

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on August 23, 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: Jessica Pfaff, Agriculture Department
Bonnie Storbakken, Governor's Office
Jolene Kline, Housing Finance Agency
Max Wetz, Housing Finance Agency
Pat Nagel, Housing Finance Agency
DeAnn Ament, Public Finance Agency
Jayden Grossman, Attorney General's Office
Members of the Press

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

Ms. Jolene Kline, Housing Finance Agency Executive Director, presented the Supplemental General Authorization Resolution for the North Dakota Housing Finance Agency, Homeownership Revenue Bonds, Home Mortgage Finance Program, 2016 Series C - \$60,800,000, 2016 Series D - \$63,610,000 and 2016 Series E - \$5,160,000 that were recently sold.

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

(STATE OF NORTH DAKOTA)
NORTH DAKOTA HOUSING FINANCE AGENCY
HOMEOWNERSHIP REVENUE BONDS
HOME MORTGAGE FINANCE PROGRAM
2016 SERIES C - \$60,800,000
2016 SERIES D - \$63,610,000
2016 SERIES E - \$5,160,000

**SUPPLEMENTAL
GENERAL AUTHORIZATION RESOLUTION**

WHEREAS, the Industrial Commission of North Dakota (the "Commission"), acting in its capacity as a state housing finance agency, i.e., the North Dakota Housing Finance Agency (the "Agency"), is empowered by the provisions of the North Dakota Century Code Chapter 54-17 (the "Act") to establish and has established a home mortgage finance program to contract to purchase from lenders mortgage loans made to persons or families of low or moderate income to finance the purchase or substantial rehabilitation of owner occupied, residential dwelling units; and

WHEREAS, the Commission adopted the Housing Finance Agency Homeownership Revenue Bonds General Bond Resolution of 2009 (the "General Resolution") wherein Wells Fargo Bank, National Association, Minneapolis, Minnesota, was appointed trustee (the "Trustee"), which General Resolution was accepted by the Trustee, and which General Resolution is hereby ratified and confirmed; and

WHEREAS, the General Resolution authorizes the issuance and sale of the captioned 2016 Series C Bonds (the "2016 Series C Bonds"), 2016 Series D Bonds (the "2016 Series D Bonds") and 2016 Series E Bonds (the "2016 Series E Bonds", and together with the 2016 Series C Bonds and the 2016 Series D Bonds, the "Bonds") pursuant to the Act, the application of the proceeds of which will provide funding for the captioned

Home Mortgage Finance Program (the “Program”) contemplated by the Act in furtherance of the Program for the providing of decent, safe, and sanitary housing for persons and families of low or moderate income; and

WHEREAS, the Commission acting as the Agency, pursuant to that 2016 General Authorization Resolution adopted by the Commission on December 16, 2015 (the “General Authorization Resolution”), regarding the authorization of and the negotiation and sale of the Bonds, appointed as its agents the Executive Director, the Director of Homeownership Programs, and the Chief Financial Officer of the Agency (the “Authorized Officers”) for the purpose of negotiation of the terms of sale of the Bonds, subject to the limitations set out in the General Authorization Resolution, and to sign such agreements as are required for the issuance of the Bonds on behalf of the Commission after such terms of sale had been negotiated and to sign such certificates and other documents as are necessary and customary to complete the sale of the Bonds and to enter into an agreement for their sale by the Agency and purchase by the Underwriters (as hereinafter defined, and which are so designated by an Authorized Officer); and

WHEREAS, the Authorized Officers did negotiate the sale of the Bonds on August 4, 2016, within the limitations set out in the General Authorization Resolution as to maximum principal amount, final maturity and maximum interest rate; and

WHEREAS, in furtherance of the above stated objectives, the Commission, the Agency and RBC Capital Markets, LLC, JP Morgan Securities LLC, Piper Jaffray & Co. and Isaak Bond Investments, Inc., as the purchasers of the Bonds (the “Underwriters”) have caused to be prepared and presented to the Commission for adoption after the sale of the Bonds pursuant to the terms of the Purchase Contract described below, but prior to delivery of the Bonds, the following documents in final form (unless otherwise indicated) (collectively, the “Closing Financing Documents”):

- A. 2016 Series C/D/E Bond Resolution, in substantially final form, attached hereto as Attachment A;
- B. 2016 Series C/D/E Purchase Contract, dated August 4, 2016 by and between the Commission and the Underwriters, attached hereto as Attachment B;
- C. Preliminary Official Statement with respect to the Bonds, dated July 29, 2016, attached hereto as Attachment C; and
- D. Official Statement, with respect to the Bonds, in substantially final form, dated August 4, 2016, attached hereto as Attachment D;

WHEREAS, it appears that each of the Closing Financing Documents is in the appropriate and final form (or substantially final form, subject to determination of the final terms in accordance with this Supplemental General Authorization Resolution) and is an appropriate document to be approved or executed and delivered by the Commission or the Agency, as may be necessary for the purpose intended; and

WHEREAS, in the judgment of the Commission, it is advisable that the Agency by its Executive Director, its Director of Homeownership Programs, or its Chief Financial Officer, jointly or severally, be authorized, and are hereby so authorized, to do all things necessary to complete the transaction described herein, and in the Closing Financing Documents.

NOW BE IT HEREWITH RESOLVED:

1. The execution and delivery of the Closing Financing Documents and the sale of the Bonds to the Underwriters, as specified in and in accordance with the terms set out in the Purchase Contract, is hereby authorized and the officers, agents and employees of the Commission and the Agency are hereby

authorized, empowered and directed to take any actions required to effect the transactions contemplated therein and to finalize the terms of and execute any instruments (including any continuing disclosure agreement and tax certificates or forms) and take any actions required to effect the issuance of the Bonds, and to apply the monies received by the Commission from the bond proceeds in such manner as is necessary to give effect to the Program. The officers, agents and employees of the Agency are hereby further authorized to invest the funds held under the General Resolution, including the proceeds of the Bonds, in any Investment Obligation, as defined in the General Resolution (including any investment agreement).

- All prior acts of the officers, agents and employees of the Commission and the Agency which are in conformity with the purpose and intent of the General Resolution, the General Authorization Resolution and this Supplemental General Authorization Resolution in furtherance of the sale of the Bonds shall be and the same hereby are in all respects approved, ratified and confirmed.

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

Ms. Kline provided the following information on Home Mortgage Finance Program Bonds - 2016 Series C, D & E Bond sale:

HOME MORTGAGE FINANCE PROGRAM BONDS
 Bond Sale Information
2016 CDE

Bonds Issued	129,570,000.00
2016 CDE Bond Premium	4,469,428.80
Refund Bonds	(73,239,428.80)
Debt Service Reserve	(751,198)
Cost of Issuance (Proceeds)	-
Proceeds Account	60,048,802

Cost of Issuance (Agency)	-
Estimated Number of Loans	384

Mortgage Loan Interest Rate Plans:				
(Rates adjusted daily)	30 Year Fixed (Presently)	Government	2.950%	1.5 Points
		Conventional	3.350%	1.5 Points
1% orig. Fee & ½ Point				

Eligible Loans:

FHA Insured	Conventional Insured
USDA RD RHS Guaranteed	VA Guaranteed
	Uninsured

Home Sales Price Limits:	(One Unit)
Existing	276,506
Newly Constructed	276,506

Higher Limits applicable to 2 - 4 Unit Residences

Borrower Income Limits:	75,800	to	101,890
(Limits vary by county and household size)			

Underwriters Discount Components:	\$/\$M Bonds
Management	0.75
Expense	0.54
Take-Down	6.20
TOTAL	7.49

Ms. Kline and Mr. Pat Nagel, Housing Finance Agency, Chief Financial Officer, noted that the Agency’s bond indenture received an upgrade by Moody’s from Aa3 to Aa2. This resulted in a better than expected pricing on the bonds which results in the Agency offering a lower interest rate to the Agency’s borrowers--going from 2.95% to 2.80% for the balance of the pool. The upgrade was unexpected and is a reflection on how well the indenture has been administered by the Agency. It was noted that out of the \$60,000,000 of new monies \$54,000,000 has already been reserved. Currently the average loan amount for the Agency’s borrowers is \$155,000.

Ms. Kline discussed the appointment of a Public Hearing Representative for a hearing to be held on October 10, 2016 on the proposed issuance of Housing Finance Program Bonds in an amount up to \$300,000,000. Ms. Kline said the Agency has exhausted the previous \$200 million that was authorized for the issuance of bonds so the Agency is required to hold another public hearing.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission appoints the Executive Director of the North Dakota Housing Finance Agency (the “Agency”), to represent the North Dakota Industrial Commission, (the “Commission”), acting as the Agency at the public hearing regarding the proposed issuance of Housing Finance Program Bonds, Home Mortgage Finance Program, (the “Bonds”) by the Agency, to be held in Bismarck, North Dakota, on October 10, 2016 at 10:00 A.M. (CT), as noticed by the Notice of Public Hearing. (A copy of the hearing notice is available in the Commission files.) As Hearing Representative, the Executive Director will receive in behalf of the Commission public comments, oral or written, and advise the Commission of the substance of the testimony given at the public hearing prior to the date of issuance of the Bonds. Further, The Commission orders and directs the publication of the Notice of Public Hearing to be published prior to the date set for the Public Hearing in the daily newspapers listed on Attachment 1 in the State of North Dakota in accordance with Internal Revenue Code Section 147(f). (Attachment 1 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.

Ms. Kline stated the Agency has received the 2016 Statewide Housing Needs Assessment in final form – Component One which is the real meat of the document. The numbers are projecting a 21% population increase over the next fifteen years. They are projecting that the highest growth components will be the aging baby boomers and then the child bearing component with some shrinkage in the 45 to 64 age range. The Assessment shows that there will be an increase in the number of extremely low income households and very low income households over the next fifteen years and that is probably a reflection of boomers leaving the work force. The State’s overall population will have a lower income because with that population increase you have more retail and hospitality sector employees that are typically on the lower minimum wage scale. The State will have a tilting of those younger people working the retail sectors that are going to fall into the extremely low and very low income categories and the sector with more people relying only on Social Security. The challenge will be to find ways to meet the housing needs for those two sectors of population.

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Ms. Kline noted that the Agency is in the process of scheduling meetings in each of the eight regions for the middle of September. The staff will go out along with one of the authors of the Assessment, Dr. Nancy Hodur, and present the Assessment at a regional level with city leaders and try to get their thoughts on the data and ask the questions of: Where do we go from here? How do we address what's identified in the Assessment for their region? Once those meetings are held she will be reporting back to the Industrial Commission.

Being no further Housing Finance Agency business, Governor Dalrymple adjourned this portion of the meeting at 1:08 p.m. and the Commission took up Public Finance Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA

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

Karlene Fine, Executive Director and Secretary

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Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also

Present: Jessica Pfaff, Agriculture Department
DeAnn Ament, Public Finance Agency
Members of the Press

Governor Dalrymple called the Public Finance Authority portion of the Industrial Commission meeting to order at 1:09 p.m. following completion of Housing Finance Agency business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a memorandum on loan approvals by the Public Finance Authority Advisory Committee as follows:

Re: Aneta, Drinking Water State Revolving Fund
Jamestown, Drinking Water State Revolving Fund
Noonan, Clean 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 loans.

The committee reviewed an application from the City of Aneta requesting an \$80,000 loan under the Drinking Water State Revolving Fund (DWSRF) Program to finance the replacement of 24 fire hydrants. Total construction costs are estimated at \$334,971 with \$81,651 provided by a loan from the Rural Development Finance Corporation and CDBG providing \$173,320. The requested term for the DWSRF loan is 20 years. The City of Aneta will issue revenue bonds payable with water user fees.

The committee reviewed an application from the City of Jamestown requesting a loan of \$663,000 under the DWSRF Program to finance the interior recoating and repairs to a 1.5 million gallon water tower. Total construction costs are estimated at \$663,000. The requested term for the DWSRF loan is 15 years. The City of Jamestown will issue revenue bonds payable with water user fees.

The committee reviewed an application from the City of Noonan requesting a \$694,000 loan under the Clean Water State Revolving Fund (CWSRF) Program to finance the repair of the existing lagoon dikes and construct a third lagoon cell to bring the system into compliance with current regulations. Total construction costs for this project will be \$1,070,484 with \$310,364 being provided by CDBG and \$66,120 being provided locally. This project is eligible for \$208,000 of forgiveness, so the net financing will be \$486,000. The requested term for the CWSRF loan is 20 years. The City of Noonan will issue revenue bonds payable with user fees.

The Public Finance Authority's Advisory Committee approved the Aneta and Jamestown loans at their July 20, 2016 meeting and the Noonan loan was approved at the August 18, 2016 meeting.

Ms. Ament provided the following report from the Authority's financial advisor, Public Financial Management, on the recent \$16,405,000 State Revolving Fund Program Refunding Bonds, Series 2016A bond sale:

DeAnn Ament, Executive Director North
Dakota Public Finance Authority 1200
Memorial Highway, 3rd Floor
PO Box 5509
Bismarck, ND 58506-5509

Dear Ms. Ament,

In our role as independent municipal advisor to the North Dakota Public Finance Authority (the "Authority"), Public Financial Management, Inc. ("PFM") has carefully reviewed the structure and pricing of the Authority's \$16,405,000 State Revolving Fund Program Refunding Bonds, Series 2016A (the "Series 2016A Bonds"). The following is intended to serve as a summary of the bond sale.

Transaction Summaries

\$16,405,000 State Revolving Fund Program Refunding Bonds, Series 2016A

The Authority competitively sold the Series 2016A Bonds on July 12, 2016 to advance refund a portion of the Authority's State Revolving Fund Program Bonds, Series 2008A (the "Refunded Bonds"), and pay costs of issuance related to the Series 2016A Bonds. The Authority received six bids, as summarized below.

<u>Bidder</u>	<u>Net Interest Cost</u>	<u>True Interest Rate</u>
Jefferies LLC*	\$2,273,448.53	1.5446%
Bank of America Merrill Lynch	\$2,236,099.61	1.5736%
J.P. Morgan Securities LLC	\$2,344,656.67	1.6356%
Robert W. Baird & Co., Inc.	\$2,328,040.45	1.6428%
Hutchinson, Shockey, Erley & Co.	\$2,603,075.39	1.8121%

*Low bidder.

The refunding resulted in Net Present Value Savings of \$4,107,098.94 or 18.93% of the refunded bonds.

Spread to MMD

The following table shows the yields for the Series 2016A Bonds and their spread to the Interpolated AAA Municipal Market Data (MMD) curve. The Interpolated AAA MMD curve represents the valuation of AAA rated general obligation credits, assuming a 5.00% coupon, based on market activity in both the primary and secondary municipal bond market.

<u>Maturity</u>	<u>Yield</u>	Spread to October AAA <u>MMD</u>	<u>Maturity</u>	<u>Yield</u>	Spread to October AAA <u>MMD</u>
2019	0.73%	0.05%	2024	1.32%	0.10%
2020	0.85%	0.08%	2025	1.42%	0.11%
2021	0.98%	0.09%	2026	1.53%	0.13%
2022	1.11%	0.08%	2027	1.63%	0.14%
2023	1.22%	0.09%	2028	1.68%	0.15%

PFM reviewed the results of the Authority's Series 2016A Bonds with regard to prevailing market conditions, and it is our opinion that the interest rate scales, couponing, reoffering yields and underwriting compensation

received for the Series 2016A Bonds are fair and favorable to the Authority. The final pricing for the Series 2016A Bonds resulted in a gross underwriting spread of \$91,261.23 or \$5.56 per face amount of bonds.

We also opine that the Authority's Series 2016A Bonds were appropriately priced relative to other issues sold or trading in the secondary market during the same period. PFM believes that the final all-in true interest cost of 1.6221% for the Series 2016A Bonds are favorable to the Authority in light of prevailing market conditions. Additionally, PFM believes that these statistics are comparable to the interest rate levels of similar transactions sold either competitively or through negotiated placement in the market during the week of sale.

Moody's Investors Services, Inc. affirmed the Authority's outstanding "Aaa" credit rating and S&P Global Ratings also affirmed the Series 2016A Bonds a "AAA" credit rating prior to the receipt of bids.

We greatly appreciate the opportunity to have served as financial advisor to the Authority on the Series 2016A Bonds and we look forward to being of continued service on future financing transactions. As always, we will be available to respond to any questions you may have concerning the contents of this memorandum or on any part of the financing process.

Sincerely,

Public Financial Management



Jessica Cameron Mitchell
Managing Director

Ms. Ament noted that both of the rating agencies, Moody's Investors Services, Inc. and S&P Global Ratings, affirmed the State Revolving Program credit ratings of Aaa and AAA.

In response to a question regarding the costs for the selling of the bonds and whether there were any penalties, Ms. Ament indicated that the savings are net of any costs of issuance for the sale of the bonds. There were no penalties for refunding these bonds--this sale was an advance refunding and all costs relating to the costs of the escrow account have been included in the calculation of the savings. She indicated she would provide the Commission with a breakdown of the costs of issuance.

Being no further Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting at 1:14 p.m. and the Commission took up Department of Mineral Resources business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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

Also

Present: Bruce Hicks, DMR – Oil and Gas Division
Ed Murphy, DMR – Geological Survey
Alison Ritter, DMR – Oil and Gas Division
Jessica Pfaff, Agriculture Department
Bill Kalanek, XTO
Jan Swenson, Badlands Conservation Alliance
Members of the Press

Governor Dalrymple called the Department of Mineral Resources portion of the Industrial Commission meeting to order at 1:14 p.m. following completion of Public Finance Authority business.

Mr. Bruce Hicks, Assistant Director of the Oil and Gas Division, presented a draft motion which would direct Ms. Hogan and Mr. Helms to prepare some written comments and circulate them for the Commission's signatures. The comments would relate to proposed ordinance changes being considered by the McKenzie County Zoning and Planning Commission on September 13 and the McKenzie County Commission on September 20. The proposed changes relate to bonding and providing clarity on jurisdiction related to oil and gas activities, paleo or geothermal or subsurface minerals. The staff believes it is important to go on record so there is clarity regarding jurisdiction.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission direct the Commission's legal counsel, Hope Hogan, and Department of Mineral Resources Director Lynn Helms to prepare written comments on the proposed revisions to the McKenzie County Zoning Ordinance and that the written comments be circulated to the Commission with final approval being granted by signature and that the written comments be submitted to the McKenzie County Planning and Zoning Commission prior to September 13, 2016 and to the McKenzie County Commission prior to September 20, 2016. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Hicks discussed Attorney General Stenehjem's recommendation regarding the potential filing of a Petition for Review on the final Bureau of Land Management venting and flaring rules. He said their office had received information that the final rule may be coming soon--possibly before the next Commission meeting on September 27. He indicated that the Commission filed ten pages of comments back in April. We believe it is likely that the Bureau of Land Management will be unresponsive to the Commission's comments. The recommendation is to give the Attorney General authority to send in a Petition for Review if it is appropriate and determine the proper venue for that submission.

Attorney General Stenehjem noted that when the comments were submitted back in April the Commission had indicated that the proposed venting and flaring rules were another example of federal overreach. The comments had stated that the cost of the proposed regulations, if implemented, to the State of North Dakota would be \$24 million per year. He stated that his office has been in touch with other Attorney Generals to see if the states can band together (similar to what had been done on the anti-fracking rules) if our interests are similar enough and seek the appropriate relief that might be needed.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Attorney General Stenehjem be authorized to file on behalf of the Industrial Commission in the proper venue, if and when he determines it appropriate, a Petition for Review on the final Bureau of Land Management

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

Mr. Ed Murphy, State Geologist, presented the Quarterly Geological Survey Report. (A copy of the report is available in the Commission files.) The report included information on:

- Wilson M. Laird Core and Sample Library
- Core Library Expansion - Mr. Murphy provided current photographs of the work that is being done.
- Core Library Dedication scheduled for Monday, September 26
- Cretascope Upgrade
- Stumpf Site - Mr. Murphy provided examples of fossils found on the site
- Regulatory Programs
- Publications and Presentations

Mr. Hicks said the Administrative Rules Committee hearing on the Commission's new rules is September 13. The staff is also looking at information on the US Department of Transportation's Pipeline and Hazardous Materials Safety Administration's recent clarification of regulatory requirements for abandoned pipelines to see if the federal regulations conflict with state regulations.

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned this portion of the meeting at 1:39 p.m. and the Commission took up North Dakota Transmission Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

(The following are the comments that were submitted prior to September 13, 2016)

Richard Cayko, Chairman
Douglas Nordby, Vice Chairman
Ronald Anderson
Vawnita Best
Kathy Skarda
McKenzie County Commission
C/O Linda Svihovec, McKenzie County Auditor
201 5th St, NW, Ste. 543
Watford City, ND 58854

Dear Commissioners:

The North Dakota Industrial Commission – Department of Mineral Resources (Commission) is in receipt of a copy of the proposed revisions to the McKenzie County Zoning Ordinances. The Commission's staff has identified some areas of concern with the proposed amendments. The Commission would ask you to consider the following comments before adopting the proposed amendments:

1. Under Article 3.2, uses regulated by the Commission are permitted in all zoning districts. Proposed subsection 6 provides examples of such uses – "location and drilling of wells, gathering pipelines, and associated facilities, salt water disposals." Not only does the Commission regulate the named activities, it also has jurisdiction over geophysical exploration, subsurface mineral extraction, coal and

commercial leonardite exploration, geothermal resource development, carbon dioxide underground storage, and paleontological resources.

In order to accurately state the activities regulated by the Commission, the Commission proposes the following amendments to Article 3.2.6:

Uses specifically regulated according to statute by the North Dakota Industrial Commission – Department of Mineral Resources, including but not limited to the location and drilling of wells, gathering pipelines and associated facilities, salt water disposal, that preclude county zoning authority. These uses follow state requirements under North Dakota Century Code Chaps. 38-08, 38-08.1, 38-12, 38-12.1, 38-19, 38-22, 54-17.3, and 54-17.4.

2. In accordance with the proposed amendment above, the Commission suggests that:
 - a. “Oil and Gas Exploration and Production” and “Oil and gas gathering systems” be removed from Article 3.4.2.7;
 - b. “Other subsurface minerals” be removed from Article 3.8.2.2;
 - c. An exception for Commission regulated activities be included under Articles 3.4.3(14), 3.8.1.2(7), 3.8.1.3(5), and 3.8.2.2(8) which regulate uses pertaining to coal, sand, gravel, and clay. Pursuant to its authority to regulate the development and production of subsurface minerals under N.D.C.C. Chap. 38-12, the Commission regulates the exploration, drilling, excavation, mining for, crushing, and handling of clay for industrial purposes. The Commission also regulates coal exploration under N.D.C.C. Chap. 38-12.1;
 - d. “Oil and gas bulk storage” as used in Article 3.8.2.2, be defined and that uses regulated by the Commission be specifically excluded;
 - e. “Oil and gas storage” as used in Article 5.8.4, be defined and that uses regulated by the Commission be specifically excluded; and
 - f. “Oil and gas storage facilities” as used in Article 6.9.1, be defined and that uses regulated by the Commission be specifically excluded.
3. The proposed amendments to Article 2.13.2 appear to only require reclamation bonds for certain uses that require conditional use permits. If Commission regulated uses are allowed in all districts, the reclamation bonding provisions are not applicable. To the extent such bonding requirements would apply, the Commission objects to such requirements as only the Commission has the authority to require bonding for any Commission regulated uses.
4. The Commission also suggests that Commission regulated uses listed in Article 3.2.6 be specifically exempted under Article 4.16.2.

The Commission appreciates this opportunity to comment on these proposed amendments.

Sincerely,
North Dakota Industrial Commission

Jack Dalrymple, Chairman
Governor

Wayne Stenehjem
Attorney General

Doug Goehring
Agriculture Commissioner

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Agriculture Commissioner Doug Goehring

Also

Present: Tyler Hamman, Transmission Authority
Jason Bohrer, Lignite Energy Council
Jason Nisbet, Governor's Office
Jessica Pfaff, Agriculture Department
Members of the Press

Governor Dalrymple called the North Dakota Transmission Authority portion of the Industrial Commission meeting to order at 1:39 p.m. following completion of Department of Mineral Resources business.

Mr. Tyler Hamman, Director of the North Dakota Transmission Authority, presented a summary of the Transmission Authority Annual Report as follows: (A complete copy of the report is available in the Commission files and on the Commission's website.)

North Dakota Transmission Authority Annual Report Update

Presented to the North Dakota Industrial Commission
August 23, 2016

Tyler Hamman
Director



2015-16 Summary

- Annual Report
 - Major Transmission Projects Ongoing
 - MISO Transmission Expansion Planning Identifies New Projects for North Dakota
 - Next Phase of Transmission Heavily-Driven by Deployment of Renewables/Clean Power Plan



Project Updates

- CapX 2020
 - All but 2 projects complete
 - Remaining projects (Big Stone South-Brookings County, Hampton-Rochester-La Crosse) expected to be complete by 2017



Project Updates

- Basin Western North Dakota Project
 - Construction begun in 2014 on 200 mile AVS-Neset line
 - 140 Miles to Judson Substation placed into service in 2015
 - Remaining segments complete by 2017



Project Updates

- GRE HVDC Refurbishment
 - GRE Board in December approved largest transmission refurbishment in organization's history.
 - \$200 million over next decade to make improvements to 436-mile line.



What's on the Horizon

Clean Power Plan

- If rule stands as-is, will require significant buildout of new, renewable generation, numerous issues remain to be seen with impacts on transmission grid
- NTA will work with MISO and SPP in the process of analyzing impacts on regional transmission

Separation of Siting Act

- Utilities exploring legislation to amend Siting Act to separate the regulations for electric transmission versus oil and gas pipelines, which are treated the same under current law.

Other Regulations/Issues

- Waters of the U.S.
- Cybersecurity



Mr. Hamman noted that there are a couple of issues that are currently being discussed that are not discussed in the annual report. There has been some interest in requesting the regional transmission organizations to do an analysis of the reliability impacts on the grid as it relates to North Dakota if the Clean Power Plan moves forward. Basically waiting to see what happens in the courts. He said he has also been considering whether it would be beneficial to do an update of the 2012 KLJ Study that looked at energy infrastructure needs in western North Dakota. With the changes that have been happening in the western part of the state it might be beneficial having an update on electrical load growth and transmission needs.

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Being no further Transmission Authority business, Governor Dalrymple adjourned this portion of the meeting at 1:50 p.m. and the Commission took up Lignite Research, Development and Marketing Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Tyler Hamman, Transmission Authority
Jason Nisbet, Governor's Office
Jessica Pfaff, Agriculture Department
Members of the Press

Governor Dalrymple called the Lignite Research, Development and Marketing Program portion of the Industrial Commission meeting to order at 1:50 p.m. following completion of Transmission Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented a request from Expansion Energy LLC for confidentiality of a portion of the reports under Lignite Research Program Contract No. FY16-LXXX-205 - "Carbon Capture & Utilization Using 'VCCSTM Cycle' Technology - Phase I: Mineralization of Acidic Flue Gas CO₂ via Chemical Reaction with Alkaline Lignite Fly Ash + Extraction of Marketable Minerals & Other Commodities from Lignite Fly Ash". (A copy is available in the Commission files.) She said the funding for this project was approved by the Commission on May 23. Expansion Energy LLC has some proprietary information they would like to continue to keep confidential. They have met all the legal requirements for determining confidentiality. She recommended that the request that the appendices to the Expansion Energy's reports which include proprietary information related to the patented VCCS Cycle technology be determined confidential be approved.

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

The appendices to Expansion Energy's reports (Contract FY16-LXXX-205) which include proprietary information related to the patented VCCS Cycle technology

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

Mr. Jason Bohrer, Lignite Energy Council and Chairman of the Lignite Research Council, reported on their ongoing review of the laws and policies as they impact our industrial partners' ability to do research regarding CO₂. There may be some modifications for the Commission to consider at a future meeting. Five of the six projects the Commission approved during the last grant round deal with CO₂. We must make sure that the research and development program is properly structured and equipped to assist in meeting this major CO₂ challenge.

Governor Dalrymple noted that an article in today's paper stated that Minnesota will not be appealing North Dakota's case against the State of Minnesota to the U.S. Supreme Court. Attorney General Stenehjem stated that is his understanding although State of Minnesota officials have changed their minds before. If they are not appealing to the U.S. Supreme Court or seeking a review by the entire Eighth Circuit Court, then all that remains is the issue of the legal costs which has been remanded back to the District Court. That judge has already said the State of North Dakota is entitled to reimbursement for our attorneys' fees. In response to a question he indicated that the costs were in excess of \$1,000,000 and any reimbursement would be shared with the State's partners in the case who have contributed 50% of the costs of the litigation.

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August 23, 2016

Being no further Lignite Research, Development and Marketing Program business, Governor Dalrymple adjourned this portion of the meeting at 1:54 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 August 23, 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
Joel Erickson, Bank of North Dakota
Craig Hanson, Bank of North Dakota
Mitch Nelson, Bank of North Dakota
Jessica Pfaff, Agriculture Department
Jason Nesbit, Governor's Office
Members of the Press

Governor Dalrymple called the Bank of North Dakota portion of the Industrial Commission meeting to order at 1:54 p.m. following completion of Lignite Research, Development and Marketing Program business.

Mr. Eric Hardmeyer, Bank of North Dakota President, introduced Mr. Mitch Nelson and Mr. Craig Hanson. They are both new business bankers at the Bank of North Dakota.

Mr. Hardmeyer said Bank staff is continuing their work going around the State visiting with economic developers, bankers and city officials to gather ideas and discuss the local communities economic development efforts. The Bank will be bringing in a white paper in the near future outlining possible programs or changes to current programs of the BND, Department of Commerce, Housing Finance Agency and the Public Finance Agency.

Mr. Hardmeyer presented the non-confidential Bank of North Dakota Advisory Board June 16 and June 30, 2016 meeting minutes.

Governor Dalrymple closed the meeting at 1:57 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 2:11 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 one loan identified as Attachment 12. In non-confidential session, on a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Being no further Bank of North Dakota business, Governor Dalrymple adjourned this portion of the meeting at 2:11 p.m. and the Commission took up Western Area Water Supply Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on August 23, 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: Jaret Wirtz, WAWSA (By Speakerphone)
Joel Erickson, Bank of North Dakota
Craig Hanson, Bank of North Dakota
Jason Nisbet, Governor's Office
Jessica Pfaff, Agriculture Department

Governor Dalrymple called the Western Area Water Supply Authority portion of the Industrial Commission meeting to order at 2:11 p.m. following completion of Bank of North Dakota business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, provided the Commission with a copy of the Western Area Water Supply Authority July financial report and Debt Reduction Report. (A copy of the report is available in the Commission files.) The cover memo on the report states:

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

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

Page 1 prepared by the Bank of North Dakota, reflects debt service payments through the month of July, 2016. In July 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 July revenues and expenses and net income. On page 2 you will see the capital improvement disbursements (highlighted in orange) that you previously approved. The one principal payment made in July is highlighted in yellow. Net income for the month of July was **\$354,924.60** before making their principal payment. *This level of income will trigger a principal payment in August on the \$50 million BND loan.* No baseline sales payments were paid and those deferred costs are reflected on the line item titled Deferred Expense Asset. On page 2 you see that the revenues in July went up to \$1,123,095.21. I am pleased to note that this is the highest it has been since the Fall of 2015. (As you will recall from the overall Debt Service spread sheet the breakeven sales monthly number is \$871,750 without the baseline sales payments.)

Page 5 is the balance sheet prepared by WAWS staff as of July 31, 2016. As noted on the Balance Sheet the Accounts Receivables are \$2,031,774.37 which is included in the assets of \$4,981,298.95 Note: The assets include a deferred expense line item which reflects the deferred expenses for the Baseline Sales.

If you have questions I will be available to review the numbers. Jaret Wirtz will also be available by phone to respond to questions regarding the sales during the month of July.

In response to a question Mr. Jaret Wirtz, Western Area Water Supply Authority (WAWS) Executive Director, said the increase in revenues is a result from the sale of water for two fracking jobs. Activity is picking up a little. They expect the higher revenues to continue next month as they have another frack job in August. He stated that this trend should continue into September and October based on the work that has been scheduled.

There was discussion regarding the deferred expense item -- baseline payments. It was indicated this will continue to be carried on the WAWS books. Whether or not it gets paid is a decision that will have to be made in the future. A decision will need to be made, after all the other loans are current, whether it is paid all at once or in partial payments.

In response to a question, Mr. Joel Erickson, Bank of North Dakota, indicated that WAWS has currently prepaid principal on the \$50 million Bank of North Dakota loan through July of 2017. When WAWS has a good month like it did in July there is a calculation applied to that income and a certain percentage is required to be paid on the \$50 million Bank loan. The calculation for the month of July will result in an additional prepayment of \$77,000.

Ms. Fine presented a request for reimbursement of capital expenditures as follows:

RE: Capital Industrial Expenditures

The Western Area Water Supply Authority Board of Directors has requested reimbursement from the WAWS Industrial Account for expenditures in the total amount of \$699.75 related to the final design of the Hess Industrial Bulk Connection which will be used primarily for maintenance water.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission grant the request of the Western Area Water Supply Authority (WAWS) Board of Directors and reimburse WAWS for \$699.75 for final design costs for the Hess Industrial Bulk Connection. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Wirtz indicated that he is continuing to work with companies on how WAWS could provide them with maintenance water volumes in the future. These would be low volumes of water but could last for 20 to 30 years.

Ms. Fine indicated that she, along with Mr. Wirtz and the Bank of North Dakota staff, had been asked to appear at the Water Topics Committee meeting scheduled for later in the month. She plans on providing the Committee with a copy of the monthly report the Commission receives. The Commission indicated that what she was planning to provide was fine with them. She noted that the Bank would be providing the debt service chart that the Commission has previously seen.

Being no further Western Area Water Supply Authority business, Governor Dalrymple adjourned this portion of the meeting at 2:21 p.m. and the Commission took up Administrative business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on August 23, 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: Jason Nisbet, Governor's Office
Jessica Pfaff, Agriculture Department
Members of the Press

Governor Dalrymple called the Administrative portion of the Industrial Commission meeting to order at 2:22 p.m. following completion of Western Area Water Supply Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the July 26, 2016 non-confidential meeting minutes for the Commission's consideration.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approve the July 26, 2016 minutes as presented. 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 2:23 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary