

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 15, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Leslie Oliver, Governor's Office  
Cassandra Torstenson, Governor's Office  
Lynn Helms, DMR  
Bruce Hicks, DMR – Oil and Gas Division  
Cody Vanderbusch, DMR – Oil and Gas Division  
Alison Ritter, DMR – Oil and Gas Division  
Hope Hogan, Attorney General's Office  
Ron Ness, ND Petroleum Council  
Wade Mann, Crowley Fleck  
Zac Weis, Marathon Oil  
Jan Swenson, Badlands Alliance  
Kevin Sedivec, NDSU  
Ryan Limb, NDSU  
Pamela Link, Laborers District ND & MN  
Robert Fimbres, MHA Tribal Safety Regulation and Compliance  
Aron Abbey, MHA Tribal Safety Regulation and Compliance  
Harriet Goodiron, MHA Tribal Safety Regulation and Compliance  
Rylan Baker, MHA Tribal Safety Regulation and Compliance  
Lisa Lone Fight, MHA  
Beth Kurz, EERC  
Members of the Press

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

Mr. Lynn Helms, Department of Mineral Resources Director, presented orders for the following cases: (Copies of the proposed orders are available in the Commission files.)

Case 24547, Order 26913 - Request for proper spacing; Case 24548, Order 26914 - Request for proper spacing – Mr. Helms stated that these two cases can be discussed together. He noted that it is unusual for proper spacing cases to come before the Commission. In this case a surface owner, Mr. Landon Kimball, appeared and asked questions in the first case and presented information in the second case which is part of the record. Mr. Kimball identified approximately twenty things with regards to surface ownership that he would like to have the Commission look at. Those included length of access roads, berms/diking, high/low switches to guard against tank overflows, proximity to the rail road, distance to the paved highway, proximity to the CO<sub>2</sub> pipeline, shallow coal seams, shallow gravel seams in the area, surface water, etc. Mr. Helms indicated that 95% of Mr. Kimball's concerns will be addressed by the Commission's Permitting Policy with permit stipulations being placed on the permits in these spacing units. The remaining 5% would have to be addressed under 38-11.1 where Mr. Kimball has to negotiate surface damages with the operator. These would include such things as what plant species should be planted in the reclaimed locations and what should be done with stockpiled topsoil or fill dirt. Mr. Helms assured the Commission that everything that Mr. Kimball identified can and will be addressed.

Mr. Helms stated that Mr. Kimball did provide pictures that showed very poor site reclamation that had been done by the former operator of the field. The former operator is now bankrupt and no longer operating in North Dakota. The current operator, Continental Resources, does a much better job with their reclamation and reclamation bonds will not be released until the appropriate work is done. Mr. Helms stated that had asked Mr.

Kimball to contact the Division's field inspector to set up a meeting and go out there to take a look at the sites and figure out what Continental needs to do to bring the sites up to standards.

Commissioner Goehring said the fact that Mr. Kimball is there negotiating some terms right up front is good because the Division staff should not be involved in that. Mr. Kimball knows what species of grass he wants and what grows in that area, etc. He can stipulate those terms now.

Mr. Helms said the orders he is recommending the Commission approve would grant the proper spacing. The only change from temporary spacing is an increase from one or two wells per spacing unit to sixteen. There will be a lot more wells and larger pads. Mr. Kimball's concerns are legitimate--95% of them will be dealt with in the already existing permitting process. The remaining 5% need to be dealt with through direct negotiations with the operator and the operator is legally responsible for the reclamation of the land.

**Case 24547: It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 26913 issued in Case 24547, approving the proper spacing for the development of the Kimberly-Bakken Pool, Divide County, be approved this 15<sup>th</sup> day of March, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

**Case 24548: It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 26914 issued in Case 24548, approving the proper spacing for the development of the Noonan-Bakken Pool, Divide County, be approved this 15<sup>th</sup> day of March, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Case 25474, Order 27877 - Request for two lay-down spacing units & one overlapping unit and Case 25522, Order 27931 - Request for a 3840-acre spacing unit – Mr. Helms said these two cases can be discussed together as the cases deal with the exact same lands. He provided a handout. (A copy of the handout is available in the Commission files.) The front page of the handout is a map of the area being discussed straight north of Dunn Center--an area with very difficult terrain on both the north and south sides of the river that is difficult to access and an area that is somewhat prone to landslides and slumping. This area has not been developed yet but the areas around these sections have been developed. The Commission has before it two proposals on how to develop this area. He noted on the handout the current spacing – stand up 1280's and an overlapping 2560. This was proposed by Burlington Resources back in 2012 and approved in 2013. In Case 25474 Burlington is requesting that the Commission take two of the 1280's and lay them down making them east/west units. In Case 25522 Missouri River Resources is requesting that the Commission create a 3840 acre spacing unit and they will develop the unit from the north side of the river.

Mr. Helms indicated that the difficulty the staff sees with the Burlington proposal is that it doesn't comply with N.D.C.C. 38-08-07 which dictates that, if at all possible, spacing be consistent in an area so that development of the pool, as a whole, protects correlative rights. What is being proposed would place two lay down 1280 spacing units in the middle of the standup 1280 spacing units that are around it. When the wells are drilled and hydraulically fractured there would be more than 30 wells that would have to be fracture protected because their "heels and toes" would be impacted. In addition it would strand the east 1280 spacing unit.

In response to a question Mr. Helms stated if the large unit is created you are unitizing the area without going through the unitization process which is what should happen. The staff is recommending the Commission deny both applications and leave it as stand up 1280s with overlapping 2560s. Missouri River Resources can develop the west and east 1280, Burlington could develop the center 1280 and one of them could drill one of the section line wells on a 2560 and the other one would drill the other one or the two parties could get together and decide to

put together a 3840 acre unit and develop this area with the absolute minimum amount of surface location. The Division staff does not believe that either of these proposals is protective of correlative rights. Mr. Helms indicated that the area could be developed under the current spacing -- Missouri River Resources could develop the west and east 1280s and Burlington could develop the center 1280. The gas capture plans that both companies have proposed would work. Mr. Helms indicated that the findings in the order explain the reasons for denying the applications and discuss the alternatives suggested by the staff. Unitization of this area would resolve the staff concerns. He did note that under the current 60% ratification requirements he did not know if a unit could get ratified. House Bill 1257 would lower that ratification requirement to 55% and if HB 1257 becomes law that level of ratification may be doable. HB 1257 is an important bill for situations like this.

**Case 25474:** It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 27877 issued in Case 25474 denying the application to amend applicable orders for the Bailey-Bakken Pool be approved this 15<sup>th</sup> day of March, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 25522:** It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 27931 issued in Case 25522, denying the application to amend the applicable orders for the Bailey-Bakken Pool, be approved this 15<sup>th</sup> day of March, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 25637, Order 28045 - Petition for a unitization and a delegation motion regarding Case 25638, Order 28046 - Determination of Plan of Unitization. Mr. Helms stated these two cases should be considered together. Case 25637 is a proposal for a water flood or enhanced oil recovery unit and Case 25638 is the ratification of that unit. In regards to the second case he is asking for a motion to delegate that signature authority to himself because it is simply verifying that the operator has modified the unit operating agreement based on the Order 28045 and verifying that the operator has received the correct percentage of ratifications--a math exercise. Mr. Helms distributed a handout showing the location of the proposed unit near the Canadian border north of Kenmare. (A copy of the handout is available in the Commission files.) He said this is very unusual unitization because it is the unitization of a single well in a single section. These wells are very poor producers; the rock is very tight and the operator has drilled multiple laterals and tried to drain the reservoir. RIM Operating, a Canadian company, believes if they can pressure this up that they'll recover an additional 300,000 barrels of oil. If this works, there are 49 wells just like it that could be unitized.

Mr. Helms explained that the operator wants to inject water into one lateral out of the four and produce oil out of the other three laterals. He noted that there are a few concerns with this plan. Because of the well bore design the operator won't be able to do the traditional mechanical integrity test that EPA likes for injection wells so the staff has identified other methods of testing to assure well bore integrity. The bigger concern is finding a way to guarantee that the operator is injecting water in the one lateral. Because of that uncertainty the proposed Order requires additional monitoring of the surrounding wells and if the monitoring shows that the water injection is not going into that particular lateral or its doing something to the nearby wells, the operator will have to stop injection and come back and request an amendment to the unit to expand it. The Division staff believes it is worth the risk and Order 28045 protects correlative rights. The fact that there could be fifty more of these wells makes it of high value. He noted that there were some errors in the unit agreement and unit operating agreement that were identified at the hearing and the operator has already filed corrections to the agreements but the errors are noted in the Order to make sure they are all documented.

In response to a question Mr. Helms explained the type of monitoring that will be done -- monitoring of fluid level tests, bottom hole pressure, production of both oil and water, water cuts, etc.

In response to questions and concerns regarding ground water contamination with this approach, Mr. Helms stated that is why the mechanical integrity tests will include a weekly fluid level test to make sure that the level of fluid inside this well is below ground water so there is no back up of injected water or produced water up to where it could contaminate ground water. It is a very modern well so it has surface casing all the way through the ground water but by monitoring on a weekly basis the pressure inside the well bore and the fluid level, the staff can make sure it stays below the ground water. The formation depth on this well is 7,000 feet and the ground water level is between 1,000 and 1,400 feet. Mr. Helms indicated that the well has a string of casing set 50 feet into the pure shale and is cemented all the way back to the surface so there are two layers of protection already built into the well bore. There will be additional protection by making sure that the producing fluid level stays down in the well below those depths.

**Case 25637:** It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 28045 issued in Case 25637 unitizing the Lakeside-Midale/Nesson Unit area consisting of all of Section 11, Township 163N, Range 89W within the Lakeside Field in Burke County, be approved this 15<sup>th</sup> day of March, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

**Case 25638:** It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Department of Mineral Resources Director be authorized to sign Order 28046 for Case 25638 regarding the Determination of a Plan of Unitization upon receipt of an amended Unit Agreement and when sufficient ratifications are submitted. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that under the authority of North Dakota Century Code Section 44-04-19.1 the Industrial Commission close the meeting to the public and enter executive session for the purpose of discussing negotiating strategy. The purpose of the executive session will be to consult with the Commission's attorney, and other negotiators, regarding negotiations of contract terms for a resolution with the City of Williston regarding future oil and gas development on property of relocated Sloulin Field International Airport. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Governor Burgum reminded the Commission members and those present in the executive session that the discussion during executive session must be limited to the announced purpose for entering into executive session which is anticipated to last approximately 10-15 minutes. The Commission is meeting in executive session to discuss negotiations strategy regarding the previously identified contract negotiations. Any final action by the Commission will occur after it reconvenes in open session. Commission members, their staff, employees of the Department of Mineral Resources and counsel with the Attorney General staff will remain but the public is asked to leave the room. The executive session began at 1:25 p.m.

Governor Burgum reconvened the open session of the meeting at 2:01 p.m. and the public was invited to return to the meeting room. It was stated that during its executive session the Commission consulted with its attorney, and other negotiators, regarding contract negotiations relating to the Williston airport relocation. The direction given during closed session is that the negotiators should continue to negotiate under the following authority given on February 20 when the Commission authorized Mr. Helms and Ms. Hogan to proceed with negotiations with the City of Williston and FFA and directed that should an agreement be reached within the guidelines discussed during the executive session, a resolution is approved, subject to final approval being granted by signature and the

Industrial Commission Executive Director and Secretary is directed to provide a certified copy of the Resolution to the Mayor of the City of Williston.

Mr. Helms discussed the comments on Department of Transportation Pipeline and Hazardous Materials Safety Administration 49 CFR Parts 171, 172, 173, 174, 177, 178, 179 and 180 [Docket No. PHMSA-2016-0077 (HM-251D)] RIN 2137-AF24 Hazardous Materials: Volatility of Unrefined Petroleum Products and Class 3 Materials. (A copy of the comments is available in the Commission files.) Mr. Helms stated that he had provided the draft comments to each of the Commission members' staff. He recommended that the Commission approve the proposed comments by the deadline of March 20 and that their approval be by their signature on the comments. He stated that what PHMSA asked everyone to do was answer 36 questions so the comments are pretty extensive. He summed them up as follows:

1. North Dakota did the right thing by following the existing science. North Dakota has been through this and after going through the oil conditioning hearing process and gathering a lot of information they based their number on the science that was presented during the hearing.
2. The federal government has an ongoing study at the Sandia Laboratories that is designed to answer all of the questions being asked and that no rulemaking should take place until that study is finished.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem to approve the comments upon signature on Department of Transportation Pipeline and Hazardous Materials Safety Administration 49 CFR Parts 171, 172, 173, 174, 177, 178, 179 and 180 [Docket No. PHMSA-2016-0077 (HM-251D)] RIN 2137-AF24 Hazardous Materials: Volatility of Unrefined Petroleum Products and Class 3 Materials. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Bruce Hicks presented the Oil and Gas Division Quarterly Report. (A copy of the report is available in the Commission files.) He noted that he had included a new graph regarding gas flaring which includes the gas flaring goals. He pointed out that in this quarterly report, since it is the final report for the year, includes performance charts. He discussed each of the performance charts.

In response to a question regarding the disconnect between wells completed and sales tax in the State – the State is now seeing a big departure when it had tracked the same for a long time and then the relationship broke and has been disconnected, it has been suggested that the beginning of that break was when the Industrial Commission changed a rule from one year to two years to complete fracturing – has anyone looked at that, Mr. Helms said he had not looked at the timing of that. The Commission did implement a policy in October 2015 to extend non-completed well status. He will go back and take a look at that.

There was discussion about revenue forecasting as it relates to oil activity and sales taxes.

There was discussion about legislation that is impacting the filling of vacant positions. Mr. Helms indicated that they currently have 7 vacant positions. He would give the highest priority to the Dickinson field inspector position and the second highest priority to the meter specialist position. He noted that in the Dickinson field office they are struggling to keep up with well and facility inspections. That office does not have any engineering technicians.

Mr. Hicks presented the proposed Oil and Gas Division 2017 Strategic Plan as follows: He said everything highlighted in yellow is a change.

## **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 nearly 3,000 website subscribers and the data needs of seven state agencies through our current Risked-Base Data Management System (RBDMS) and web servers.

## **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) Collaborate with State agencies, research organizations and the oil and gas industry to develop policy and procedure for identifying state-of-the-art pipeline monitoring systems and utilizing such systems to reduce the frequency and magnitude of pipeline spills.
- 4) Develop web-based forms and batch systems utilizing in-house personnel to implement electronic filing of "most used" Oil and Gas Division forms.
- 5) Contract to develop web-based forms and batch systems for electronic filing of monthly Transporter and Purchaser forms (which currently require hand-entry).
- 6) Provide computer and job skill training for appropriate agency staff.
- 7) Review and revise Rules and Regulations as appropriate.
- 8) Review and recommend revisions to Century Code as appropriate.
- 9) Develop tier-subscription services to provide daily, weekly, and monthly data downloads for industry.
- 10) Provide funding to contract database and business needs assessment interviews with RBDMS users and analyze results to recommend best platform to implement.
- 11) Coordinate with TOPCORP and TrainND to provide training courses for OGD staff in petroleum geology & engineering, petroleum technology, communication, and environmental management.

- 12) ~~Develop a regulatory pipeline program and rules pursuant to Energy and Environmental Resource Center recommendations per study due December 1, 2015.~~
- 13) 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.
- 14) Provide funding for North Dakota Department of Health's Environmental Quality Restoration Fund through AWPSRF.
- 15) Defend State's rights with regard to hydraulic fracturing, chemical disclosure, methane emissions, oil conditioning, and other federal regulatory overreach.
- 16) Encourage staff and website users to provide recommendations for improving and re-branding DMR website.

## **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 forms and batch forms systems for electronic filing of remaining Oil and Gas Division forms.
- 8) Set up procedure for carbon dioxide administration.
- 9) Upgrade current RBDMS to a web-based platform.
- 10) Advocate for bandwidth to provide video conferencing and streaming of expert testimony at hearings.

## **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.

Governor Burgum stated he would push hard on #10 under the 3 year goal because there are many low cost and even free solutions for doing live video streaming today. Mr. Hicks said they will definitely look into it.

Governor Burgum indicated that although it may be implied, he suggested that #3 under the 1 year goals after “research organizations” include the words “UND and the UAS startups located in North Dakota”. The work that is being done in this field in regards to unmanned aerial systems being used for pipeline monitoring is something the Division and Commission should keep an eye on.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Department of Mineral Resources Oil and Gas Division 2017 Strategic Plan be approved as presented and revised. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms gave the legislative update. (A copy is available in the Commission files.) He pointed out a few bills that they are tracking.

- SB 2014 - budget bill. Anticipates seeing a reduction in FTE count followed with some contingency employees based on well count.
- HB 1151 - Spill bill - It is moving forward; offered information about Commission rules and spill reporting and spill clean-up.
- HB 1336 - Environmental health and safety audits bill. They are monitoring the bill and have worked with the Health Department to get the bill in a form that they can work with.
- SB 2327 - creation of the Department of Environmental Quality - monitoring the bill to make sure that the State Geologist stays on the advisory committee. That advisory committee is very important in terms of siting landfills and that is the work the State Geologist does. There has been some controversy about agriculture representation on the committee. He stated that if more members need to be on the committee that is fine, but the State Geologist needs to stay on that committee.

Mr. Helms briefed the Commission on amendments that are being proposed on SB 2134. The amendments would give the Commission adjudicating authority over disputed mineral interests under Lake Sakakawea or on inundated lands. There was discussion about impact on the State lands and the potential conflict of interest two members of the Land Board (Governor and Attorney General) may have as they also serve are on the State Industrial Commission. It was indicated that this is a significant, complicated and controversial topic.

There was discussion on exactly what was being proposed in the legislation to be done and on what basis would the Commission be making a determination regarding the lines of the ordinary high water mark. It was indicated that, as the legislation is currently being discussed, the Commission would:

- use the Corps survey as the base line
- contract with a firm to conduct a new survey
- hold a public hearing on the new survey and allow individuals to present evidence regarding the survey
- make a decision on where the ordinary high water mark is for a certain portion of the river.

It was noted that the Industrial Commission was being proposed to do this work because they are a neutral independent party and has experience in holding hearings and analyzing evidence. Currently there is a Trust Lands survey and a Corp of Engineers survey with some significant disagreement.

Mr. Helms said he was asked to put together some factual information, do some analysis in conjunction with Mr. Gaebe from Trust Lands, regarding well development on these disputed lands – a comparison of the amount of



development that has been done versus well development in other areas. In other words, has this long ongoing legal battle inhibited development and how much. That information is being provided to the subcommittee working on this legislation.

In regards to a fiscal note, Mr. Helms indicated that he and Mr. Gaebe had been asked to work together on modifying the fiscal note to deal with how much in bonuses and royalties has been collected and would have to be paid back, how much impact there has been or will be on development, extraction taxes, production taxes, sales taxes and then what would the cost and time be required to deal with this adjudication process.

Mr. Helms presented the Williston Basin Petroleum Conference welcome letter for the Commission's signature. (A copy of the letter is available in the Commission files.)

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Williston Basin Petroleum Conference welcome letter be approved as presented. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Department of Mineral Resources business, Governor Burgum adjourned the meeting at 1:41 p.m. and took up Oil and Gas Research Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
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Rylan Baker, MHA Tribal Safety Regulation and Compliance  
Lisa Lone Fight, MHA  
Beth Kurz, EERC  
Brent Brannan, Oil and Gas Research Program  
Members of the Press

Governor Burgum called the Oil and Gas Research Program portion of the Industrial Commission meeting to order at 1:41 p.m. following completion of Department of Mineral Resources business.

Mr. Lynn Helms, Department of Mineral Resources Director, presented the following overview on the issue of Legacy Brine Pits:



North Dakota Mineral Resources  
Abandoned Well Plugging and Site Restoration Fund  
Brine Pond Reclamation Status and Outlook

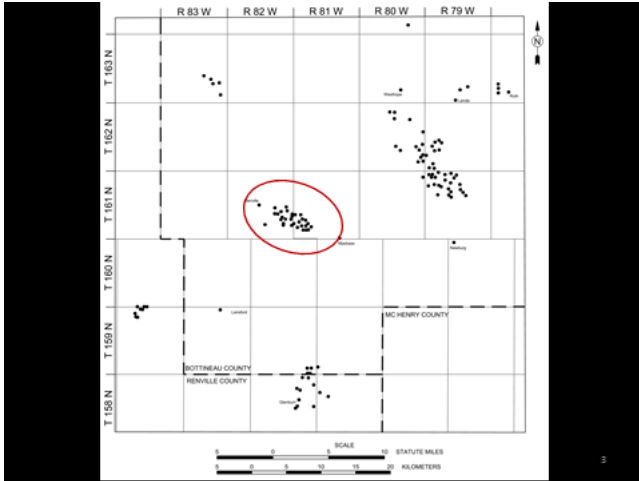
North Dakota Industrial Commission  
March 15, 2017  
Lynn D. Helms, Director  
Department of Mineral Resources  
North Dakota Industrial Commission

## NDSU SOILS DEPT 1984 STUDY

Identified 121 old brine pond sites in Bottineau and Renville Counties.

Estimated the area contaminated by old brine ponds at 1,450 acres (average of 12 acres per site).

Interpreted aerial photographs from various years and scales.



**Stratton SWD #1 site (Edson Brown #1)**  
 Drilled in 1959 by Cardinal Petroleum (Edson Brown #1). Produced oil from 1959-1970. Converted to a saltwater disposal well by Phillips Petroleum in 1978 (Stratton SWD #1). The site contained two brine holding ponds from 1959 to at least 1970 (with dimensions of 100 x 90 ft and 60 x 100 ft and 5 feet deep). Produced 178,000 barrels of saltwater.



1985

A high salinity plume extends laterally around the site over an area of 250,000 ft<sup>2</sup> (about 6 acres).  
 Plume extends to a depth of over 80 feet (highest concentrations in top 40 feet).  
 Plume restricted to till and not impacting any useable water supply (ND Health Dept. concurred in 2006).  
 High chloride levels at 160 feet (500 - 750 mg/l) appear to be coming from the underlying Fox Hills Formation (hydraulic heads).

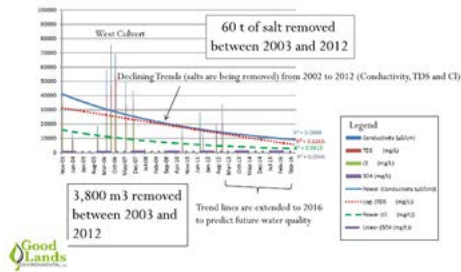
### Manitoba Remediation Process

1. Remove source (flare pit).
2. Install sub-surface tile drains.
3. Add surface amendments (calcium nitrate, gypsum & straw).
4. Grow forages and dewater the tile system.

Labels in image: Buried flare pit, Salt block, Subsoil, Chain trencher, sock tile, & crushed rock.

6

### 2. Water: Pump Out Water Quality of Tile System



Thank you

[jennifer@goodlandseenviro.com](mailto:jennifer@goodlandseenviro.com)



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**SECTION 2. APPROPRIATION - ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND - ONE-TIME FUNDING - EXEMPTION - BRINE POND AND SOIL REMEDIATION STUDIES - REPORT TO LEGISLATIVE MANAGEMENT.**

1. Notwithstanding section 38-08-04.5, there is appropriated out of any moneys in the abandoned oil and gas well plugging and site reclamation fund in the state treasury, not otherwise appropriated, the sum of \$5,500,000, or so much of the sum as may be necessary, to the industrial commission for the purpose of conducting brine pond and soil remediation studies, for the biennium beginning July 1, 2017, and ending June 30, 2019. The funding provided in this section is considered a one-time funding item. The industrial commission shall conduct the following studies, during the biennium beginning July 1, 2017, and ending June 30, 2019:

a. A study of the number of brine ponds in the north central portion of this state which were active between 1951 and 1984 and which require the remediation of salt and any other contamination from the surrounding soil. The industrial commission may contract with or cooperate with research facilities in this state to conduct the study. Estimate \$100,000

b. A study of the number of brine ponds in the north central portion of this state which were active between 1951 and 1984 and for which landowners received compensation due to contamination to the surrounding soil. Estimate \$125,000

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**SECTION 2. APPROPRIATION - ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND - ONE-TIME FUNDING - EXEMPTION - BRINE POND AND SOIL REMEDIATION STUDIES - REPORT TO LEGISLATIVE MANAGEMENT.**

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e. A pilot project to study and to test the best techniques for remediating salt and any other contamination from the soil surrounding brine ponds in the north central portion of this state which were active between 1951 and 1984. The industrial commission may contract with or cooperate with research facilities in this state to conduct the study. Estimate \$720,000

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Mr. Helms stated that the last time this issue was really looked at in total would be 33 years ago. NDSU and the State Geologist conducted a study and determined at that time there were 121 old brine pond sites in Bottineau and Renville Counties that could potentially become a contamination issue. At the time, the brine pond sites averaged 12 acres. That size is significant because from the time those brine ponds were closed in the 70's, the sites grew from the 1 or 2 acres to an average of 12 acres of contaminated area. He pointed out that the sites are concentrated in five areas.

Mr. Helms provided an aerial photo that showed what the brine ponds looked like and provided information on the Stratton Saltwater Disposal Site. He explained that it was the technology at the time to put produced water in a pond and hope that it would evaporate. That didn't work very well in a climate where it is frozen seven months out of the year. It worked okay down south where the water is fresher and the weather is warmer but didn't work very well in North Dakota. The use of brine ponds was ended and everything went to underground disposal in the Inyan Kara Formation.

Mr. Helms then showed a current photo of the same site which shows how the saltwater plume has grown around the area and now extends over 80 feet deep with the highest concentrations in the top 40 feet and nothing will grow – the area is now about seven times larger than it was the last time this was studied. Manitoba had brine pits that also were flare pits--they dug one up and found a block of salt under it. They excavated all of it and put down drain tile, provided amendments, and over a period of thirteen years they were able to bring things back closer to the native state. He showed before and after pictures. He stated that we know it can be done but don't know if it can be done economically and we don't know how many sites we really have.

**SECTION 2. APPROPRIATION - ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND - ONE-TIME FUNDING - EXEMPTION - BRINE POND AND SOIL REMEDIATION STUDIES - REPORT TO LEGISLATIVE MANAGEMENT.**

1. Notwithstanding section 38-08-04.5, there is appropriated out of any moneys in the abandoned oil and gas well plugging and site reclamation fund in the state treasury, not otherwise appropriated, the sum of \$5,500,000, or so much of the sum as may be necessary, to the industrial commission for the purpose of conducting brine pond and soil remediation studies, for the biennium beginning July 1, 2017, and ending June 30, 2019. The funding provided in this section is considered a one-time funding item. The industrial commission shall conduct the following studies, during the biennium beginning July 1, 2017, and ending June 30, 2019:

c. A study of the best techniques for remediating salt and any other contamination from the soil surrounding brine ponds in the north central portion of this state which were active between 1951 and 1984 as a continuation of the study conducted pursuant to section 9 of chapter 254 of the 2015 Session Laws. Estimate \$435,000

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Mr. Helms reviewed House Bill 1347. He stated that it provides the following:

- \$100,000 to contract with an environmental company to go out and review these 121 sites and provide a current tally of how many sites are growing and are a problem, how many has nature taken care of, etc. There needs to be a reassessment of all of them and a determination of which ones need future work and which ones appear to be doing okay.
- Contract with a land man to go look at court house records and see who has been paid a settlement to live with one of these sites and how much land was covered by that settlement.
- The next thing would be to continue the NDSU study for an additional two years for a full set of crop cycles and encourage them to continue with the good work they started.
- The final part would be to undertake, through some type of contract process, a couple of additional pilot studies – one to look at something like what Manitoba did and the other one would look at whether one of these sites, like the Stratton, could be restructured into a wetland mitigation area. Wetland species tend to be a lot more salt tolerant. Is there a possibility that a site, like the Stratton, could be reconfigured to create a wildlife and wetland area that could then go into a wetland bank that could be utilized by the Department of Transportation or the City of Bottineau or a farmer somewhere to offset wetland use.

He indicated that the funding in House Bill 1347 will provide the resources needed to explore, over the next two years, what the size and scope of the problem is that needs to be solved over the next 20 to 25 years.

In response to a question regarding whether there was a permitting system for the brine ponds or was it included in the drilling permit, Mr. Helms said it was part of the drilling permit. There was never a separate permit for the brine ponds. When the State made the decision between 1977 and 1982 to close the brine pits, a number of them were closed by the operator and there is little to no record of where they were. He indicated that a portion of the monies being considered for appropriation will be used to put someone on the ground and do the overflights or whatever you have to do to revisit these sites and identify the scope of the problem. At this time he cannot say if it is plus or minus 121. In 1984 it was 121 that were identified on the map. The hope is that many of the smaller ones have gone away with good agricultural practices and precipitation cycles and it will be below 121 but until a survey is done, that is the number that is being used.

In response to a question Mr. Helms indicated that of the 121 sites one is owned by NDSU and there are some that are on State tracts--5 to 10% are on State land and the remaining are on privately owned land.

Mr. Helms introduced Ms. Bethany Kurz from the Energy and Environmental Research Center (EERC) to report on the work that the EERC has done through a grant that was authorized in HB 1348 in the 2015 Legislature. Ms. Kurz, EERC, presented the final report "Pilot Project to Remediate Soil Surrounding Legacy Brine Pits" - Oil and Gas Research Program Contract G-000-003 as follow:



  
Energy & Environmental Research Center

## LEGACY BRINE PIT PROJECT

Wednesday, March 15, 2017

Presentation to the North Dakota Industrial Commission  
Bismarck, North Dakota

Bethany Kurz  
Principal Hydrogeologist

© 2017 University of North Dakota Energy & Environmental Research Center

Critical Challenges. **Practical Solutions.**

### BACKGROUND

- Project goal
  - Apply a best practice, a common practice, and a novel remediation approach to a "representative" legacy brine pit site to assess the efficacy and cost of each.
- Project team
  - Energy & Environmental Research Center
  - Habitat Management, Inc.
  - Dakota Technologies, Inc.



### SITE LOCATIONS



## ORIGINAL PROJECT OBJECTIVES

- Site characterization to determine areal and vertical extent of brine contamination
- Site remediation system design (drain tile, sumps, wells, irrigation, deep hydraulic delivery)
- Site preparation
- Extensive site irrigation at the best practice site area
- Hydraulic delivery of amendments at the novel technique site area
- Periodic, regular soil sampling until threshold levels are met



Critical Challenges. Practical Solutions.

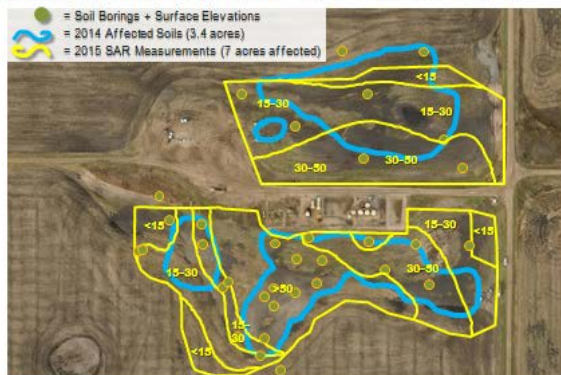
## NEED FOR A NEW APPROACH AT BULL B1 SITE

- Results of site characterization, soil sampling, and dramatic changes within the site operator's organization made the proposed approach infeasible.
- 
- COP/TriHydro 2014 report:
    - ≈3.4 acres impacted by produced brine water, distributed among three distinct lobes.
    - Brine pit measured to 24".
  - EERC fall 2015 field sampling:
    - ≈7 acres impacted, individual lobes less distinct.
    - Brine pit down to >15 ft below surface.
    - Brine pit larger, deeper than expected (migration + incomplete previous analysis), **tripling** the volume of soil/sediment requiring treatment.



Critical Challenges. Practical Solutions.

## NEW UNDERSTANDING OF SELECTED SITE



Critical Challenges. Practical Solutions.

## REVISED SCOPE OF WORK

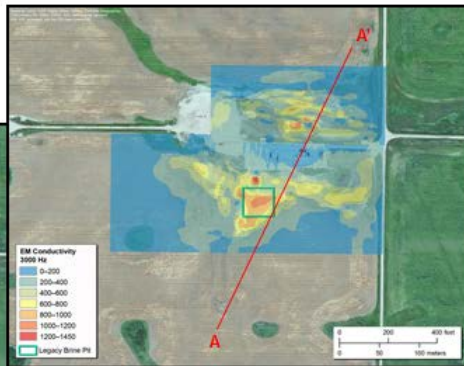
- Perform tests at Bull B1 site to better evaluate the hydrology of the site (i.e., water table depth, direction of water movement, permeability, etc.) to assess additional remediation options.
- Characterize two other nearby legacy evaporation pit sites—Adams and Stratton—using an approach similar to that applied at Bull B1.
- Apply a new approach to more quickly and thoroughly assess site salinity, hydrology, and permeability.
- Report to NDIC to frame the larger issue and estimate costs for widespread remediation efforts in this unique region.



Critical Challenges. Practical Solutions.

## SITE #1: BULL B1

NDIC File No. 2801  
 48.754°N 101.269°W  
 Spud Date: 12/05/1960



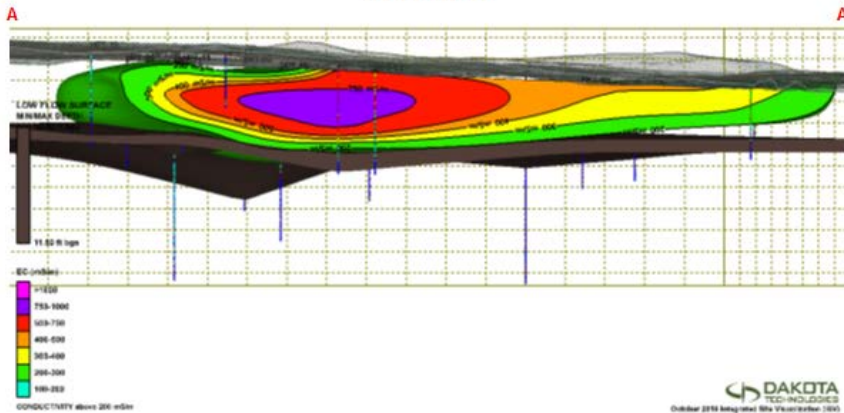
Critical Challenges. Practical Solutions.

3D Visualization of Electrical Conductivity (mS/m)  
 EERC - 0263.16 (Bull)  
 Minnet, ND  
 Vertical Exaggeration = 2.2

CONDUCTIVITY above 200 mS/m

Vertical Slice, Easting = 1,782,881.0 ft  
 Slice Azimuth = 25 degrees

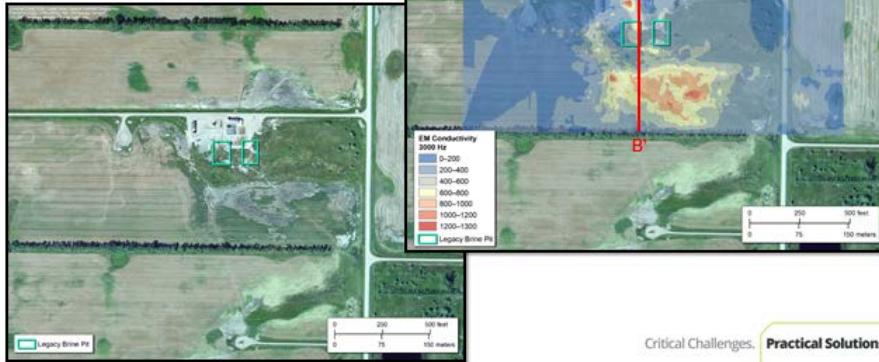
### Bull B1 Site





### SITE #2: STRATTON SWD

NDIC File No. 2318  
 48.739°N 101.216°W  
 Spud Date: 05/07/1959



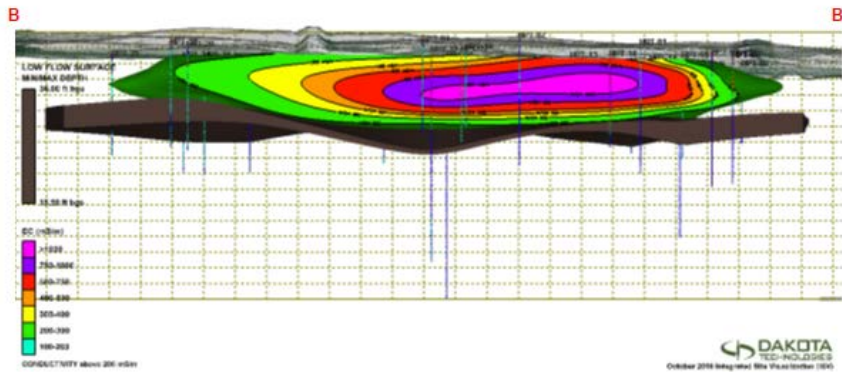
Critical Challenges. Practical Solutions.

3D Visualization of Electrical Conductivity (mS/m)  
 BERC - 5265.16 (Stratton)  
 Minot, ND  
 Vertical Poleposition = 5.5

CONDUCTIVITY above 200 mS/m

Vertical Slice, Easting = 1,795,843.0 ft

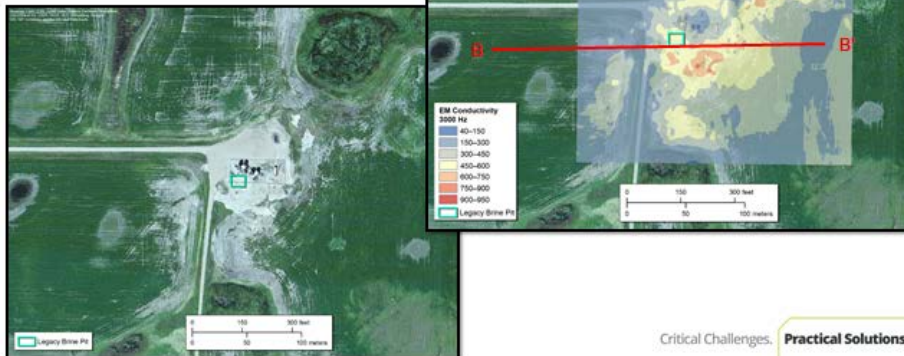
### Stratton SWD Site



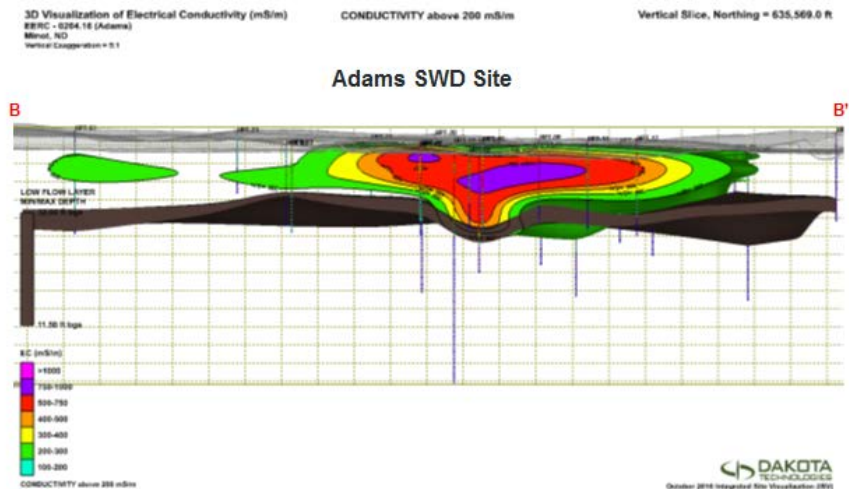
DAKOTA  
 TECHNOLOGIES  
 October 2016 (Legacy) Site Visualization (3D)

### SITE #3: ADAMS SWD

NDIC File No. 3916  
 48.74°N 101.29°W  
 Spud Date: 07/21/1965



Critical Challenges. Practical Solutions.



## KEY CONCLUSIONS

- Very little is known about the lateral extent and depth of contamination at legacy brine pit sites.
- Salt-impacted zones extend well beyond the original pit area and may be increasing in size.
  - Contaminant migration is exacerbated by the shallow water table in the Prairie Pothole Region.
- Soil remediation (soil amendments/irrigation) coupled with drain tile may be a mechanism to remediate the near-surface soils (0–6 feet), but costs are highly dependent on availability of freshwater supplies for irrigation as well as disposal options for the drain tile effluent.
- Given the low-permeability of the soils, in situ treatment of the deeper zones will likely be challenging, and excavation of the contaminated soils is very expensive.

## RECOMMENDATIONS FOR FUTURE WORK

- Characterization of additional sites.
  - Tools now exist for faster and more complete site characterization at a lower cost.
  - Will enable a more thorough assessment of potential remediation options.
- Pilot-scale evaluation of soil remediation coupled with tile drainage to better assess the economics and efficacy of the approach.
  - This should include an evaluation of water supply and disposal options and costs.
- Evaluation of alternate remediation approaches of the brine pits and/or surrounding salt-impacted soils (i.e., in situ treatment of the deeper zones of contamination; phytoremediation and/or constructed wetlands to treat surrounding soils).

## CONTACT INFORMATION

**Energy & Environmental Research Center**  
University of North Dakota  
15 North 23rd Street, Stop 9018  
Grand Forks, ND 58202-9018

**www.undeerc.org**  
701.777.5050 (phone)  
701.777.5181 (fax)

**Bethany Kurz**  
Principal Hydrogeologist  
bkurz@undeerc.org



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Critical Challenges. Practical Solutions.

Ms. Kunz responded to a number of questions:

- Movement of subsurface water - it can move opposite of the surface slope. The movement can vary seasonally depending upon how wet conditions are. If you happen to have a heavy rainfall and your wetlands fill up, they can filtrate down into the subsurface and feed the water table and alter the flow of water on the subsurface.
- Potential use of ground penetrating radar (GPR) to identify saline levels - Ms. Kurz said she is not sure if anyone has ever used GPR for that purpose. She described the direct push technology that was developed by Dakota Technologies that was used on this project. With this technology they were able to create 3D representations of the zone of contamination.
- There was discussion on the issues related to drain tiling - length of time before achieving results and disposal of the pumped water. Ms. Kurz indicated that in eastern North Dakota there are some locations where there are naturally salt impacted soils at a much lower salinity level.
- Makeup of the salt. Ms. Kurz said it is primarily sodium chloride but you also see potassium, magnesium because all sorts of stuff went in these brine ponds. The original produced water could have calcium, magnesium plus drilling mud so there is an assortment.

Mr. Helms introduced Dr. Kevin Sedivec of NDSU. Dr. Sedivec presented the following progress report on the Legacy Brine Study - North Dakota State University - Funded under the Abandoned Oil and Gas Well Reclamation Fund Contract AWPSRF Legacy Brine Study 405-448-15:

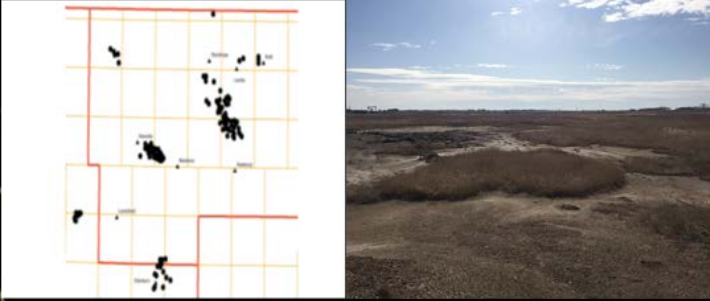
### *Reclamation Options for Legacy Brine Waste Pits in North-central North Dakota: Effects of remediation techniques on grass species*

Funded by Abandoned Oil and Gas Well Reclamation Fund 405-448-15

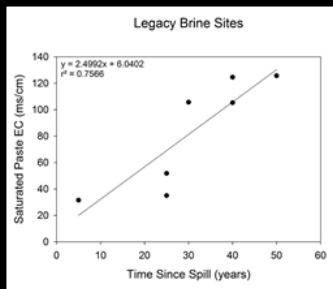
**Drs. Ryan Limb, Kevin Sedivec, Aaron  
Daigh, and Tom DeSutter**  
School of Natural Resource Sciences  
North Dakota State University



## Legacy Brine Pits in North Dakota



## Electrical Conductivity (EC) of selected legacy sites in north-central North Dakota



Data collected by NDSU

## Brine Contamination





## NDSU Study Update

- Seed condition study- EC thresholds:
  - *Halophytic grasses*



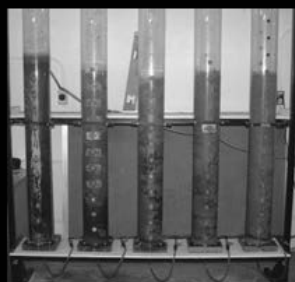
## NDSU Study Updates

- Brine Remediation
  - Study different techniques on establishing select perennial grasses



## NDSU Study Updates

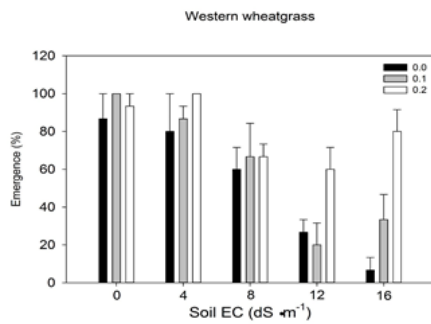
- Leaching Column Study
  - Studied different calcium amendments product and there potential to move salt down



## Study Areas in North Dakota



## Seed Conditioning - EC Threshold Study



## NDSU Field Studies – 2016



### Survivability of Grass Plugs and Seedlings on Legacy Brine Spills using Amendments

#### Amendments

- Compost
- Gypsum
- Combination of Compost and Gypsum
- Ferric hexacyanoferrate ( $C_{18}F_7N_{18}$ ) crystallization inhibitor
- Control

#### Plugs and Seed Survival

- Plugs planted in August
- Seeds planted in October (dormant seeding)
  - Western wheatgrass
  - Inland saltgrass
  - Alkali sacaton

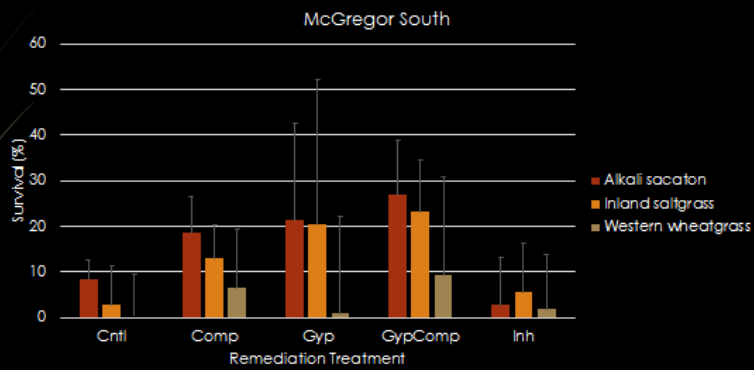
North of Glenburn, ND in Bottineau County (T157N, R82W, NW1/4 Section 36)



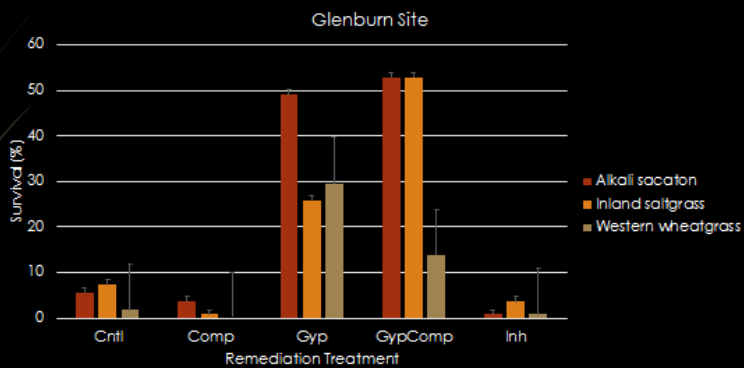
## Treatments after amendments applied



### Survivability of Grass Plugs on Legacy Brine Contaminated Sites

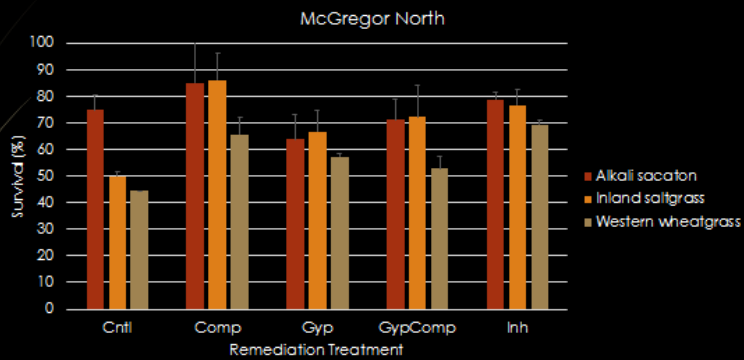


### Survivability of Grass Plugs on Legacy Brine Contaminated Sites





## Survivability of Grass Plugs on Legacy Brine Contaminated Sites



## Leaching study



## Leaching Column Results

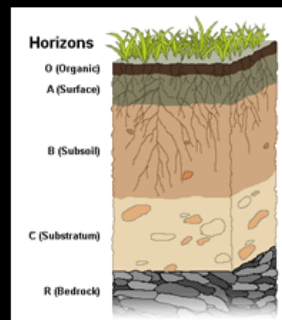
- No difference between amendment types (commercial vs gypsum)
- There was a more than one magnitude reduction in EC ( $78.4$  to  $4.67 \text{ dS m}^{-1}$ ) for all treatments after trial termination.
  - Based on these findings, we CAN MOVE water and salt down the soil profile

## Findings to Date

- Ferric hexacyanoferrate ( $C_{18}F_7N_{18}$ ) crystallization inhibitor DID NOT work on legacy sites
- Nuttall alkaligrass, alkali sacaton, inland saltgrass were superior grass species to plant on brine impacted soils
  - Western wheatgrass worked successfully on soils with EC levels  $< 20 \text{ dS m}^{-1}$

## Findings to Date

- Harvest the salts from the soil through the plants



## Plans for Current Project in 2017

- Collect field data on grass plug and seeded plots to test impacts of amendments (survivability)
  - May - June 2017
- Write-up a final report on the current project by June 30, 2017

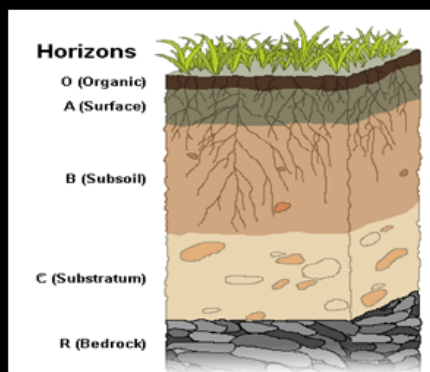
## Future Directions

- Continue current project to determine long-term impacts of amendments tested
  - Plant survival
  - Salt removal from the soil profile by amendment and plant species
    - By seeding technique

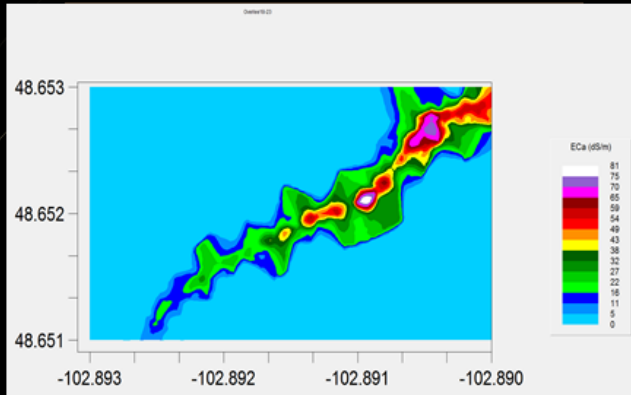
## Future Directions

- Novel approach to remediation – “that is applicable”
  - Layer the remediation techniques by soil profile
  - Allows using soil from contaminated site
  - Eliminates using soils from other sites (Dig and Haul technique – non-sustainable)

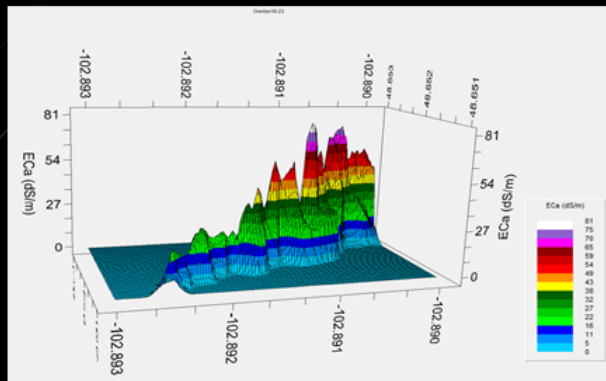
## Soil Profile



## Legacy Brine Site – Soil Salt Profile



## Legacy Brine Site – Soil Salt Profile



## Future Directions

- Layer the remediation techniques by soil profile
  - Apply amendments on subsoil
    - Incorporate
    - Add water (in real world wait for substantial rain event)
  - Re-spread surface soil
    - Repeat amendment application
    - Compare different amendments
    - Add water (rain)

## Amendments

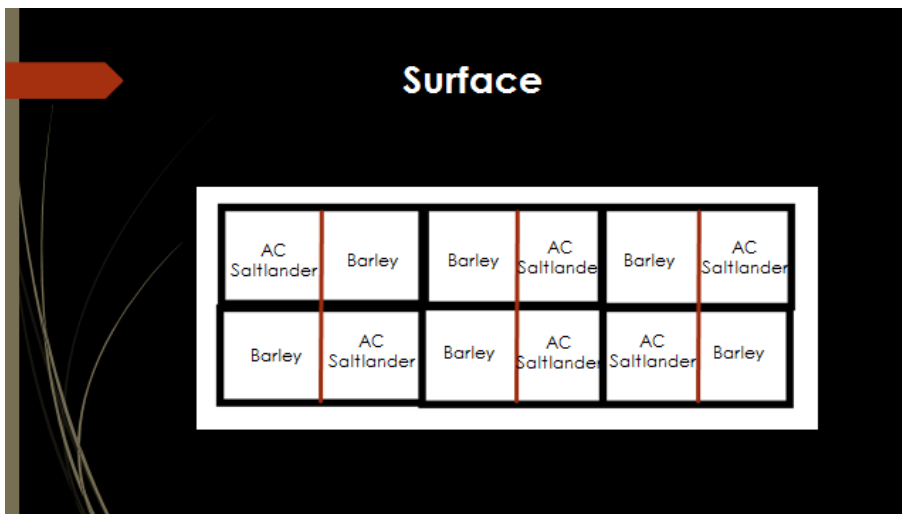
- Moist Organic Matter (readily available)
  - Fresh cut alfalfa
  - Manure
- Gypsum
  - With and without
- Incorporate

## Subsoil

Alfalfa	Manure	Gypsum
Alfalfa + Gypsum	Manure + Gypsum	Control

## Surface

Alfalfa	Manure	Gypsum
Alfalfa + Gypsum	Manure + Gypsum	Control



Dr. Sedivec said the property costs of the 1,450 acres that are impacted by brine over the last thirty years are \$2.4 million so it has a tremendous impact. The drain tiling option has potential but is very expensive to do. In this project the researchers tried to find something that was applicable as well as affordable. He reviewed the work that they had done so far. Dr. Sedivec went over the research work they had conducted within this current project:

- The first was a seed conditioning study to determine if seeds could be conditioned to take higher EC levels.
- They took the results from the lab to the field and looked at different amendments on these brine sites to see if they could actually reduce the salts with amendments and treatments to the point where plants could grow.
- They did a leaching column study of different calcium amendments products to identify their potential to move salt down.

Dr. Sedivec said an additional study--layering the remediation process--they are going to look at is how to get deeper in the soil profile. The concept is to take off the top surface, put it to the side, and add the amendments on top of the subsoil and incorporate that into the subsoil with rain and then put the surface back on, put the amendments on top of the surface with the goal of actually moving that profile deeper into the system. This could be an alternative to the "dig and haul" technique currently used on contaminated soils.

Dr. Sedivec stated that they will be collecting the field data on the grass plug and seeded plots this spring and will be providing a final report on the current project by June 30, 2017.

Mr. Helms said they are very excited about the work that has been done and what he is asking the Commission and Legislature to do over the next two years is spend another \$1.8 million to keep moving forward on dealing with the issue – to get an understanding of how many sites there are and how big they are, what has already been paid to the surface owners, and what kind of 21<sup>st</sup> century technology and plant agronomics can be used to get this land back into production. The hope in the 70's and 80's when the brine pits were closed was that the problem would get better with time. What you have been shown today is that it gets worse over time. The State can't just walk away, it will continue to grow and get worse. He personally believes the State needs to intervene and push it back the other direction.

Commissioner Goehring said the State needs to continue this work because there is a lot of land impacted and there are people that have concerns about new oil development and what may potentially happen to their land. Through this work we can provide some assurances about what can be done and do some work on the real troubling and challenging sites.

Mr. Helms said he thought they will learn a lot of things that we will be able to apply to new brine spills as they occur. The first goal is to eliminate and minimize brine spills but some will happen. In those cases there needs to be research that will help get those spills reclaimed quickly so they don't turn into 33 year legacy issues.

Governor Burgum noted that this issue has been sized at 1,450 acres today and potentially growing for the legacy sites. He asked the question if the Department of Mineral Resources has a sense of what the size is of the current era of brine spills. Governor Burgum said if we are not collecting that data we have to think of how we start collecting it so we are not doing this ten years from now. Is there some data collection we can add on without adding a lot of cost to other data we are collecting? Mr. Helms said they collect data on volume of fluid spilled and recovered along with follow up reporting of spill cleanup procedures and area remediated. Mr. Helms said that relatively inexpensively he believed the staff could review reclamation records that the Department and the Health Department have for off-site spills and tally up the impacted acres.

In response to a question Mr. Helms indicated that he believes the funding for this work to continue would be appropriated. There was tremendous support in the House and he believes there will be equal support in the Senate. Mr. Helms stated that the funding would be through the Industrial Commission - Abandoned Oil Well Fund - the Commission would be the owner of the dollars, contracts, data and the projects going forward. Mr. Cody Vanderbusch, Department of Mineral Resources, would have oversight of the work.

Ms. Fine stated she had received a request this week for a special grant round and she recommended granting the request with a deadline submission date of April 1, 2017.

**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/Secretary and approve an additional grant round for the Oil and Gas Research Program with an application submission deadline of April 1, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Oil and Gas Research Program business, Governor Burgum adjourned the meeting at 2:30 p.m. and took up Lignite Research, Development and Marketing Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 15, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Leslie Oliver, Governor's Office  
Cassandra Torstenson, Governor's Office  
Mike Holmes, Lignite Research, Development and Marketing Program  
Jason Bohrer, Lignite Energy Council  
Jolene Kline, Housing Finance Agency  
Max Wetz, Housing Finance Agency  
Jennifer Henderson, Housing Finance Agency  
Collin Engelhardt, Eide Bailly  
Members of the Press

Governor Burgum called the Lignite Research, Development and Marketing Program portion of the Industrial Commission meeting to order at 2:35 p.m. following completion of Oil and Gas Research Program business.

Ms. Karlene Fine, Industrial Commission Executive Director/Secretary, presented the Lignite Research Fund financial report as follows:

**Lignite Research Fund (314)**

**Financial Statement - Cash Balance**

**2015-2017 Biennium**

**Industrial Commission Meeting March 15, 2017**

		<b>Cash Balance</b>
July 1, 2015 Beginning Balance	\$18,375,271.72	
\$.02/ton Revenues through January 31, 2017		\$831,758.22
Coal Trust Fund Revenues through January 31, 2017		\$3,275,048.72
Coal Conversion Tax Revenues through January 31, 2017		\$1,833,825.60
Interest Income through January 31, 2017		\$14,808.55
Repayments & other revenues through January 31, 2017		\$207,504.65
Total Revenues		\$6,162,945.74
Small Research/Educ. Projects Expenditures through Jan. 31, 2017		\$507,423.00
Demonstration Projects Expenditures through Jan. 31, 2017		\$865,713.00
Marketing Expenditures through January 31, 2017		\$1,053,000.00
Litigation Expenditures through January 31, 2017 (net costs)		\$102,712.17
Non-matching Project Expenditures through January 31, 2017		\$760,000.00
Administrative Expenditures through January 31, 2017		\$581,227.06
Total Expenditures		\$3,870,075.23
Cash Balance as of December 31, 2016		\$20,668,142.23
<hr style="border: 1px solid black;"/>		
Outstanding contracted Small Research/Education/Demo Project Commitments	-\$2,056,014.00	



Minutes - Page 2  
 March 15, 2017

Outstanding contracted Marketing Project Commitment (includes expenditures in 2017-2019)	-\$1,227,000.00	
Estimated Lignite Litigation Costs for 2015-2017 biennium	-\$1,397,287.83	
Outstanding Non-matching project commitment (includes expenditures in 2017-2019)	-\$2,572,250.00	
Outstanding LV 21 Project Commitment	-\$1,367,678.00	
Estimated remaining administrative expenses for 2015-2017 biennium	-\$168,772.94	
	-\$8,789,002.77	
Non-committed Funding		\$11,879,139.46

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Estimated Revenues for 2015-2017 Biennium

\$.02/ton Coal Severance Tax	\$1,100,000.00	
Coal Severance Taxes/Coal Development Trust Fund	\$4,325,000.00	
5% of General Fund Share of Coal Conversion Tax*	\$2,000,000.00	
Interest & Other Income	\$825,000.00	
	\$8,250,000.00	

Other Designated Revenues

General Fund One-time Appropriation (Originally \$5,000,000)	\$4,672,500.00	
Expenditures through January 31, 2017	-\$1,896,911.00	
Cash Balance Remaining as of January 31, 2017**	\$2,775,589.00	

\*This funding source expires July 31, 2018

\*\*This entire amount is under contract along with \$307,500 in the demo \$'s

	2015-2017 Budget	Committed	Balance
Administration	\$750,000.00	\$750,000.00	\$0.00
Non-matching Studies	\$3,000,000.00	\$3,000,000.00	\$0.00
Marketing Project	\$1,200,000.00	\$1,200,000.00	\$0.00
LV 21 Demonstration Projects	\$3,572,866	\$3,572,866.00	\$0.00
Small Research/Education/Non-LV 21 Demonstration Projects	\$6,597,500	\$3,818,150.00	\$2,779,350.00
Litigation Costs (net costs)	\$1,500,000	\$1,500,000.00	\$0.00
	\$16,620,366.00	\$13,841,016.00	\$2,779,350.00

Mr. Mike Holmes, Lignite Research Program Director and Technical Advisor to the Commission, discussed the Lignite Research Council recommendation for Grant Round LXXXII (82) application as follows:

“North Dakota Integrated Carbon Storage Complex Feasibility Study” - Submitted by: University of North Dakota Energy & Environmental Research Center; Request for \$1,500,000; total Project Costs \$13,857,978; Project Duration: 24 months – (A copy of the application is available in the Commission files.) He said the primary objective of this project is to establish the geologic, economic, regulatory, and social feasibility of developing a commercial-scale (50+ million metric tons [Mt]) geologic CO2 storage site to promote North Dakota’s statewide

vision for lignite use and carbon management and fulfill the goals of the U.S. Department of Energy's CarbonSAFE Program. There were three technical reviewers with all three recommending funding the project. The Council vote was eighteen to zero in support of the project.

In response to a question regarding the conflicts of interest listed on the recommendation, Mr. Holmes indicated that those organizations could benefit from the results of the study as would all the utilities and coal companies that are members of the Lignite Research Council. However, the organizations listed are the ones that are providing financial match funding for the project.

In response to a question regarding DOE's definition of commercial scale and whether someone is looking at the certainty of whether "Can you store it?" or is it "Can you store it and it makes economic sense?", Mr. Holmes said it is a little of each. So far if you have EOR opportunities like what we have in North Dakota and you say okay we are looking at the geology and this is a backup plan if there isn't any EOR off-taker at the time. The reason this kind of quantity becomes commercially viable is because of the infrastructure that is needed to move it. If you are not moving at least a million tons per year then it is really hard to justify the cost of the pipeline and the compression to move it. DOE looked at it and said to be truly commercially viable there needs to be about two million tons per year and over twenty-five years that's fifty million tons. Then to be economically viable for just geologic storage with no other option like EOR, which is what we really want to push in our region, then you would have to be addressing a carbon tax or better yet what the legislators in D.C. are looking at which is as much as a \$30.00 per ton tax credit for EOR and even more for standalone geologic storage. If there can be that type of credit then the economic viability comes in because you are now competing with the value for EOR even if you store it locally.

He said this project is a DOE driven first step on what they call CarbonSAFE. They have indicated this is what they want to do in regions where there is an opportunity, in the future, for first-of-a-kind demonstrations of large capture utilization and storage of CO<sub>2</sub>. This is a benchmark they have thrown down in our path to getting those large demonstration projects. The timeline is nineteen months.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the Lignite Research Council's recommendation to fund the grant application "North Dakota Integrated Carbon Storage Complex Feasibility Study" and to authorize the Industrial Commission Executive Director and Secretary to execute an agreement with the University of North Dakota Energy and Environmental Research Center to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$1,500,000 (small research) with the contingencies that match funding be received from all parties, the Technical Advisor participates in the Advisory Group and that the Technical Advisor reviews the project management plan with the Project Manager. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Consideration of Lignite Research Council recommendation for an agreement modification on the "Pathway to Low-Carbon Lignite Utilization - Phase 18 and 2A project" (A copy is available in the Commission files.) – Mr. Holmes said this project is about de-risking the technology known as the Allam Cycle. The requested project change reflects alternative cost share from 8 Rivers Capital that reduced the cost share by \$344,400, from \$5,000,000 to \$4,655,600. Also since the U.S. DOE has not yet moved forward with funding to support syngas combustor testing, the project deliverables need to be modified to reflect that the combustor modeling and design will be based on data from the natural gas combustion at the demonstration outside of Houston, Texas. The team will be directed to pursue syngas combustion testing to further the technology at the earliest opportunity.

Mr. Holmes explained that this project is going to use the data, engineering models and general operational information gained from the test with natural gas at the facility in Texas to de-risk the combustion and turbine side

of things before the project team moves forward with the syngas combustion testing. The biggest risk with the Allam Cycle is in the operation of the combustor and the turbine. Once it is demonstrated on natural gas the project team can take it further and compare it with the operation of syngas which would come from coal. The higher BTU value and the different flame properties would be tested next. He noted that for the follow up work EPRI has expressed an interest in providing \$2 million.

Mr. Holmes stated that this is a slight decrease in the amount of cost share but it's still leveraging the Program funding almost 3 to 1. In addition there is \$140 million being spent on the project in Texas. The Council vote was 18 to grant the modification and 0 not to grant the modification.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the Lignite Research Council's recommendation and approves the proposed agreement modification to the "Pathway to Low-Carbon Lignite Utilization - Phase 1B and 2A" and authorizes the Industrial Commission Executive Director and Secretary to execute an amendment to Contract FY16 - LXXX-203 revising the Total Project Costs from \$10,300,000 to \$9,955,600 and revising the scope of work as follows:**

**"Complete syngas combustor pilot scale testing (October 31, 2017)" to "Complete natural gas combustion testing (October 31, 2017)"**

**"The syngas combustor experimental system and the analysis of data from the combustion tests" to "Extrapolation of data and modeling of the natural gas combustor demonstration site in La Porte, Texas to a syngas combustion platform."**

**Change dates of deliverables from February 28 and March 31, 2017 to October 31, 2017**

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

Mr. Bohrer gave a brief legislative update. He said there were three bills impacting the Lignite Research, Development and Marketing Program Fund:

SB 2031 - Passed both houses and is waiting for the Governor's signature. It repeals the sunset of a tax that was implemented years ago and was set to sunset in 2018.

SB 2014 - Industrial Commission budget bill and has passed the Senate and waiting on House action. Includes a one-time transfer of \$3 million from the SIIF to the Lignite Research, Development and Marketing Program Fund and creates the new idea of Advanced Energy Technology projects building upon what was done two year ago when there was a one-time General Fund transfer.

HB 1152 - Passed the House and is waiting on the Senate. This contains a new bucket in the SIIF that would fund Advanced Energy Technology Projects up to \$3 million.

In response to a question of how he would prioritize the funding requests, Mr. Bohrer said he has determined a prioritization but the tricky part is he would prioritize the one that is least likely to survive. It is easier to make a one-time transfer from the SIIF right now than to create a new bucket and he would prefer creating a new bucket because that gives the Program something that would be ongoing in the future.

Being no further Lignite Research, Development and Marketing Program business, Governor Burgum adjourned the meeting at 2:54 p.m. and took up Housing Finance Agency business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 15, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Leslie Oliver, Governor's Office  
Cassandra Torstenson, Governor's Office  
Jolene Kline, Housing Finance Agency  
Max Wetz, Housing Finance Agency  
Jennifer Henderson, Housing Finance Agency  
Collin Engelhardt, Eide Bailly  
Members of the Press

Governor Burgum called the Housing Finance Agency portion of the Industrial Commission meeting to order at 2:54 p.m. following completion of Lignite Research, Development and Marketing Program business.

Ms. Jolene Kline, Housing Finance Agency Executive Director, reported on the following Authorizing Declaration of Intent to Issue Multifamily Revenue Bonds that the Agency had issued on February 22, 2017:

RE: Declaration of "Official Intent" with respect to Authorizing Declarations of Intent to Issue Multifamily Revenue Bonds

By the authority granted in a certain resolution entitled "Resolution Authorizing Declarations of Intent to Issue Multifamily Revenue Bonds" and adopted by the Industrial Commission of North Dakota on March 24, 2015, I hereby declare, pursuant to Section 1.150-2 of the Internal Revenue Code Regulations, the Agency's intention to issue bonds in an amount not to exceed \$7,000,000 to provide funds to finance a loan with respect to the Project noted above (a 54 unit family affordable housing rental project located in Grand Forks, North Dakota), subject to the following:

The declaration of intention stated in the preceding paragraph does not obligate the Agency to give final approval for the issuance of said Bonds. Final approval of the issuance of the Bonds can only be authorized by independent action of the Industrial Commission, which may contain such conditions thereto as the Industrial Commission may deem appropriate. The Industrial Commission in its absolute discretion may refuse to give final approval to authorize the issuance of the Bonds and shall not be liable to any person, including, but not limited to, the developer, the borrower or any other applicant, for its refusal or inability to do so.

She indicated that Grand Forks Homes, a non-profit corporation, is the proposed applicant. Winterland Apartments is a 1994 and 1995 low-income housing tax credit project that is in need of rehabilitation and modernization. Currently 38 of the 54 units are restricted to low-income households. The proposed application intends to restrict 100 percent of the units for low-income households.

She stated that the issuance of an official intent memo declares the intention to issue multifamily bonds, however it does not obligate the Agency to give final approval for the issuance of the bonds. Final approval for issuance of the bonds can only be authorized by independent action of the Industrial Commission. Prior to final bond issuance the application must meet underwriting conditions and receive an approval for 4% tax credits. The applicant continues to structure the financing of the project and it is difficult to anticipate the time line for final application submission.

Ms. Kline discussed the authorization resolution for Federal Home Loan Bank of Des Moines Borrowings up to \$25,000,000. She noted that when they did the Declaration of Intent in March 2015 it was specific for a Minot

project which was funded with tax exempt bonds and 4% credits. The legal and accounting fees were very high for that project. The Agency has been working to figure out what role the Agency could play to bring those costs down and put the money out into the project at a lower cost. They worked with the Federal Home Loan Bank of Des Moines and that agency will give the Housing Finance Agency a \$25 million line of credit so when we go out to issue multi-family bonds there will be direct placement for the Federal Home Loan Bank. This will eliminate a lot of the costs – the only legal fees are some fees that the Agency is incurring on the front end to structure the documents that are going to be standard from now on for projects to use. It is a good opportunity for the Agency to lower the cost of funds that the Agency puts out on the street.

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

NORTH DAKOTA HOUSING FINANCE AGENCY  
HOUSING DEVELOPMENT PROGRAMS

**AUTHORIZATION RESOLUTION  
(FEDERAL HOME LOAN BANK OF DES MOINES BORROWINGS)**

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, programs to finance loans made with respect to residential rental properties for persons or families of low or moderate income; and

WHEREAS, the Agency is an affiliate member of the Federal Home Loan Bank of Des Moines (“FHLB”), and as such and pursuant to an Advances, Pledge and Security Agreement, dated May 9, 2007, with the FHLB (the “Advances Agreement”) has the right to borrow money from the FHLB, subject to the FHLB’s security requirements (i.e., the pledge of adequate security for any borrowing); and

WHEREAS, the Agency can structure its borrowings pursuant to the Advances Agreement with the FHLB as tax-exempt, thereby creating 4% low income housing tax credits (“LIHTCs”) for qualifying multifamily low and moderate income projects, which borrowings in some cases would be more efficient and cost-effective than publicly issuing tax-exempt bonds;

NOW BE IT HEREWITH RESOLVED:

1. The execution and delivery of the Advances Agreement is hereby ratified and confirmed and the Agency is hereby authorized to borrow funds thereunder (whether on a taxable or tax-exempt basis) and to post collateral as security therefor in accordance with FHLB guidelines, all to finance or assist in the financing of loans for affordable rental housing projects approved by the Commission.

2. The aggregate amount of any such outstanding borrowings shall not at any time exceed \$25,000,000.

3. The Executive Director and the Chief Financial Officer of the Agency are each hereby appointed as Authorized Officers with full power to negotiate the terms and conditions of any FHLB borrowing and pledge of collateral, to execute and deliver agreements on behalf of the Commission reflecting such terms and conditions which have been negotiated, to execute and deliver such certificates and other documents as they deem necessary and appropriate to effectuate such borrowing and pledge, to determine the type of collateral to be pledged as

security and to execute documents effectuating such pledge, and to use the proceeds of such borrowing to make or finance loans as described above.

IN WITNESS WHEREOF, this Authorization Resolution (Federal Home Loan Bank of Des Moines Borrowing) has been adopted and signed on March 15, 2017.

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

Ms. Kline discussed the draft 2018 Low Income Housing Tax Credit Qualified Allocation Plan. (A copy of the memorandum is available in the Commission files.) She said every year the Agency develops an allocation plan that is required by the Internal Revenue Code. This starts the process for this year's award of credits. What is included in the materials provided today are the staff's proposed recommended changes from last year based on outreach they have had with their stakeholders and changes made by the IRS and HUD over the past year. She encouraged the Commission members to provide any suggestions that they had by March 27. The draft plan will then be going out to the public for a thirty-day comment period. A public hearing will be held on April 27. After the public hearing the staff will finalize the proposed draft plan, take it to the Advisory Board and then present the proposed plan to the Commission in late May.

She noted that the most significant changes may be a restriction on the use of replacement reserve accounts. Currently projects have to have a replacement reserve account and that is monitored annually by the staff. What the staff has been finding out is that as these projects come to the end of their initial 15-year period the limited partners are exiting the partnership and pulling out the reserve account as part of the sale or the exiting of the project. That leaves the project with no dollars in the replacement reserve accounts. Another change involves infrastructure. Prior allocation plans have always required the applicant to provide evidence that appropriate utilities – water, sewer, electricity, natural gas – would be available to that site. This proposed allocation plan expands that to include utilities and infrastructure with infrastructure being roads, curbs and gutters. If the applicant is not able to tell the Agency it is in place it would require a letter from the local governing body saying there are no lots available in the city with infrastructure.

In response to a question regarding what adaptive reuse is, Ms. Kline said it is the conversion of a non-housing structure into housing. The junior high school in Williston is an example of an adaptive use. Governor Burgum commented that was a good use of existing infrastructure.

Ms. Kline discussed the appointment of Public Hearing Representative regarding the Housing Finance Agency's proposed Low Income Housing Tax Credit Program Qualified Allocation Plan.

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

INDUSTRIAL COMMISSION OF NORTH DAKOTA  
Acting as the  
NORTH DAKOTA HOUSING FINANCE AGENCY

Appointment of Public Hearing Representative

Jolene Kline, the Executive Director of the North Dakota Housing Finance Agency (the "Agency"), is hereby appointed to act as the representative of the North Dakota Industrial Commission, acting as the Agency at a public hearing regarding the Agency's proposed Low Income Housing Tax Credit Program Qualified Allocation Plan. The hearing will be held in Bismarck, North Dakota, on April 27, 2017 at 10:00 A.M. (CST), as noticed by the Notice of Public Hearing hereto attached.

As Hearing Representative, Jolene Kline will receive in behalf of the Agency public comments, oral or written, and advise the Agency of the substance of the testimony given at the public hearing prior to the date of adoption of the Plan.

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

Ms. Kline discussed the appointment of Public Hearing Representative regarding the Housing Finance Agency's proposed 2017 National Housing Trust Fund Allocation Plan. Those two hearings will be held jointly.

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

INDUSTRIAL COMMISSION OF NORTH DAKOTA  
Acting as the  
NORTH DAKOTA HOUSING FINANCE AGENCY

Appointment of Public Hearing Representative

Jolene Kline, the Executive Director of the North Dakota Housing Finance Agency (the "Agency"), is hereby appointed to act as the representative of the North Dakota Industrial Commission, acting as the Agency at a public hearing regarding the Agency's proposed 2017 National Housing Trust Fund Allocation Plan. The hearing will be held in Bismarck, North Dakota, on April 27<sup>th</sup>, 2017 at 11:00 A.M. (CST), as noticed by the Notice of Public Hearing hereto attached.

As Hearing Representative, Jolene Kline will receive in behalf of the Agency public comments, oral or written, and advise the Agency of the substance of the testimony given at the public hearing prior to the date of adoption of the Plan.

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

Ms. Kline gave the legislative update saying they are down to one bill--SB 2014--the budget bill. It is still in Government Operations and the next step is to go to House Appropriations. It includes the Agency's budget; it has reauthorization and funding of the HIF at \$5 million and the creation of the Essential Service Worker Homeownership Program at \$500,000. She thinks that both of those funding programs are at significant risk. It would end up going to conference committee because the Senate passed it out with that funding intact.

Being no further Housing Finance Agency business, Governor Burgum adjourned the meeting at 3:06 p.m. and took up Public Finance Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 15, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Leslie Oliver, Governor's Office  
Cassandra Torstenson, Governor's Office  
DeAnn Ament, Public Finance Authority  
Kylee Merkel, Public Finance Authority  
Collin Englehardt, Eide Bailly  
Members of the Press

Governor Burgum called the Public Finance Authority portion of the Industrial Commission meeting to order at 3:06 p.m. following completion of Housing Finance Agency business.

Mr. Collin Englehardt, Eide Bailly, presented the 2016 Public Finance Authority Annual Audit. (A copy is available in the Commission files.) He said in their opinion the financial statements present fairly the financial position of the Authority as of December 31, 2016 and 2015 so it is a clean opinion. The Authority is very consistent operationally. He pointed out that the Clean Water State Revolving Fund was a major program they tested this year. The report over internal controls over financial reporting in accordance with government auditing standards – there were no significant deficiencies or material weaknesses identified. In their opinion the Authority complied in all material respects with the compliance requirements. There were no direct or material statements that they found for the Clean Water SRF Program. There were no findings or questioned costs and gave an unmodified opinion.

In response to a question regarding the 70% pension coverage, Mr. Englehardt said it is not a real cause for concern. It would be if it all had to be paid out right now but that is not the case--it will be paid out over time. It is something to monitor but is not a grave concern.

In response to a question regarding a slight downgrade on some of the bonding from AA to A+, Ms. Ament said for the Capital Finance Program that rating is based off of the State's rating. When the State's rating was downgraded then this program was also downgraded.

In response to a question regarding whether the risk management is a narrow assessment such as insurance in place, Mr. Englehardt said it is a high level assessment. They do look to make sure that insurances are in place but it is not a significant part of the audit.

Ms. DeAnn Ament presented the 2016 Public Finance Authority Annual Report. (A copy is available in the Commission files.) She noted the following:

- Capital Finance Program did not have any bonds issued and has \$162 million in bonds outstanding.
- Capital Financing Disaster Loan Program was relatively quiet with loans to date approved under the program of \$71 million and \$1.7 million outstanding.
- The State Revolving Loan Fund Program has a AAA rating. In 2016 they hit a milestone of approving financial assistance of more than \$1 billion under the Clean Water and Drinking Water Programs. Of that amount \$927,000,000 has been funded. The Clean Water SRF program had draws in 2016 of \$50 million (the third highest year for draws) and the Drinking Water SRF Program had \$30 million of draws (second highest year for draws). There were \$3.3 million of loans approved under the Clean Water Program and \$15.5 million of loans approved under the Drinking Water Program for political subdivisions.
- The Authority also did a refunding in the amount of \$16.4 million which had a net present value saving of \$4 million.



In response to a question, Ms. Ament stated the Public Finance Authority (previously known as the Municipal Bond Bank) was created in 1975. The Clean Water State Revolving Fund Program began in 1990. Information on all the loans financed under the Authority is in the appendices of the Annual Report.

Ms. Ament presented a Capital Financing Program Series 2017A Bonds Resolution for up to \$20,000,000. She said they do have a loan application from Grafton for just under \$14 million and there might be some smaller projects that may come in before Grafton is ready to issue bonds so the amount is up to \$20 million.

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

**SERIES RESOLUTION FOR  
UP TO  
\$20,000,000  
NORTH DAKOTA PUBLIC FINANCE AUTHORITY  
CAPITAL FINANCING PROGRAM BONDS  
SERIES 2017A**

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

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

WHEREAS, the Industrial Commission of North Dakota has determined that it is necessary and expedient that the Authority issue at this time a Series of Bonds to be designated "North Dakota Public Finance Authority Capital Financing Program Bonds, Series 2017A" (the "Series 2017A Bonds") to provide moneys to lend to the City of Grafton ("Grafton") through the purchase of approximately \$14,000,000 of improvement bonds to finance the flood control projects, and to acquire obligations of other eligible borrowers (together with Grafton, the "Political Subdivisions") requesting loans approved by the Commission or, if in an amount less than \$500,000, otherwise approved under Section 6-09.4-06 prior to the issuance of the Series 2017A Bonds (the "Municipal Securities"), all pursuant to the General Bond Resolution;

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

WHEREAS, the Municipal Securities are expected to mature on June 1 of each of the years and in the principal amounts determined by the Executive Director, not exceeding an aggregate of \$20,000,000 and having a final maturity not later than June 1, 2047.

WHEREAS, the Commission has received and reviewed a report of Public Financial Management, Inc., financial consultants to the Commission, describing the estimated costs to Grafton of borrowing for its projects through the Capital Financing Program as compared to the costs of borrowing through other alternatives available to Grafton, a copy of which is on file in the offices of the Commission.

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

ARTICLE I  
Authority, Definitions and Findings

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

Section 1.02. Definitions. All terms defined in Article I of the General Bond Resolution or in the Act shall have the same meanings, respectively, in this Series Resolution and with respect to the Series 2017A Bonds as such terms are given in said Article I of the General Bond Resolution or the Act.

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

ARTICLE II  
Authorization of Series 2017A Bonds

Section 2.01. Authorization of Series 2017A Bonds. Pursuant to the General Bond Resolution, a Series of Capital Financing Program Bonds to be designated as the "Series 2017A Bonds" is hereby created and authorized to be issued in the aggregate principal amount of up to \$20,000,000; provided that the terms of the Series 2017A Bonds may be established or revised to provide for the terms of the Municipal Securities to be purchased by the Commission or for the reduction in the amount of the Municipal Securities.

Section 2.02. Purposes. The Series 2017A Bonds are being issued to provide funds to be loaned to the Political Subdivisions by purchasing such Municipal Securities to be issued by the Political Subdivisions as are approved pursuant to the Act. In the event any Political Subdivision receiving such approval fails to issue its Municipal Securities as contemplated by September 1, 2017, proceeds of the Series 2017A Bonds allocated for such purpose may be used for the purchase of any other Municipal Securities subsequently approved pursuant to the Act or for the redemption of Series 2017A Bonds as provided in Section 2.04. It is hereby found and determined in accordance with Section 2.11 of the General Bond Resolution that the Municipal Securities will be in an amount and will mature and bear interest at rates sufficient to pay the principal of and interest on the Series 2017A Bonds when due.

Section 2.03. Date, Payment Dates, and Maturities. The Series 2017A Bonds shall be dated as of a date determined by the Executive Director to be appropriate, except that Series 2017A Bonds issued on or subsequent to the first interest payment date shall be dated as of the most recent date to which interest has been duly paid or provided for. The Series 2017A Bonds shall bear interest from their date, payable semiannually on June 1 and December 1 in each year, commencing December 1, 2017. The Series 2017A Bonds shall mature, or at the option of the purchaser be subject to mandatory redemption, on June 1 in each of the years and in the principal amounts determined by the Executive Director to be necessary to accommodate the needs of the Political Subdivisions. The Series 2017A Bonds may be issued in any amount not more than \$20,000,000 and maturing in amounts on each June 1 as determined by the Executive Director.

Section 2.04. Redemption. The Series 2017A Bonds maturing on or after June 1, 2028, are subject to redemption and prior payment at the option of the Authority at par plus accrued interest on June 1, 2027, and any date thereafter, in whole or in part in such order as the Executive Director may determine. The Series 2017A Bonds are also subject to mandatory redemption on December 1, 2017, at the amortized issue price as determined by the Executive Director plus accrued interest, in whole or in part in such order as the Authority may determine, to the extent that the net proceeds of such Series exceeds the net proceeds of the Municipal Securities which have been purchased by the Authority with the proceeds thereof on or prior to October 1, 2017.

Section 2.05. Interest Rates. The Series 2017A Bonds shall bear interest at such rate or rates as the Executive Director may approve based on the public sale procedure described in Section 2.08, provided that the net interest rate for the Series 2017A Bonds shall not exceed 5.50% per annum.

Section 2.06. Denominations, Numbers, and Letters. Each Series 2017A Bond shall be in an integral multiple of \$5,000 and shall be numbered separately from R-1 consecutively upwards in order of issuance.

Section 2.07. Registrar and Paying Agent. The principal of the Series 2017A Bonds shall be payable upon presentation and surrender thereof at the main office of the Bank of North Dakota, Bismarck, North Dakota, which is hereby appointed Registrar and Paying Agent under the General Bond Resolution. Interest on the Series 2017A Bonds shall be payable by wire transfer or by check or draft mailed to the registered Owners of record as of the 15th day of the month preceding each interest payment date at their registered addresses.

Section 2.08. Sale of Series 2017A Bonds. The Series 2017A Bonds shall be sold at public sale pursuant to and in accordance with the Official Terms of Offering which shall be prepared by the Executive Director in customary form and shall be mailed to prospective bidders in advance of the sale. Upon receipt and acceptance of a bid conforming to the Official Terms of Offering, the Executive Director is authorized to execute the bid form submitted by the successful bidder in acceptance thereof and to return the good faith deposits of the unsuccessful bidders.

Section 2.09. Official Statement. A Preliminary Official Statement of the Authority in respect of the Series 2017A Bonds, similar in form to previous official statements shall be prepared by the Executive Director and made available to members of the Commission, and a final Official Statement shall be distributed with such changes, omissions, insertions and revisions as the Executive Director shall deem advisable in order to make such Official Statement a complete and accurate disclosure of all material facts to prospective purchasers of the Series 2017A Bonds. The Executive Director shall sign one or more copies of such final Official Statement on behalf of the Authority, and at least one such signed copy shall be filed with the permanent records of the Commission.

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

### ARTICLE III Use of Proceeds of Series 2017A Bonds

Section 3.01. Reserve Fund Deposit; Letter of Credit. Upon or prior to the issuance and sale of the Series 2017A Bonds and as a condition to the delivery thereof, the Authority shall have received a letter of credit provided by the Bank of North Dakota in accordance with the Reimbursement Agreement (the "Letter of Credit") in an amount equal to the largest amount of money required by the terms of the Series 2017A Bonds to be paid on maturing principal of and interest on the Series 2017A Bonds in any period of 24 consecutive months (the "Series Reserve Fund Requirement"), less such amounts as may be deposited in the Reserve Fund from the proceeds of the Series 2017A Bonds as directed by the Executive Director or from funds deposited by the Political Subdivisions. The Executive Director is authorized to deposit up to one half of the Reserve Fund Requirement into the Reserve Fund from Series 2017A Bond proceeds. The proceeds of any draw on the Letter of Credit are pledged to the Reserve Fund and may be applied only for the purposes for which the Reserve Fund may be applied. The Authority shall make a draw on the Letter of Credit at any time funds thereunder are necessary to pay principal of or interest on Bonds issued under the General Bond Resolution when due. In the event of a draw on the Letter of Credit which has not been reimbursed by legislative appropriation, the Authority shall reimburse the Bank of North Dakota only after payment of the Series 2017A Bonds and solely from amounts on deposit in the Series 2017A Account of the Reserve Fund, subject and subordinate to the prior pledge to the holders of Bonds under the General Bond Resolution.

Section 3.02. Deposit to Costs of Issuance Fund. Upon receipt of the proceeds of sale of the Series 2017A Bonds, the Authority shall deposit in the Costs of Issuance Fund from the proceeds of the Series 2017A Bonds the sum determined by the Executive Director to be used to pay Costs of Issuance of the Series 2017A Bonds in accordance with the provisions of the General Bond Resolution.

Section 3.03. Deposit to Series 2017A Account of Loan Fund. The Authority shall deposit all other proceeds derived from the sale of the Series 2017A Bonds which are not deposited in the Reserve Fund or Cost of Issuance Fund in the Series 2017A Account of the Loan Fund, which is hereby created, to be applied to the making of loans to the Political Subdivisions through the purchase of the Municipal Securities at the prices corresponding to the percentages of par bid for the Series 2017A Bonds plus accrued interest for the period from the date of the Series 2017A Bonds to the date of purchase; provided that such accrued interest shall not in any event exceed the amount of accrued interest received from the sale of the Series 2017A Bonds plus all interest earnings on the amounts deposited in the Series 2017A Account of the Loan Fund under the General Bond Resolution.

ARTICLE IV  
Form, Execution and Other Details of Series 2017A Bonds

Section 4.01. Form of Series 2017A Bonds. The Series 2017A Bonds, the Registrar's Authentication Certificate and the form of assignment shall be in substantially the form set forth in Exhibit A to the General Bond Resolution, with all such insertions as may be consistent with this Series Resolution and the successful bid. The approving legal opinion of bond counsel may be printed on the reverse side of the Bonds and certified by the Executive Director.

Section 4.02. Execution and Delivery. The Series 2017A Bonds shall be executed by the facsimile signatures of the Chairman and Executive Director and delivered as provided in the General Bond Resolution.

ARTICLE V  
Special Covenants

The Commission and the Authority covenant and agree with the persons who at any time are Holders and Owners of the Series 2017A Bonds that so long as any Series 2017A Bonds remain outstanding and unpaid:

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

Section 5.02. Maintenance of Tax-Exempt Status. Neither the Commission nor the Authority shall take, or permit the Political Subdivisions to take, any action that would cause the Series 2017A Bonds to be "private activity bonds" (other than "qualified 501(c)(3) bonds") within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended. The Commission and the Authority shall comply with all the rebate requirements imposed under Section 148(f) of the Internal Revenue Code of 1986, as amended, and regulations thereunder, which are necessary to preserve the tax exempt status of the Series 2017A Bonds, including (if applicable) the requirement to make periodic calculations of the amount subject to rebate thereunder and the requirement to make all required rebates to the United States. The Authority agrees to use any moneys on deposit in any Fund or Account maintained under the General Bond Resolution to pay any such rebate (or penalty in lieu thereof) when due. In addition, the Authority shall make no investment of funds or take or permit any Political Subdivisions to take any action that would cause the Series 2017A Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations thereunder. All terms used in this Section 5.02 shall have the meanings provided in the Internal Revenue Code of 1986, as amended, and regulations thereunder. The Executive Director shall execute any certificates as may be necessary or appropriate to establish the tax exempt status of the Bonds.

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

ARTICLE VI  
Book-Entry Bonds

Section 6.01. Depository. The Bonds shall be initially issued in the form of a separate single typewritten or printed fully registered bond. Upon initial issuance, the ownership of each such Bond shall be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, and its successors and assigns ("DTC"). Except as provided in Section 6.03 hereof, all of the outstanding Bonds shall be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee of DTC.

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

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

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

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

## ARTICLE VII Miscellaneous

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

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

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

Ms. Ament presented a Capital Financing Program loan for the City of Grafton in the amount of \$14,000,000. She said this funding would be used to construct three miles of a diversion channel and twelve miles high back levy to protect their community from flooding with total construction costs of \$49,550,000. The Water Commission will be providing a \$32,175,000 grant and a loan of \$3,375,000. The intent is to issue improvement bonds payable with special assessments. The City also has a 2% sales tax in place that they will use and then any amount that the sales tax doesn't cover will be special assessed. Based on that information, the Advisory Committee recommended approval of this loan.

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

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

WHEREAS, the City of Grafton (the "Political Subdivision") has requested a loan in the amount of \$14,000,000 (the "Loan") from the North Dakota Public Finance Authority (the "NDPFA") to finance flood control; and

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

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

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

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

1. The Loan is hereby approved.

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

In response to a question regarding the timeframe for completing it, Ms. Ament said they want to begin in June and be completed in December of 2020.

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

Ms. Ament presented a Clean Water State Revolving Fund Loan application for the City of Jamestown in the amount of \$4,800,000. She said this is to develop a landfill cell with the entire project being financed through the SRF program. The City will issue revenue bonds payable with their landfill and solid waste fund rates. They have

a loan paying off so they should be able to easily reach the coverage requirements and based on that information the Advisory Committee recommended approval.

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

RESOLUTION APPROVING  
LOAN FROM CLEAN WATER STATE REVOLVING FUND

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

WHEREAS, the Clean Water 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 (NDPFA) and the Bank of North Dakota ( the Trustee); and

WHEREAS, the City of Jamestown (the "Political Subdivision") has requested a loan in the amount of \$4,800,000 from the Program to finance development of a sanitary landfill cell; and

WHEREAS, the 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 Clean 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 Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Public Finance Authority business, Governor Burgum adjourned the meeting at 3:23 p.m. and 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 March 15, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Leslie Oliver, Governor's Office  
Cassandra Torstenson, Governor's Office  
Jaret Wirtz, WAWSA  
Mark Owan, WAWSA  
Eric Hardmeyer, Bank of North Dakota  
Craig Hanson, Bank of North Dakota  
Todd Steinwand, Bank of North Dakota  
Kelvin Hullet, Bank of North Dakota  
Members of the Press

Governor Burgum called the Western Area Water Supply Authority portion of the Industrial Commission meeting to order at 3:23 p.m. following completion of Public Finance Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director/Secretary, presented the Western Area Water Supply Authority February Financial Report and Debt Reduction Report as follows: (A full copy of the report is available in the Commission files.)

RE: Western Area Water Supply Authority - Industrial Sales - February, 2017 & Debt Repayment Report

Attached is the Western Area Water Supply Authority (WAWS) financial information for the month of February, 2017.

Page 1 prepared by the Bank of North Dakota, reflects debt service payments through the month of February, 2017. In February interest was paid on the two BND loans and two Water Commission loans and principal was paid on both the \$50 million and \$40 million BND loans.

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. There were two principal payments made in February that are highlighted in yellow. Net income for the month of February was \$290,144.11 before making their principal payments. No baseline sales payments were paid and those deferred costs are reflected on the line item titled Deferred Expense Asset. (As you will recall from the overall Debt Service spread sheet the breakeven sales monthly number is \$871,750 without the baseline sales payments. With WAWS sales for the month of February being \$941,224.59 they were over that number by \$69,474.59.

Page 5 is the balance sheet prepared by WAWS staff as of February 28, 2017. As noted on the Balance Sheet the Accounts Receivables are \$1,779,115.82 which is included in the assets of \$7,299,775.18 Note: The assets include a deferred expense line item of \$5,599,744.18 and the liabilities include, within the accounts payable, that same amount which reflects the deferred expenses for the Baseline Sales.

If you have questions I will be available to review the numbers. Jaret Wirtz will be at the meeting to respond to questions regarding the sales during the month of February.

Mr. Jaret Wirtz, WAWS Executive Director, said the reason they did had a little bit of a bump in sales is a frack job north of Williston. Unfortunately they weren't able to provide water for the entire job because the transfer company's line froze up and the operator had to go to a different water provider to complete the job. The operator indicated that they really like WAWS water and want to use it on their future fracture jobs. Right now WAWS

does not have any frack jobs lined up in March. There is the possibility of a job in late April. He indicated that he would be bringing some pricing suggestions to the next meeting of the Commission that would allow WAWS to offer a more competitive rate.

In regards to a legislative update, Ms. Fine stated the hearing on the Water Commission bill would be taking place on March 16.

Mr. Wirtz reported on the discussions they have had with Senate leadership and the alternatives that have been discussed. He noted there are some things that can be done without any legislative action. The bottom line is WAWS still believes the best route is to restructure the debt. It was noted that in order to do bonding the Legislature does need to give WAWS the authority to issue bonds. In response to a question, Ms. Fine indicated, that other water systems have the ability to issue bonds.

There was discussion regarding the advantages of having long term financing for WAWS through a bond issuance rather than having the Bank provide the funding--bonding would free up dollars the Bank could use to make other short term loans for their customers. In the current low interest environment now is the time to lock in longer term rates. Governor Burgum noted that the new U.S. Secretary of the Treasury is exploring fifty year notes. He indicated that it appears governance is getting in the way of making a good business decision.

Mr. Wirtz stated that allowing WAWS to issue bonds would be helpful. Having the ability for a longer maturity on their borrowing would be beneficial. Most of the rural water projects that are funded through the USDA have 40 year loans so the projects have a long term, low interest rate. Pipelines are an eighty-year asset and some of the water plant assets are 20 to 30 year assets. WAWS is currently being asked to pay back all their debt in 20 to 25 years.

In response to a question, Mr. Hullet indicated that what the Bank believes is the plan that everyone can agree to involves WAWS bonding for the amount of the Bank of North Dakota debt which would result in debt service payments of approximately \$6 million a year by WAWS. If the amount being bonded goes higher to include the other debt that would be problematic for WAWS as the debt service would also go up. Mr. Wirtz reminded the Commission that their current budget forecast is that WAWS will have \$6 million a year available for debt service. If the decision is to bond for a higher amount and include the General Fund or Water Resources debt then the State, probably through the Water Resources Trust Fund, would need to provide the additional funding for debt service.

In response to a question regarding which loan the Bank would pick up, it was indicated that the Senate was interested in the \$25 million General Fund loan being picked up by the Bank as that would provide an additional \$25 million in the General Fund. There might be some concerns by House members because the House had supported having another \$19.5 million in the Water Resources Trust Fund.

The Commission indicated there should be one plan presented to the Legislature that WAWS and the Bank have agreed on that would be beneficial to both the Bank and to WAWS and help balance the State's budget. After discussion the Bank was directed to work out the final numbers and present the plan to the Senate at the hearing on House Bill 1020.

Being no further Western Area Water Supply Authority business, Governor Burgum adjourned the meeting at 3:54 p.m. and 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 March 15, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Leslie Oliver, Governor's Office  
Cassandra Torstenson, Governor's Office  
Vance Taylor, State Mill (By Speakerphone)  
Members of the Press

Governor Burgum called the State Mill portion of the Industrial Commission meeting to order at 3:58 p.m. following completion of Bank of North Dakota business.

Mr. Vance Taylor, North Dakota Mill General Manager, presented a request for a capital project - Inbound Grain Scale Control System in the amount of \$440,000 as follows:

**Capital Project for Consideration**

**Inbound Grain Scale Control System**

**\$440,000**

**Current situation:**

The existing manual inbound truck and rail control systems for 5 unloading pits (includes the high speed truck and rail pit currently under construction) are not adequate to process scale transactions with the efficiency required to unload our current grind of over 30 million bushels of grain per year. Currently waiting times are often excessive to the point where elevator and producer trucking logistics are negatively affected.

**Proposed change and result:**

Purchase and install a new CompuWeigh Electronic Scale Control System including CompuWeigh's Smart Truck, Smart Pit, Smart Talk, Smart Lane, Smart Card, Outdoor ticket Printer and Smart Link Accounting Interface to Cinch/Dynamics GP technologies. Purchase and install 33 Radar Bin Measuring Devices with graphic display.

This integrated system will refine and increase the speed in which we process State Mill scale transactions. Truck waiting times will be substantially reduced and accounting accuracy will be improved. Grain terminal department overtime will be reduced. The CompuWeigh system will also be used to process grain delivered by rail. Grain bin inventories will be graphically displayed to the operators to further increase speed and efficiency.

**Project Funding Summary:**

Systems Improvements/Upgrades FY 2017 (approved 9/26/2016)	\$125,000
Inbound Grain Scale Control System	<u>440,000</u>
<b>Total</b>	<b>\$565,000</b>

**Summary of Equipment**

***Probe House (Indoor Software/Hardware)***

- (1) GMS-Server
- (1) Custom System Development & Configuration
- (1) SmartLink Accounting Interface to Cinch: Standard Import
- (1) SmartLink Accounting Interface to Cinch: Standard Export
- (2) GMS-Load Identification / Grading Workstation
- (2) FOSS 1241 Interface
- (2) GAC 2500 Test Weight & Moisture Interface

- (2) Serial to Ethernet Converter
- (1) SmartTalk Audio / Video Server (one per facility)
- (2) SmartTalk Master Control Station

**Probe Lanes (Outdoor Hardware)**

- (1) SmartTruck Pole Assembly: Lane 1
- (1) Fixed Position Video Surveillance Camera: Lane 1
- (1) Remote SmartTalk Station: Lane 1
- (1) SmartTruck Pole Assembly: Lane 2
- (1) Fixed Position Video Surveillance Camera: Lane 2
- (1) Remote SmartTalk Station: Lane 2

**Dump Pit Control Room (Indoor Software/Hardware)**

- (4) Main CPU Motherboard with Custom Software for Bulk Weighing (920i)
  - Scales 1 – 4 DWC-400
- (4) Modbus TCP/IP Ethernet Communications for DWC-400
- (4) 24 Channel Digital I/O Rack for DWC-400
- (16) 2-Channel Input Modules for DWC-400
- (16) 2-Channel Output Modules for DWC-400
- (4) 40-Column Serial Printer – used for audit trail receipts
- (1) GMS-400 Multiple Scale Control Workstation
  - o Base system includes control of (2) scales
- (3) Multiple Scale Control Strips: Scales 3 – 5
- (1) Additional Transaction Type: Rail Car Transactions
- (1) SmartRead/Smart Car RFID System: Used for Pit 4
  - o RF antenna is hazardous area rated, located in pit area
- (1) SmartTalk Master Control Station
  - o Used to communicate with drivers at OTP-4700 Outdoor Printers
- (1) SmartTruck Pole Enclosure
  - o Used to drive RF antennas and traffic lights at pits 1 - 4

**Dump Pit Areas: Pits 1 – 3 (Inside Pit Area/Hazardous Area)**

- (3) SmartTruck Dump Pit RF Antenna
- (3) Class II, Div I, Group G Red/Green Traffic Lights

**Dump Pit Area: Pit 4 (Inside Pit Area/Hazardous Area)**

- (1) SmartTruck Dump Pit RF Antenna
- (1) Class II, Div I, Group G Red/Green Traffic Light

**Ticket Collection Area: Pits 1 – 3**

- (1) SmartTruck Pole Assembly: Lanes 1 - 3
- (1) OTP-4700 Outdoor Ticket Printer: Lanes 1 – 3
- (1) OTP-4700 SmartTalk Intercom: Lanes 1 – 3
- (1) OTP-4700 Spare Print Engine (Any Lane)
- (4) OTP-4700 12” Diameter Rolls of Paper

**Ticket Collection Area: Pit 4**

- (1) OTP-4700 Outdoor Ticket Printer
- (1) OTP-4700 SmartTalk Intercom

### **5<sup>th</sup> Floor Control Room**

- (1) GMS-400 Multiple Scale Control Workstation
  - o Base system includes control of (2) scales
- (3) Multiple Scale Control Strips: Scales 3 – 5

### **Dump Pit 5 Control Room (Indoor Software/Hardware)**

- (1) DWC-400 Controller: Scale 5
  - o Includes (1) 40-Column Audit Trail Printer
- (1) Modbus TCP/IP Ethernet Communications
- (1) GMS-400 Workstation: Scale 5
- (1) SmartRead/Smart Car RFID System
  - o RF antenna is hazardous area rated, located in pit area

### **Dump Pit 5 (Inside Pit Area/Hazardous Area)**

- (1) Class II, Div I, Group G Red/Green Traffic Light
- (1) SmartTruck Pole Assembly (Prior to pit, outside safe area)
- (1) OTP-4700 Outdoor Ticket Printer
  - (1) OTP-4700 SmartTalk Intercom

### **Ticket Collection Area: Pit 5**

- (1) OTP-4700 Outdoor Ticket Printer
- (1) OTP-4700 SmartTalk Intercom

### **Additional Items**

- (1) Batch Unload
- (3) GMS-Managers' Workstation
- (1) SmartCard RF Dispenser and Collector
- (1) SmartLink Accounting Interface to CINCH: Standard Import and Export
- (33) Radar Bin Measuring Devices with graphic display

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the expenditure of \$440,000 for an additional FY2017 capital project -- *Inbound Grain Scale Control System* -- noting that \$125,000 of previously approved funding for FY 2017 Systems Improvements/Upgrades be allocated to the purchase of the Inbound Grain Scale Control System--total project costs are \$565,000.**

In response to a question regarding how long until this is installed and completed, Mr. Taylor stated there is a bit of a lead time to get all the equipment here and some time to install it, but he is estimating mid to late summer before it was all installed and debugged and up and running. In the meantime the Mill has a scale head that it would run the new high speed grain unloading system on manually so it wouldn't delay that startup.

In response to a question regarding how much this will speed things up or effective this will be, Mr. Taylor said this along with the new pit will cut the truck waiting time in half to one to two hours. They visited several elevators in the area that already have this system and one told us they unload 170 trucks per day with this system alone. They went from 12 hours down to closer to eight hours in a day. It is a nice time saver and helps keep everything straight and running right.

Governor Burgum disclosed that he had no material conflict with Dynamics GP which just barely integrates with this but is not part of it but that is the brand name for the Great Plains accounting system now marketed by Microsoft. He has no interest there so he can vote on this.

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March 15, 2017

In response to a question regarding if they are happy with Dynamics GP, Mr. Taylor said they are and have been on it for a number of years now and every year they refine it a little bit but they have been very happy with it.

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

Being no further State Mill business, Governor Burgum adjourned the meeting at 4:05 p.m. and reconvened Bank of North Dakota business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA

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

Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 15, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

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

Also

Present: Leslie Oliver, Governor's Office  
Cassandra Torstenson, Governor's Office  
Eric Hardmeyer, Bank of North Dakota  
Craig Hanson, Bank of North Dakota  
Todd Steinwand, Bank of North Dakota  
Kelvin Hullet, Bank of North Dakota  
Katie Williams, Eide Bailly  
Members of the Press

Governor Burgum called the Bank of North Dakota portion of the Industrial Commission meeting to order at 3:54 p.m. following completion of Western Area Water Supply Authority business.

Ms. Katie Williams, Eide Bailly, presenting the following audits. (Copies of all the audits are available in the Commission files.)

1. North Dakota Guaranteed Student Loan Program - September 30, 2016
2. Beginning Farmer Revolving Loan Fund - December 31, 2016
3. Community Water Facility Loan Fund - December 31, 2016

Ms. Williams said all three of the audits were clean unmodified opinions with no internal control deficiencies reported, no non-compliance reported. The Guaranteed Student Loan Program also has the federal audit and there were no issues reported there.

In response to a question regarding the lower default rate than the rest of the country and if it is sustainable or if the Bank has enough guarantees on its student loans from parents and other resources that the Bank is well secured, Mr. Eric Hardmeyer said yes to both of those sources of guarantees. He indicated that North Dakota is probably better than most places around the country regarding debt repayment plus the way the Bank has underwritten the loans the Bank is well secured.

In response to a question, Mr. Hardmeyer said the Community Water Facility Loan Fund has been around for years and is a side by side companion fund that works with the federal Rural Utilities Services (RUS) loan program. When a loan is approved for a community, the Bank participates with RUS by providing dollars from this Fund.

Governor Burgum adjourned the Bank of North Dakota portion of the meeting at 3:58 p.m. and took up State Mill business.

Following State Mill business, the Commission reconvened in non-confidential session at 4:05 p.m. and took up non-confidential Bank of North Dakota business.

Mr. Eric Hardmeyer, Bank of North Dakota President, distributed the legislative update and commented on some of the bills. (A copy of the Bank's legislative report is available in the Commission files.)

Mr. Hardmeyer reported that during the past week the Bank has been asked to help resolve an issue related to credit cards. BND administers the State's merchant card program. Currently state agencies, such as the Game and Fish Department, Highway Patrol, Workforce Safety, DOT, etc., accept credit cards from the public and those agencies have been absorbing the transaction fees--as much as \$3.5 million a year in total. The Governor Operations Subcommittee has asked the Bank to help figure out a way so the agencies don't have to pay those transaction fees. He stated there is a statute and administrative rules in place allowing agencies to charge that fee back to the customer. However, at the time this authority was approved in 2013, then Governor Dalrymple said



executive branch agencies are not going to pass that cost on to the consumer, the agency will absorb that transaction fee. Now, as everyone is looking at every penny in the budgets, it has been recognized that there is a considerable amount of money that the agencies are paying out in fees that they don't necessarily have to - those costs could be passed back onto the consumer.

In response to a question regarding if the Bank wanted to negotiate the fee charged, Mr. Hardmeyer said the State/Bank can't negotiate a better deal; it is what it is with Visa and Master Card. What the State can do is pass that cost back onto the consumer instead of absorbing it. Chase has a contract with the State and Bank management has been talking to them and they have a solution for how the agencies could charge for those fees. The question for Governor Burgum, because the previous Governor said all the executive agencies who report to him will absorb this cost, must decide if the executive branch agencies should now charge this fee. The statute does allow it - an executive branch agency may charge a fee to be added to a payment as a service charge for the acceptance of a payment - it is black and white.

Governor Burgum stated that this issue will all go away within the next five or ten years because there are about a dozen startups that are developing third party payment systems that charge a fraction of the fees that they do now. That level of cost in the industry will come down with competition.

Mr. Hardmeyer said what he thinks will happen is ITD's budget will be increased to cover the costs of coding that has to be done for each agency to allow that agency to charge and receive the transaction fee payments. It could amount to as much as \$20,000 per agency per application to do this. However, when you look at the savings it is the thing to do.

Mr. Hardmeyer indicated that he has heard there may be an effort to reduce the number of FTE's at the Bank. He will be strongly opposing that action.

Mr. Hardmeyer presented the non-confidential Bank of North Dakota Advisory Board January 18, 2017 meeting minutes.

Governor Burgum closed the meeting at 4:05 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 4:27 p.m.

Mr. Hullet, Mr. Hardmeyer and the Commission reviewed the legislative plan that the Commission had gone over during the WAWS portion of the meeting and clarified what should be proposed to the Senate. After discussion the consensus was to propose a financing package where WAWS would bond for the current BND debt and the \$25 million General Fund loan and all the remaining Resources Trust loans would be restructured at a fixed rate of no more than 2.5% which may include interest only loan payments for a period of time with the goal of having the WAWS debt service not exceed \$6 million a year.

Being no further Bank of North Dakota business, Governor Burgum adjourned the meeting at 4:31 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary