owners on pipeline restoration and reclamation.~~
- 13) Provide funding for North Dakota Department of Health's Environmental Quality Restoration Fund through AWPSRF.
- 14) Defend State's rights with regard to hydraulic fracturing, chemical disclosure, methane emissions, and other federal regulatory overreach.

IMPLEMENTATION

3-YEAR

- 1) Provide regular quarterly reports to Industrial Commission members.
- 2) Provide additional training and professional development opportunities for entire agency staff.
- 3) Continue scanning new case and well files.
- 4) Increase field inspection and support staffing.
- 5) Review and revise Rules and Regulations as appropriate.
- 6) Review and recommend revisions to Century Code as appropriate.
- 7) Continue developing web-based and batch forms for electronic filing of remaining Oil and Gas Division forms.
- 8) Set up procedure for carbon dioxide administration.
- 9) Upgrade current RBDMS to a ~~.net~~ web-based platform.

IMPLEMENTATION

5-YEAR

- 1) Provide regular quarterly reports to Industrial Commission members.
- 2) Continue scanning new case and well files.
- 3) Begin utilizing Internet / Video Conferencing for expert testimony at hearings.

- 4) Provide training and professional development opportunities for entire staff including tuition reimbursement.
- 5) Review and revise Rules and Regulations as appropriate.
- 6) Review and recommend revisions to Century Code as appropriate.

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

Mr. Helms presented a proposed welcome letter for 2016 Williston Basin Petroleum Conference - May 24-26, 2016 in Bismarck, North Dakota.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approve the Welcome Letter for the 2016 Williston Basin Petroleum Conference as follows:

2016 Williston Basin Petroleum Conference
May 24-26, 2016
Bismarck, North Dakota

Greetings!

The North Dakota Industrial Commission welcomes you to the 2016 Williston Basin Petroleum Conference. For more than twenty years this conference has provided an avenue for geologists, engineers and oil industry experts to exchange ideas, provide technical support to one another and gather a better perspective of what lies ahead for this dynamic industry.

Now more than ever it is critical for great minds from both sides of the U.S. - Canadian border to come together to create, foster and encourage new ideas so this important industry can thrive not only during times of great economic successes, but during leaner years as well.

We are happy to host this successful conference once again in the great State of North Dakota. With our coordinating agency, The Department of Mineral Resources, we look forward to continued partnership with our co-sponsors from the Saskatchewan Ministry of the Economy and the North Dakota Petroleum Council.

The next great technological advancement starts here! Best of luck to you all!

Sincerely,

Jack Dalrymple
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 Resource business, Governor Dalrymple adjourned this portion of the meeting and the Commission took up Outdoor Heritage Fund business at 2:37 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on March 28, 2016 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: Jim Melchior, OHF Advisory Board
Patricia Stockdill, OHF Advisory Board
Keith Trego, ND Natural Resources Trust
Terry Albee, ND Natural Resources Trust
Michael Findlay, Ducks Unlimited
DeAnn Ament, Public Finance Authority
Bonnie Storbakken, Governor's Office
Jessie Pfaff, Agriculture Department
Blake Crosby, ND League of Cities
Members of the press

Governor Dalrymple called the Outdoor Heritage Fund (OHF) portion of the Industrial Commission meeting to order at 2:37 p.m. following completion of Department of Mineral Resource business.

Mr. Jim Melchior, OHF Advisory Board (Board) Chairman reported back from the Board on the additional information the Board had received on Grant Round 006-017 application - Working Grassland Partnership submitted by North Dakota Natural Resources Trust and 3 co-applicants. (A copy is available in the Commission files.)

Mr. Melchior said the Commission asked that this application be taken back to the Board to obtain answers to questions regarding delivery, roles of the partners, copy of the lease, etc. He said they sent the questions that the Commission had raised to the applicant and the Board had reviewed the questions and the applicant's responses at a meeting held on March 15. After reviewing the information the Board recommended sending the application back to the Commission along with the answers to the questions for further consideration. (Copies of the questions and the responses are available in the Commission files.)

Governor Dalrymple said the open ended questions the Commission had were well answered. We have two options for approval with one including the 60/40% cost share the Commission has recently been approving on similar projects and from what he has heard there are a number of people that would be more comfortable with that level of cost share rather than the requested 75/25% cost share.

Mr. Melchior said the cost share percentage was discussed during the March 15 Board meeting. The Trust did say they were willing to accept the 60/40% cost share if required by the Commission but they indicated that their application had been submitted with a 25% match and that is what the Board had recommended to the Commission. No Board member made a motion to change the percentage from the 25% so right now the Board's recommendation is with the 75/25% cost share.

Governor Dalrymple suggested that the Commission may want to be cautious at this time and if revenues improve the Board/Commission can always improve the cost share or if we feel we are not attracting enough projects we can improve the cost share. He stated that the Commission does want to follow the Board's recommendations.

Mr. Melchior said the Board in the past has recommended funding at the 60/40% cost share so this isn't the only one. His personal opinion is that there should be a level set by the Board/Commission so the applicants can use that as the basis for their applications. However, at this point, the Board has not adopted a clear cut 60/40% cost share recommendation. He thinks it should be something that they put on the Board agenda to see if the Board can reach a consensus on the cost share percentage.

Commissioner Goehring said the standard throughout most of the industry is 60/40% cost share. If you are talking about the programs managed by the Soil Conservation Districts and the NRCS, every farmer or rancher that walks in the door knows it is 60/40% cost share. Mr. Melchior said yes, when it comes to the federal agencies that is correct.

There was discussion about what the level of cost share should be; usage of the program to date by the applicants; whether priority should be given to those projects that will utilize the monies immediately; monies being used to make lease payments; the role of the Soil Conservation Districts; the role of each of the partners in these joint applications; and landowner preferences for who they want to work with.

In response to a question regarding if anyone is following up on utilization or to see what is happening, Ms. Fine said that when she draws up the contracts with the successful applicants there is a schedule they must follow in reporting on the work accomplished. In addition any time the applicant wishes to be reimbursed for the work that has been completed they must send in a report. She noted that some of the contract did not begin until 2015, so they have not had a full year to get the projects going and may not have been required to submit a report until 2016. From the status reports received work is being done on the projects. There are some projects where work is being done but they haven't requested a payment at this time--they want to have everything complete before they submit a payment request.

Commissioner Goehring requested that an update be provided at the Commission's next meeting on program usage. Ms. Fine indicated she would provide that report.

Governor Dalrymple said at times in a grant program you may have a preference of what organization you think is the best to work with but for this Fund he thought the Commission had to be open to all qualified applicants and they have to function according to their application. The test is going to be in the results. If the Board/Commission sees a grant not producing the results as expected then the Board/Commission will be able to make adjustments. The Board will be able to take that into consideration when making their recommendations.

In response to a question, Mr. Melchior and Ms. Fine explained the votes that had been taken on this particular application on November 30. The 9 - 0 vote taken on March 15 was to send the application back to the Commission with the additional information that had been received.

Commissioner Goehring indicated that he thought the Board was going to re-look at the application. It was his preference that the Commission say no to this particular application and the applicant can submit a new application.

Mr. Melchior said based on the Board's understanding, when it was sent back it was not sent back for a re-vote – no one requested a re-vote on it – there was a motion to send it back to the Commission the way it was. That is the motion that passed with the members present at the last meeting and there were three voting members absent at that meeting.

Governor Dalrymple said there were some questions the Commission wanted answered including how the landowners were going to be exposed to this opportunity. If the questions were not answered well, we

probably would be rejecting it but as he understands it, they were answered well enough that the Board sent it back to us. Mr. Melchior said that was correct.

Attorney General Stenehjem said this application is for over \$1,000,000 and we now know that there are less revenues coming into the Fund; having the smaller percentage might make a difference. Mr. Melchior said this application was approved back in November when the forecast was considerably higher than the February forecast.

In response to a question on usage of dollars by a particular applicant, Ms. Fine said there was a process that had to be established that took a little bit longer because the full funding was not awarded. They had to do some partial funding and had to bring in a partner so then yes, it took some time. Once we got the contract signed they moved forward and the records show they have contracts in place, they just haven't requested the money.

Attorney General Stenehjem said it appears that the Board is saying they want a bright line from the Commission on what is the least amount we have to put in so we have funding available for other things. Mr. Melchior suggested that the Board discuss this issue and make a recommendation to the Commission. Attorney General Stenehjem said the Board would be in a better position to know what the percentage should be based on the applications that they have considered over the past two years. Mr. Melchior said the current guidelines have a 75/25% split which is a minimum of 25% cost share and what he has heard from the Commission members and some of the Board members, it is probably due for review and vote by the Board to set this standard in the application that on all landowner cost share projects that they be 60/40%.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the Outdoor Heritage Fund Advisory Board's recommendation and approve the funding of the Working Grassland Partnership Project in the amount of \$1,097,250 and authorizes the Industrial Commission Executive Director to enter into a contract with the North Dakota Natural Resources Trust with the stipulation that there will be a 60/40% cost sharing for the implementation of the livestock and grassland bird friendly development practices such as livestock water installation and livestock fencing practices.

Attorney General Stenehjem said he hopes there will be some discussion by the Board regarding the appropriate cost share percentage taking into consideration the impact of the reduced revenues on the program.

Commissioner Goehring noted that he seconded this motion; he wasn't going to make the motion. However, in the future he would not make or second a motion on any applications that are of a similar nature.

Governor Dalrymple said Commissioner Goehring has made it clear that he thinks there are better ways of approaching this and that there are other groups that are more effective in doing this type of work. Mr. Melchior will take that back to the Board. This application has been in the process for so long, he feels like they should honor the fact that they've obviously done a lot of work already to get to this point. Knowing we are not setting any precedence, other than if any similar application comes through 60/40% cost share will be the established rate, he proceeded with the vote.

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

The Commission thanked Mr. Melchior for coming in and presenting the Board's position on the issue.

Mr. Melchior noted that a Board member resigned recently and he requested, if possible, that an appointment to fill that position be made prior to the April 22 Outdoor Heritage Fund Advisory Board meeting. Governor Dalrymple indicated that his office is working on filling the vacant position.

Mr. Melchior said the last thing he has under other business is the forecast. Based on the February forecast and with the action today, the Board/Commission will have about \$4.7 million available for the rest of this biennium. The current Grant Round 7 applications total over \$8 million. The Grant Round 7 applications include several soil conservation projects. The Board will be looking at those applications along with the other applications knowing where we are at with the actual revenues versus the forecasted revenues. We do not want to be awarding grants where money will not actually be received during the biennium.

Governor Dalrymple said Mr. Melchior is correct to be cautious about where they will be money wise but he hopes they will continue to have grant rounds and continue to look at applications because part of this functioning well is to have a continuous process going on. Even if there was a meeting and only approved one grant, there is nothing wrong with that or you could approve zero but he thinks they should keep the process underway. Attorney General Stenehjem said it would help the Commission know what kind of interest there is in the program but we must also be careful not to raise expectations.

Being no further Outdoor Heritage Fund business, Governor Dalrymple adjourned this portion of the meeting and the Commission took up Public Finance Authority business at 3:05 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on March 28, 2016 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

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

Also
Present: DeAnn Ament, Public Finance Authority
Bonnie Storbakken, Governor's Office
Jessie Pfaff, Agriculture Department
Blake Crosby, ND League of Cities
Members of the press

Governor Dalrymple called the Public Finance Authority portion of the Industrial Commission meeting to order at 3:05 p.m. following completion of Outdoor Heritage Fund business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a Drinking Water SRF loan request for Pick City in the amount of \$1,365,000. She said the total project cost is \$2,000,000 but they qualify for \$827,000 of loan forgiveness so the net loan will be \$537,500 when fully funded. They are looking at a thirty year term and have 138 users currently that have a base rate of \$25.00 – depending upon how the bids come back they are looking at a \$20.00 per user per month increase which would be sufficient to generate the funds to meet the Authority's 120 percent coverage. The Advisory Committee recommended approval.

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

RESOLUTION APPROVING
LOAN FROM DRINKING WATER STATE REVOLVING FUND

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

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

WHEREAS, the City of Pick City (the "Political Subdivision") has requested a loan in the amount of \$1,365,000 from the Program to finance pump house improvements and new pipe; and

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

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

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

1. The Loan is hereby approved, as recommended by the Advisory Committee.

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

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

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

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

Ms. Ament presented a memorandum regarding loan approvals as follows:

Re: Robinson, Drinking Water State Revolving Fund
Dwight, Clean Water State Revolving Fund
Jamestown, Clean Water State Revolving Fund
Makoti, Clean Water State Revolving Fund
Enderlin, Drinking Water State Revolving Fund
Makoti, Drinking Water State Revolving Fund
Parshall, 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 Robinson requesting a loan in the amount of \$105,500 under the Drinking Water State Revolving Fund Program to finance removal of existing well house and install an underground well structure. Total construction costs of this project are \$180,500 and \$75,000 will be provided through the CDGB. This project qualifies for up to \$79,125 of loan forgiveness; the net amount of the loan will be \$26,375 when fully funded. The requested loan term is 20 years. The City will issue revenue bonds payable with user fees.

The committee reviewed an application from the City of Dwight requesting a \$100,000 loan under the Clean Water State Revolving Fund (CW SRF) Program to finance the lining of manholes, addition of chimney seals and a new sanitary sewer lift station. Total construction costs are estimated at \$286,200 with CDBG providing an \$186,200 grant. The requested term for the CW SRF loan is 30 years. The City of Dwight will issue revenue bonds payable from sewer user fees.

The committee reviewed an application from the City of Jamestown requesting an increase of \$75,000 to the previously approved \$450,000 loan (total \$525,000) under the Clean Water State Revolving Fund (CW SRF) Program to finance the development of sanitary landfill cell 3BW. Total construction costs are

estimated at \$525,000. The requested term for the CW SRF loan is 20 years. The City of Jamestown will issue revenue bonds payable with landfill user fees.

The committee reviewed an application from the City of Makoti requesting a \$150,373 loan under the Clean Water State Revolving Fund (CW SRF) Program to finance replacing the sanitary lift station and force main. Total construction costs are estimated at \$385,000 with \$234,627 being provided by CDBG. The requested term for the CW SRF loan is 20 years. The City will issue revenue bonds payable with sewer user fees.

The committee reviewed an application from the City of Enderlin requesting a loan in the amount of \$340,000 under the Drinking Water State Revolving Fund (DW SRF) Program to finance drilling a new well, and replacing the pebble-lime screw feeder and lime slaker as well as rehabilitating the CO2 tank and vaporizer. Total construction costs for this project are estimated at \$524,890, with the difference of \$184,890 being provided by CDGB. The requested loan term is 20 years. The City will issue revenue bonds payable with user fees

The committee reviewed an application from the City of Makoti requesting a \$362,450 loan under the Drinking Water State Revolving Fund (DW SRF) Program to finance a 200,000 gallon elevated water tower and a new transmission line to tie to the new water tower. The total construction costs are estimated at \$1,412,450 with \$1,050,000 being provided by a MR&I grant. This project qualifies for up to \$218,000 of loan forgiveness; the net amount of the loan will be \$144,450 when fully funded. The requested term for the DW SRF loan is 20 years. The City will issue revenue bonds payable with water user fees.

The committee reviewed an application from the City of Parshall requesting an increase of \$723,000 to its existing \$2,887,500 loan for a total of \$3,610,500 under the Drinking Water SRF Program to finance the construction of a new water treatment plant. Total construction costs are estimated at \$13,408,055, with the remaining funds coming from State MR&I (\$1,547,555) and USACE (\$8,250,000). The requested term for the DWSRF loan is 20 years. The City will issue revenue bonds payable with user fees for this project.

The Public Finance Authority's Advisory Committee approved the Robinson loan at their February 10, 2016 meeting and all other loans were approved at the March 15, 2016 meeting.

Governor Dalrymple requested that Ms. Ament work with the State Water Commission and the League of Cities on how best to coordinate and utilize some additional federal funds to meet water needs across the state.

Ms. Ament indicated that the Authority has been working with a number of loan applications this first quarter--especially with the Capital Financing Program. She noted that the State's recent downgrade is impacting the program and it may be more advantageous for some municipalities to go directly to the capital market rather than using the Public Finance Authority programs. She, along with the finance team, is working on how best to structure it's financings with the recent rating adjustment.

Being no further Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting and the Commission took up Bank of North Dakota business at 3:11 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKTOA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on March 28, 2016 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

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

Also
Present: Eric Hardmeyer, Bank of North Dakota
Todd Steinwand, Bank of North Dakota
John Ward, Savage
Darrel Lingle, Eide Bailly
Bonnie Storbakken, Governor's Office
Jessie Pfaff, Agriculture Department
Blake Crosby, ND League of Cities
Members of the press

Governor Dalrymple called the Bank of North Dakota portion of the Industrial Commission meeting to order at 3:15 p.m. following completion of Public Finance Authority business and a short break.

Mr. Darrell Lingle, Eide Bailly, presented the Beginning Farmer Revolving Loan Fund - 12/31/15 audit. (A copy is available in the Commission files.) He said their firm had issued an unmodified or an unqualified opinion over the financial statements – the highest level of assurance that their firm can provide over the financial statements. He reviewed the various reports and communications that they are required to do under the government accounting standards and found no issues or matters of non-compliance that needed to be reported to the Commission. It is a clean audit.

Mr. Lingle presented the Community Water Facility Loan Fund - 12/31/2015 audit. (A copy is available in the Commission files.) He said their firm had issued an unmodified or an unqualified opinion over the financial statements – the highest level of assurance that their firm can provide over the financial statements. He reviewed the various reports and communications that they are required to do under the government accounting standards and found no issues or matters of non-compliance that needed to be reported to the Commission. It is a clean audit.

Mr. Eric Hardmeyer, Bank of North Dakota President, presented the following six proposed Resolutions that needed to be updated with new signatures from the new management team at the Bank:

Resolution Designating A Depository of the Bank of North Dakota - Federal Home Loan Bank
Resolution Designating A Depository of the Bank of North Dakota - JP Morgan Chase
Resolution Designating A Depository of the Bank of North Dakota - US Bank
Resolution Designating A Depository of the Bank of North Dakota - First Tennessee Bank
Resolution Designating A Depository of the Bank of North Dakota - Wells Fargo
Resolution Designating A Depository of the Bank of North Dakota - Federal Reserve Bank

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the Resolution designating the Federal Home Loan Bank of Des Moines as a depository for the Bank of North Dakota as presented and available in the Commission files. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the Resolution designating JPMorgan Chase as a depository for the Bank of North Dakota as presented and available in the Commission files. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the Master Services Agreement with US Bank and authorize the Industrial Commission Executive Director and Secretary to execute the Master Services Agreement on behalf of the Industrial Commission and the Bank of North Dakota as presented and available in the Commission files. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the Resolution designating First Tennessee Bank National Association as a depository for the Bank of North Dakota as presented and available in the Commission files. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the Resolution for Depository Accounts and Treasury Management Services with Wells Fargo and authorize the Industrial Commission Executive Director and Secretary to execute the Authorization Certificate on behalf of the Industrial Commission and the Bank of North Dakota as presented and available in the Commission files. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the Resolutions authorizing the Bank of North Dakota to Open and Maintain Accounts and Use Services of the Federal Reserve Bank and authorize the Industrial Commission Executive Director and Secretary to certify the adoption of the Resolutions on behalf of the Industrial Commission and the Bank of North Dakota as presented and available in the Commission files. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Hardmeyer presented a proposed resolution authorizing certain BND employees to execute loan instruments. This is being done to reflect the new management structure and management team including the business bankers.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission adopt the Resolution Authorizing Bank of North Dakota Employees to Execute Loan Instruments as presented. (A copy of the Resolution is available in the Commission files.) On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Hardmeyer and Mr. Joel Erickson provided the Commission with a copy of the Western Area Water Supply Authority updated debt schedule/report that was recently presented to the Water Topics Committee. (A copy of the report is available in the Commission files.) He also distributed a copy of the “waterfall” of how debt service is to be paid as stated in the law. (A copy is available in the Commission files.)

Mr. Hardmeyer described each part of the worksheet and the related debt:

- Debt Service on the Public Finance Authority SRF Loans - Existing Debt
- Participating Members Other Debt that is to be paid from industrial sales
- Baseline 2010 Industrial Water Sales Revenues Requirements
- State Guaranteed Loans.

He noted what was currently being paid on the various State Guaranteed loans:

- BND Loan #1 - interest only as WAWS had prepaid this loan until July 2017
- BND Loan #2 - interest and principal
- General Fund 5% Loan - interest payments deferred until July 2017
- Resources Trust Fund 5% Loan - interest payments deferred until July 2017
- Resources Trust Fund 0% Loan - no payments being made
- Resources Trust - 2.5% Loan - interest payments only
- Resources Trust - 2.5% Loan - interest payments only

He noted that in regards to the baseline sales this worksheet shows no payments being made in 2016. It is his understanding that Mr. Wirtz is still working with the member entities to reach agreements that during these economic times, when there are limited sales, the baseline payments will not be made.

Mr. Hardmeyer then reviewed the breakeven sales that are needed to service outstanding debt. For 2016 WAWS needs to make payments totaling \$8.2 million. To generate that kind of revenue and to cover their operating and maintenance costs (21%) WAWS needs to have \$10.45 million of sales (monthly \$871,570). He noted that for the first two months of 2016 WAWS averaged \$822,000. If the baseline sales of \$399,982 per month are paid, then WAWS will need almost \$1.37 million in monthly sales to breakeven. If the other debt payments currently being deferred are added, the breakeven is \$2.3 million a month. Mr. Hardmeyer said that is the number that had been identified from day one--WAWS needs \$2.3 million in sales to make this thing work completely.

There was discussion regarding the baseline sales--why the baseline sales payments to the member entities were put in place, monthly amount of just under \$400,000, status of discussions with the member entities, etc. There was also discussion about the domestic sales and whether the cash flow from domestic sales is available to pay any of this debt. It was noted that WAWS is working hard to be able to service the debt--that is all that the Commission can ask of them--work hard and keep trying to generate sales. It was pointed out that it was important that WAWS reach agreement with the member entities to delay or waive the baseline payments at this time.

Mr. Hardmeyer noted that on the state guaranteed loans the amortization schedules for the BND loans is different from the other loans -- BND #1 loan is set up to be paid off by 2021. Typically a water system loan would have a longer repayment period--perhaps as long as 30 years. This is an area that the Bank may need to look at again. The Commission noted that would be helpful as WAWS works through this rough patch of limited sales opportunities.

In response to a question about WAWS being able to access the Water Commission grant monies of \$60 million that had been appropriated, Ms. Fine stated that Mr. Wirtz has been looking at various options for raising the \$10 million needed to get the remaining \$30 million of grant dollars. (They have already obtained \$10 million to get the initial \$30 million of grant monies by pledging domestic sales revenues on a Water Commission Revolving Loan Fund loan.) He will be reporting to the Commission at a future meeting of what he has identified as possible sources.

Mr. Hardmeyer presented the non-confidential Bank of North Dakota Advisory Board January 8 and January 28, 2016 meeting minutes.

Under other business Mr. Hardmeyer reported that the transition from the North Dakota Guarantee Agency of the Federal Student Loan Guarantee Program to Great Lakes will be completed on Friday, April 1. He indicated that the staff had been working very hard on this over the past six months to make it a smooth transition. He noted that the federal student loans will continue to be serviced by the Bank but if there is a default the claim will be paid by Great Lakes rather than the North Dakota Guarantee Agency. This is something that the Commission had approved last year when it became apparent that with the dwindling volume of federal student loans it was no longer cost effective to continue to do this work. He noted that after the transition any remaining dollars will be put into the Bank's equity.

Mr. Hardmeyer updated the Commission regarding the Farm Financial Program. He stated that they are four months into this program with three months remaining. The Bank has approved 214 loans for about \$100 million. Currently Bank staff is estimating that between \$150 million and \$175 million of the total amount of \$300 million that had been allocated for this program will be utilized. He indicated that the Bank had brought in two loan officers dedicated to work on these loan applications. Governor Dalrymple indicated that he had heard good comments about the Program. Commissioner Goehring stated that the current conditions for agriculture are very difficult especially for the younger, newer farmers that came into the business in the last 7 to 10 years. The only thing they had as equity was some equipment and that has now been devalued to the point that they can't even offer that as security. There has been increased activity in the Agriculture Mediation Program. Unfortunately there are going to be some farmers that won't survive this situation. Mr. Hardmeyer stated that even though they may not use the entire \$300 million this year they are looking at this program one year at a time and are not committing anything to future years.

Mr. Hardmeyer reported that Bank management has started doing economic development meetings around the state to discuss the Bank's programs and to find out if there are financing gaps that the Bank could assist with or if there were programs that should be considered by the legislature. It was indicated that a needs assessment is a good idea.

Governor Dalrymple indicated that he has had input from individuals and state legislators who are concerned about the message the Bank is sending by spending \$17 million on the new commerce building at a time when General Fund agencies are being asked to save 4.05% of their budgets. He noted that although he has pointed out that the construction of this building is different from state budgeting -- it is an income earning asset on the Bank's balance sheet that will have very little effect on the State's access to cash--it would be appropriate to hold off on this project at this time. Even though the Legislature authorized the project he would recommend that the Bank, with the Commission's direction, examine the project and try to identify any costs savings and spend some time discussing the value of the project. He stated the Bank should go through that process -- this is not about whether we do or don't build it -- it is about demonstrating that we are good stewards.

Attorney General Stenehjem said he has heard from people as well and he agrees that this would not be a good time to proceed with the construction of the building. Things may change and we can look and see how things go moving forward but it is not a good idea to proceed now.

Commissioner Goehring said he was very proud of the state businesses and how they have been managed to be an asset for North Dakota--they are a generating revenue asset. The Legislative gave a directive and also set a goal that the Bank had to reach--\$125 million in profits which would trigger the Bank's ability to spend \$17 million of not General Fund money but assets or capital. He thought this project was

a good idea and it had been approved by the Legislature. However, he would not disagree with backing up and reassessing and making sure we can thoughtfully put pen to paper and show that this is the prudent thing to do.

It was indicated that it was important for the Bank to visit with legislators and provide information to the public of the value of this project and that it is an investment for the Bank. The Bank should also use this time to look at possible savings.

In response to a question regarding construction costs going down, Mr. Hardmeyer said yes that is true. The Bank has hired the architect and a construction manager is under contract – the architectural work can be used now, six months or a year from now. The construction costs are down so now is a good time and competition is our friend. Competition will be there for a while. He indicated that he will proceed as the Commission has directed and go back and take a look at the project to see if there are any cost savings and also provide information on the value of this idea. He believes it is a good concept, one that in the long run saves the state money and will allow the commerce agencies to work together more closely.

Governor Dalrymple closed the meeting at 3:57 p.m. pursuant to North Dakota Century Code 6-09-35 to discuss the items on the agenda under Bank of North Dakota confidential business.

Following the confidential portion of the meeting, the Commission reconvened in non-confidential session at 4:06 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 19. In non-confidential session, on a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Being no further Bank of North Dakota business, Governor Dalrymple adjourned this portion of the meeting and the Commission took up Western Area Water Supply Authority business at 4:07 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKTOA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on March 28, 2016 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: John Ward, Savage
Joel Erickson, Bank of North Dakota
Todd Steinwand, Bank of North Dakota
Bonnie Storbakken, Governor's Office
Jessie Pfaff, Agriculture Department
Members of the press

Governor Dalrymple called the Western Area Water Supply Authority (WAWS) portion of the Industrial Commission meeting to order at 4:08 p.m. following completion of Bank of North Dakota non-confidential business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, indicated that Jaret Wirtz would not be joining the meeting today. She presented the February monthly financial report as follows:

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

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

Page 1 prepared by the Bank of North Dakota, reflects debt service payments through the month of February, 2016. In February 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 February revenues and expenses and net income. On page 2 you will see that there was a capital improvement disbursement (highlighted in orange) for the capital expenditures approved by the IC at the February meeting and the one principal payment made in February is highlighted in yellow. Net income for the month of February was (\$248,890.79) before making their principal payment. Page 5 is the balance sheet prepared by WAWS staff as of February 29, 2016. As noted on the Balance Sheet the Accounts Receivables are \$1,885,117.40 which is included in the assets of \$2,059,008.92. 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 on these financial reports although those payments are held in the accounts payable and have not actually been disbursed.

Ms. Fine reported Mr. Wirtz had informed her that WAWS will have completed their discussions with the member entities regarding the baseline sale payments by the second week of April (member entities actions were taking place at their regular monthly meetings during the second week) and that Mr. Wirtz would be reporting at the Commission's next meeting the results of those discussions.

Commissioner Goehring noted that the previously provided water sales statistics showing WAWS industrial water sales at 17% included the sales for the entire five county area and included areas where

WAWS did not operate. It was suggested that more detailed information be obtained from the Water Commission. Ms. Fine indicated that she would contact the Water Commission and see what kind of detailed information they can provide.

There was discussion that this is a difficult time for all the water providers and until the price of oil comes back and the oil companies begin to drill, frack and complete wells there will be challenges for all the providers. Everyone has debt to service and there will be competition for the sales that are taking place.

Being no further WAWS business, Governor Dalrymple adjourned this portion of the meeting and the Commission took up Industrial Commission administrative business at 4:12 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKTOA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on March 28, 2016 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

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

Also
Present: Bonnie Storbakken, Governor's Office
Jessie Pfaff, Agriculture Department
Shirley Campbell, Industrial Commission Office
Members of the press

Governor Dalrymple called the Administrative portion of the Industrial Commission meeting to order at 4:12 p.m. following completion of Western Area Water Supply Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the June - December, 2015 meeting minutes and February 16, 2016 meeting minutes for the Commission's consideration.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the June - December, 2015 Industrial Commission confidential and non-confidential meeting minutes be approved as presented. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the February 16, 2016 Industrial Commission confidential and non-confidential meeting minutes be approved as presented. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Fine provided the Commission with a draft of the job description for the Industrial Commission Executive Director/Secretary position. (A copy of the job description is available in the Commission files.) Ms. Fine said the Commission had asked for this information and once her job description was finalized she was directed to develop a deputy job description. The Commission members reviewed the information and had no suggested changes.

In regards to the question of whether the position should require a law degree, Ms. Fine stated that in the draft job description she had noted that legal and accounting experience would be beneficial to the job. The job descriptions could be developed with those degrees as being preferred. It was noted that there are some very competent people that don't have a law or accounting degrees that the Commission might want to consider for the positions.

Governor Dalrymple stated that it was his recommendation that both the Executive Director/Secretary and Deputy Executive Director/Secretary positions be unclassified. Currently the Executive Director/Secretary position is classified. Ms. Fine reviewed the process for getting a classified position changed to an unclassified position.

The Commission discussed the importance of getting a deputy in place for purposes of succession and to assist with the Executive Director's current workload. Ms. Fine was directed to discuss with HRMS the appropriate salary range for the deputy position.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission direct the Industrial Commission Executive Director and Secretary to request from the OMB Human Resources Management Services Division and the State Personnel Board an exemption from classified service for the Industrial Commission Executive Director and Secretary and Deputy Industrial Commission Executive Director and Secretary positions due to the direct accountability of these two positions to the Industrial Commission and the administrative oversight these positions have to the Commission's agencies and the directors of the Commission's agencies are not classified under the classification system. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Being no further Administrative business, Governor Dalrymple adjourned the meeting at 4:22 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary