

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on June 9, 2021 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: This meeting was open through Microsoft Teams so not all attendees are known  
Members of the Press

Governor Burgum called the Industrial Commission meeting to order at approximately 1:00 p.m. and the Commission took up North Dakota Mill business.

**NORTH DAKOTA MILL (Mill)**

Mr. Vance Taylor, North Dakota Mill President and CEO, presented a capital project for consideration. The existing PT 1 flour packing system requires several upgrades to have the capability to pack heat seal bags efficiently. Transitioning to the new heat seal bags (currently sewn) on both the existing PT 1 packer and the new PT 2 packer will improve product safety, reduce damage during shipping, and increase the efficiency of NDM's packaging operations.

The proposed project includes the purchase and installation of new exit conveyors, a bag closing system, bag settling devices, and self-adjusting bag clamps to upgrade the PT 1 packer. These upgrades will increase the speed of the system, increase reliability, and improve product safety. The upgrades are necessary to complete the transition to heat seal bags. Department overtime is anticipated to be reduced as a result. In response to a question, Mr. Taylor indicated that this process is quicker than sewing and provides better food safety.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission amend the North Dakota Mill FY 2021 Capital Budget as follows:**

**Increase by \$420,000 for the purchase and installation of new exit conveyors, a bag closing system, bag settling devices, and self-adjusting bag clamps to upgrade the PT 1 packer to increase the speed of the packing system, increase reliability, and improve product safety.**

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

Mr. Taylor noted that North Dakota Century Code § 54-18-19 requires the transfer of 50% of the annual earnings and undivided profits of the Mill after any transfers to other state agricultural-related programs and 54-18-21 requires the transfer of 5% of the net income to the Agricultural Products Utilization Fund. The funds must be transferred on an annual basis. Mill management is planning to close their books on July 21 and is proposing to make the transfers no later than July 26. In response to a question, Mr. Taylor stated that the amount to be transferred has not been determined yet because the fiscal year has not been completed.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the North Dakota Mill is authorized to transfer 5% of the net income earned by the Mill for fiscal year 2021 to the Agricultural Products Utilization Fund (APUF) and transfer to the General Fund 50% of the annual earnings and undivided profits of the Mill after any transfers to other state agricultural-**

**related programs as per the request of the Office of Management and Budget Director noting that the transfers will be based on unaudited year-end results and reserving the right to adjust the transfer numbers once the year-end results have been audited. Further that Mill management reports the amount of the transfers to the Commission at their July 27 meeting. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

Discussion was held about the drought and its impact on crops. The east has been faring better than the western part of the state. The north central part of the state desperately needs rain, which could impact durum availability from that region. The Commission requested that Mr. Taylor keep the Commission informed as this could have several impacts on the Mill.

### **HOUSING FINANCE AGENCY (HFA)**

Mr. Dave Flohr, HFA Executive Director, presented a request for a Master Securities Forward Transaction Agreement (MSFTA) for consideration. An MSFTA is an agreement for use when parties enter into transactions for the purchase or sale of mortgage-backed and other asset-backed securities and such other securities as may be set forth, including pursuant to when-issued, TBA, dollar roll, and other transactions that result or may result in the delayed delivery of securities. The MSFTA has been approved by the Attorney General's office. This agreement is needed for NDHFA's sale of Ginnie Mae Mortgage Backed Securities (MBS) on the TBA (to be announced) MBS market. It describes the requirements for both the seller and buyer on MBS sales and the remedies if either party does not perform its obligations.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approve the proposed Master Securities Forward Transaction Agreement (MSFTA) and authorize Housing Finance Agency staff to execute the MSFTA. (A copy of the MSFTA is available in the Commission files.) On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Flohr presented a policy regarding distressed property resolutions. Currently, HFA does not have a policy to handle distressed HFA-assisted multifamily or development projects in the event an owner sells, deeds the property to the primary lender in lieu of foreclosure, or if the primary lender forecloses on the property.

HFA strives to protect investments where possible and maintain the required periods of affordability. However, if HFA does not cooperate in the potential sales of distressed properties, it would most likely result in the primary creditors initiating a foreclosure action. This action removes all secondary debt, affordability restrictions and prevents HFA from negotiating to keep, at a minimum, the affordable unit restrictions in place. HFA would like to have the authority to maintain the preservation of affordable units of distressed properties. However, the result may be a full loss of program funds including the affordable unit restrictions. The process may move quickly, and this would enable action between Commission meetings. It does not happen very often, but HFA felt a policy needed to be in place. It was noted as a pragmatic approach.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission authorize the Housing Finance Agency (Agency) Executive Director to approve distressed property resolutions on Agency multifamily and development projects including but not limited to sales, deed in lieu of foreclosures and foreclosures, and provide quarterly reports of any distressed property resolutions to the Industrial Commission. On a roll call vote, Governor**

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

Mr. Flohr reported that the Housing Incentive Fund 2021 Allocation Plan Public Hearing is scheduled for July 7, 2021. A hearing representative is needed.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission appoint David Flohr, Housing Finance Agency Executive Director, as the Commission's Public Hearing Representative for the Housing Incentive Fund 2021 Allocation Plan Public Hearing scheduled for July 7, 2021. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Flohr and Mr. Pat Nagel, HFA, reported on the Home Mortgage Finance Program 2021 Bond Sale. The Bond Sale closed yesterday. Prior to the sale, there was concern regarding whether buyers would participate. However, the concerns were unfounded as 33 buyers submitted requests and HFA was four times oversubscribed. The yield was 10 basis points lower than the last one. This was the second lowest sale the Agency has had. Overall, HFA was very pleased with the transaction. It was a \$120 million bond issue.

#### **OIL & GAS RESEARCH PROGRAM (OGRP)**

Mr. Brent Brannan, OGRP Director, presented a request from the Energy & Environmental Research Center for approval of the following legislative-directed Oil and Gas Research Program studies. The studies are to be completed within 2 years. EERC would like to begin work on July 1<sup>st</sup>. The proposals have been submitted to the OGRC, and the review process is underway. The OGRC meeting is anticipated to be held mid-late July. Any stipulations put in place would be amended into the contracts. Mr. Charlie Gorecki, EERC, noted that it will take time to get the contracting in place. This work will be critical for developing hydrogen in the state. Governor Burgum noted that these were significant pieces of legislation, and the studies are a great opportunity.

Attorney General Stenehjem inquired as to how the Commission will be kept apprised as the projects evolve. Mr. Gorecki indicated that EERC would be happy to provide reports. Attorney General Stenehjem indicated that reports should occur when something significant happens. An example of salt determination was given as critical information to be reported to the Commission.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approves the legislative directed "Hydrogen Energy Development for North Dakota" and "Field Study to Determine the Feasibility of Developing Salt Caverns for Hydrocarbon Storage in Western North Dakota" proposals contingent upon Oil and Gas Research Council approval and authorizes the Industrial Commission Executive Director and Secretary to execute contracts with the Energy and Environmental Research Center to provide a total of not to exceed \$500,000 for the Hydrogen Energy Development for North Dakota study and a total of not to exceed \$9,500,000 for the Field Study to Determine the Feasibility of Developing Salt Caverns for Hydrocarbon Storage in Western North Dakota. It is noted that the action or stipulations recommended by the Oil and Gas Research Council will be considered by the Commission at their July meeting and any Commission approved stipulations would be amended into the contracts. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

**DEPARTMENT OF MINERAL RESOURCES (DMR)**

Mr. Lynn Helms, DMR Director, presented the following orders for consideration.

*Case 28717, Order 31262 – application to eliminate 1,220-foot setback rule*

*Case 28718, Order 31263 – application to eliminate 1,220-foot setback rule*

These cases involve two adjacent spacing units (a 960-acre unit and a 1,920-acre unit) located one mile from the Montana border near Fort Union and the Missouri River. Because of the location there is an odd spacing pattern. Nine Point Energy wants four wells in each spacing unit. The Industrial Commission has a policy requiring that the first well in a spacing unit be drilled at least 1,220 feet from the section line. Nine Point Energy misunderstood the policy and submitted these applications to allow the first well to be drilled 500 feet from the section because they thought the first well had to be drilled at 1,220 from the section line and would limit them to 3 wells in each spacing unit. That is not the case. The first well needs to justify the wider spacing units and protect correlative rights and get the well closer to the center of the spacing unit. They can drill under the existing spacing order and, under this policy, they can drill the second well in from either the left- or right-hand side and still have 4 wells in each spacing unit. The testimony provided at the hearing supported the current policy. The recommendation is to deny the applications.

A question was raised as to whether a new application is required if their request is denied and they want to follow the existing rules. Mr. Helms indicated that they must file a drilling permit for the second well in the unit. They could also appeal to district court if they wished.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that effective June 9, 2021, the Industrial Commission approve Order No. 31262 issued in Case No. 28717 denying the application from Nine Point Energy, LLC to eliminate the 1,220 setback rule, authorize a horizontal well to be drilled 500 feet from the east boundary on an existing 960-acre spacing unit comprised of the E/2 and E/2 W/2 of Sections 26 and 35, T.153N., R.104W., Ft. Buford-Bakken Pool, Williams County, ND, finding that the application does not justify the spacing unit or protect correlative rights. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that effective June 9, 2021, the Industrial Commission approve Order No. 31263 issued in Case No. 28718 denying the application from Nine Point Energy, LLC to eliminate the 1,220 setback rule, authorize a horizontal well to be drilled 500 feet from the east boundary on an existing 1,920-acre spacing unit comprised of Sections 5, 8 and 17, T.152N., R.104W., Briar Creek- Bakken Pool, McKenzie and Williams Counties, ND, finding that the application does not justify the spacing unit or protect correlative rights. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

*Case 28816, Order 31364 – confiscation of Chola Sherwood Unit 6-1 well*

*Case 28817, Order 31365 – confiscation of Chola Sherwood Unit 9-1 well*

*Case 28818, Order 31366 – confiscation of Chola Sherwood Unit 9-2 well*

*Case 28819, Order 31367 – confiscation of Chola Sherwood Unit 10-1 well*

*Case 28820, Order 31368 – confiscation of Cramer 1 well*

These cases involve the company, 31 Operating. The wells last produced in September of 2020 and produced less than 4 barrels of oil per day per well. These wells are uneconomic. The last injection in the unit was in November 1998. 31 Operating is insolvent and unable to pay for the plugging and reclamation

of the five wells. DMR would like to confiscate the wells. Some of the assets of 31 Operating will be transferred to a new operator. They have three other units which were active waterfloods that have now been turned off and include 40 wells on a single blanket bond. The new rule regarding single well bonds will be used when any of the 40 wells are transferred to another operator. However, there is no interest in these four wells in the Chola Sherwood Unit, and they need to be plugged and reclaimed. The fifth well has a \$140,000 single well bond which will be confiscated to help pay for the plugging and reclamation costs.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve Order No. 31364 in Case No. 28816 authorizing the confiscation, under NDCC §§ 38-08-04 and 38-08-04.9, of all production-related equipment, and salable oil at the Chola Sherwood Unit 6-1 well (File No. 4064), NW/4 SW/4 Section 4, T.159N., R.84W., Chola Field, Renville County, ND,**

**and**

**the Industrial Commission approve Order No. 31365 in Case No. 28817 authorizing the confiscation, under NDCC §§ 38-08-04 and 38-08-04.9, of all production-related equipment, and salable oil at the Chola Sherwood Unit 9-1 well (File No. 5073), NW/4 NE/4 Section 8, T.159N., R.84W., Chola Field, Renville County, ND,**

**and**

**the Industrial Commission approve Order No. 31366 in Case No. 28818 authorizing the confiscation, under NDCC §§ 38-08-04 and 38-08-04.9, of all production-related equipment, and salable oil at the Chola Sherwood Unit 9-2 well (File No. 6328), NE/4 NE/4 Section 8, T.159N., R.84W., Chola Field, Renville County, ND,**

**and**

**the Industrial Commission approve Order No. 31367 in Case No. 28819 authorizing the confiscation, under NDCC §§ 38-08-04 and 38-08-04.9, of all production-related equipment, and salable oil at the Chola Sherwood Unit 10-1 well (File No. 4058), NW/4 NW/4 Section 9, T.159N., R.84W., Chola Field, Renville County, ND,**

**and**

**the Industrial Commission approve Order No. 31368 in Case No. 28820 authorizing the confiscation, under NDCC §§ 38-08-04 and 38-08-04.9, of all production-related equipment, and salable oil at the oil at the Cramer 1 well (File No. 15002), SE/4 NW/4 Section 8, T.161N., R.82W., Renville Field, Bottineau County, ND, all five wells operated by 31 Operating, LLC, or any working interest owner, effective as of June 9, 2021. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Ed Murphy provided the Geological Survey Quarterly Report. The Survey and Energy and Environmental Research Center (EERC) geologists studied 5,024 feet of core during the first quarter of 2021. This quarter 3,146 feet of core was photographed generating 4,091 standard photographs for the subscription site. He noted that next week, someone from industry will be coming in person for the first time since the pandemic.

Previously, Mr. Murphy had reported that there was 22,506 feet of outstanding core from 114 wells, of which 82% (18,538 ft) was from wells that were drilled prior to April 1, 2014. The Commission requested that Mr. Murphy report on outstanding core receivables moving forward. DMR has received 4,132 feet of core from 14 wells, of which 74% came from pre-April 2014 wells. Follow up phone requests were made to six companies on May 26, June 2, and again on June 3.

<b>CORE SUMMARY</b>	January 1, 2021		May 1, 2021			June 1, 2021*
Pre-2014 "outstanding" core total (ft)	18,538	-3,040	15,498	-1,224	-3,059	11,215
Post-April 2014 outstanding core total (ft)	<b>3,968</b>	-1,092	<b>2,876</b>	-731	-1,137	<b>1,008</b>
Initial outstanding core footage (ft)	22,506	-4,132	18,374	-1,955	-4,196	12,223
Pre-2014 wells with "outstanding" core	97	-10	87	-7	-15	65
Post-April 2014 wells with outstanding core	<b>17</b>	-4	<b>13</b>	-3	-5	<b>5</b>
Total number of wells with outstanding core	114	-14	100	-10	-20	70

*\* June 2021 core extensions involve 16 wells and 3,838 feet of core and the USGS core library has four cores, 358 feet (4,196 ft).*

In April of this year, the US Geological Survey (USGS) completed their assessment of the undiscovered, technically recoverable, conventional oil and gas resources in the Williston Basin. The results of the assessment were released in four separate fact sheets. Their total assessed volume of undiscovered, technically recoverable conventional oil and gas in the Williston Basin decreased from 414 million barrels of oil equivalent to 388 million barrels. When comparing the 2008 assessment units to those in 2020, the oil and gas values went down in some formations (Birdbear, Duperow, and Winnipegosis) and went up in other formations (Tyler, Madison Group, and the Interlake-Stonewall-Stony Mountain). The 2020 assessment identified a relatively small potential contribution from conventional Middle Bakken and Three Forks production (11 million barrels of oil and 8 billion cubic feet of gas).

Typically, when DMR has assessed the Williston Basin, the oil in place has been utilized but the USGS utilizes different methods.

**A Summary Table Comparing the USGS's 2008 and 2020 Assessments of the Undiscovered Technically Recoverable Resources in the Williston Basin.**

<b>Resource</b>	<b>2008 Conventional</b>	<b>2020 Conventional</b>	<b>2020 Continuous</b>
<b>Oil</b> (million barrels of oil)	197	217	125
<b>Gas</b> (billion cubic feet of gas)	976	720	2,232
<b>Natural Gas Liquids</b> (million barrels of natural gas liquids)	54	51	104
<b>Total</b> (million barrels of oil equivalent)	414	388	601

Governor Burgum asked if companies utilize the USGS report as a resource for decision making. Mr. Helms responded that the assessment is important to operators and is provided to investors. It is very influential, and decisions are based on it. DMR spends a significant amount of time compiling information and providing it to the USGS for accurate assessments. Conventional oil forecasts stay flat, but continuous updates have some nice increases. USGS plans to come back and look at Spearfish and Madison formations, which has potential for larger numbers.

Mr. Murphy reported on the critical minerals project. Of the 1,617 rock samples collected, 1,257 have been submitted to a laboratory for analysis. The vast majority of analyzed samples have been organic-rich rocks (93%), either lignite (77%) or carbonaceous claystone and mudstone (16%). To date, 18% of the samples have exceeded the US Dept. of Energy's economic threshold of 300 ppm. In addition, the high concentrations of 10 other critical minerals (germanium, beryllium, chromium, cesium, zirconium, titanium, vanadium, gallium, and strontium) from Geological Survey lignite samples meet or exceed the highest concentrations listed in COALQUAL (a national coal database). DMR will continue to take samples.

Discussion was held regarding rare earth elements (REE) and next steps. A sticking point has been finding resources consistently high in large enough quantities. One goal is to establish specific criteria that will have a likelihood of finding REEs. EERC is working in this area and DMR will probably issue a permit to

industry this year. Mr. Helms indicated that there are few more steps to get a geologic model put together. If multiple minerals are present, it may increase the likelihood of being developed economically at lower concentrations because the costs are shared. Exploration drilling that focuses on coal will occur and EERC will be consulted to determine the easiest ways to extract the minerals.

Mr. Murphy noted that 2 coal exploration permits were issued, along with 2 paleontological resource permits and 5 geothermal permits (2 residential and 3 commercial.)

On January 1<sup>st</sup> a legislative tour was provided. An open house on Dakota the Dinosaur may be held in August. Other outreach activities included a dinosaur egg activity for kids, Science Olympiad, and a lab tour for some University of Mary students.

Under other business, Mr. Helms noted that DMR staff will start the rulemaking process this month. Some statute changes will require significant rule writing. It is anticipated that drafts will be presented to the Commission in August and then be open for public comment.

DMR received the first complete permit for carbon storage from Red Trail Energy. It will likely be presented to the Commission for consideration in September or October. The draft permit request was also received from Project Tundra and is being reviewed by the Department of Environmental Quality.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2 the Industrial Commission enter into executive session for the purpose of attorney consultation on Department of Mineral Resources business. The purpose of the executive session will be to consult with the Commission's attorney(s) regarding current adversarial proceedings in:**

- **Case No. 1:16-cv-01534-JEB Standing Rock Sioux Tribe vs United States Army Corps of Engineers**
- **Case No. 31-2020-CV-00198 – Northern Oil and Gas, Inc. vs. Continental Resources, Inc; Board of University and School Lands and ND Industrial Commission, et al.**
- **Case No. 08-2021-CV-00026 – Armstrong vs. North Dakota Industrial Commission**
- **Blue Appaloosa vs. North Dakota Industrial Commission**
- **Case No. 05-2019-CV-00085/Northwest Landowners Association vs. State of North Dakota, et al.**
- **State of ND vs. US Dept. of Interior and Bureau of Land Management**

**And further move that upon conclusion of the DMR Executive Session the Industrial Commission enter into executive session for the purpose of reviewing a confidential Lignite Research Program application under the authority of N.D.C.C. 54-17.5-06 and 44-04-19.2(1). On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

Governor Burgum stated that the Commission was meeting in executive session to consult with the Commission's attorney(s) regarding the current adversarial proceedings listed on the agenda and noted that following the DMR executive session, the Industrial Commission would enter executive session regarding the Lignite Research, Development & Marketing Program to consider a confidential application. Only the Commission members and their staff would be in the two executive sessions. DMR staff would be in the DMR session and Lignite Research Program staff would be in the Lignite Research Program session.

Governor Burgum reminded the Commission members and those present in the executive sessions that the discussion must be limited to those items listed on the agenda, which in total were anticipated to last 20 minutes. Any formal action by the Commission regarding the confidential items listed on the agenda would occur after reconvening in open session.

Commission members, their staff, and DMR staff were asked to join the executive session at this time and the public was asked to leave the room. The DMR executive session began at 2:09 p.m.

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#### DMR EXECUTIVE SESSION

**Members Present:**

Governor Doug Burgum  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

**DMR Personnel Present:**

Lynn Helms  
Bruce Hicks (remotely)  
Katie Haarsager

**Others in Attendance:**

Leslie Bakken Oliver	Governor's Office
Reice Haase	Governor's Office
John Schneider	Department of Agriculture
David Phillips	Attorney General's Office (remotely)
Matt Sagsveen	Attorney General's Office (remotely)
Karlene Fine	Industrial Commission Office
Andrea Pfennig	Industrial Commission Office

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The DMR executive session ended at 2:39 p.m. The Lignite Research, Development & Marketing Program executive session began at 2:41 p.m.

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#### LIGNITE RESEARCH, DEVELOPMENT, & MARKETING PROGRAM EXECUTIVE SESSION

**Members Present:**

Governor Doug Burgum  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

**Others in Attendance:**

Leslie Bakken Oliver	Governor's Office
Reice Haase	Governor's Office
John Schneider	Department of Agriculture
Karlene Fine	Industrial Commission Office
Andrea Pfennig	Industrial Commission Office

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The Lignite Research, Development & Marketing Program executive session ended at 2:45 p.m. and the public was invited to rejoin the meeting. Governor Burgum noted the following:

- During the DMR executive session, guidance was provided to the Commission's counsel regarding the matters listed on the agenda.
- During the Lignite Research, Development & Marketing Program executive session, a motion was made regarding a funding request for a confidential Lignite Research Program application.

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

### **LIGNITE RESEARCH, DEVELOPMENT, & MARKETING PROGRAM**

Commissioner Goehring left the meeting at this time.

Ms. Fine provided a financial report. There is \$4,038,328 available in the small research category and \$2,123,000 available in the advanced energy technology category. The applications being considered today fall in the small research category.

Mr. Mike Holmes, Lignite Research Program Technical Advisor, presented the Lignite Research Council Grant Round 96 recommendations as follows.

*LRC-96A – “Williston Basin CORE-CM Initiative”; Submitted by UNDEERC; Request for \$750,000; Total Project Costs: \$2,450,000; Project Duration: 20 months*

The EERC is proposing to lead a team of nearly 30 members focused on producing rare-earth elements (REEs), critical minerals (CMs), and nonfuel carbon-based products (CBPs) from Williston Basin coals. Mr. Holmes noted that the acronym the federal government is using for their new program-- Carbon or Rare Earth and Critical Minerals—is CORE-CM. The EERC received an award from the Department of Energy (DOE), providing a strong leveraging of ND Industrial Commission – Lignite Research Program project funding. The goal of the Williston Basin CORE-CM Initiative is to lay the foundation for new industry, as well as drive the expansion and transformation of the existing coal and coal-based resources industry in the Williston Basin to produce REEs, CMs, and CBPs. The initial phase that is currently proposed is focused on gathering and assessing the existing available data for REEs, CMs, and CBPs in the Williston Basin, identifying data gaps that need to be filled, and developing the strategies necessary to move forward with demonstrations along the entire supply chain. It was pointed out that there is a graphene product that is very exciting.

**It was moved by Attorney General Stenehjem and seconded by Governor Burgum that the Industrial Commission accepts the recommendation of the Lignite Research Council to fund the grant application "Williston Basin CORE-CM Initiative" and authorizes the Industrial Commission Executive Director/Secretary to execute an agreement with the Energy and Environmental Research Center to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$750,000 (small research) with the following contingencies:**

- **Technical Advisor participates in project reviews and discusses the standards of success.**
- **Technical Advisor reviews the project management plan with the project team and reviews the details of the industry cost share.**

**Upon the return of Commissioner Goehring, on a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

*LRC-96B – “Ammonia-Based Energy Storage Technology (NH3-BEST)”; Submitted by UNDEERC; Request for \$101,390; Total Project Costs: \$426,390; Project Duration: 12 months*

The EERC-led team is proposing the project to model, validate, and define a commercialization strategy for an ammonia-based energy storage technology (NH<sub>3</sub>-BEST) tailored for North Dakota lignite-fired power plants. NH<sub>3</sub>-BEST encompasses the three integrated unit operations of low-pressure electrolytic ammonia production, ammonia storage, and ammonia conversion to electricity in a direct ammonia fuel cell (DAFC). Refined and optimally deployed, NH<sub>3</sub>-BEST could strengthen and expand the lignite power industry. By enabling accommodation of power demand fluctuations while steadily operating within an optimal-performance baseline power output range, NH<sub>3</sub>-BEST would ensure maximum plant operational efficiency and minimum degradation of materials, equipment, and performance due to load cycling-driven stresses. In addition, NH<sub>3</sub>-BEST deployment at North Dakota lignite power plants would open opportunities for expanding lignite utilization to include powering production of ammonia for regional agricultural markets. Primary project objectives are to define operational and performance targets, develop a dynamic model of the NH<sub>3</sub>-BEST subsystem, and utilize the model to evaluate and optimize NH<sub>3</sub>-BEST performance and economics.

Commissioner Goehring rejoined the meeting.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the recommendation of the Lignite Research Council to fund the grant application "Ammonia-Based Energy Storage Technology (NH<sub>3</sub>-BEST)" and authorizes the Industrial Commission Executive Director/Secretary to execute an agreement with the Energy and Environmental Research Center to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$101,390 (small research) with the following contingencies:**

- **Technical Advisor participates in project reviews.**
- **Technical Advisor reviews the project management plan with the project team.**

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

*LRC-96C – "Determining Optimum Coal Bottom Ash Content for Sustainable Concrete Infrastructure"; Submitted by UND Department of Civil Engineering; Request for \$118,614; Total Project Costs: \$289,271; Project Duration: 15 months*

The University of North Dakota Department of Civil Engineering proposal focuses on the use of coal bottom ash (CBA) in concrete to reduce cost, conserve energy and resources, reduce environmental impact, and enhance workability and durability. The main objective of this project is to test the hypothesis that there is an optimum content of CBA as a fine aggregate and cement replacement. Tests will be performed with and without nanoclay to create concrete that is either similar or higher quality in terms of mechanical properties and durability compared to pure Portland cement-based concrete, which will be used as a control. They anticipate that CBA and nanoclay use in concrete will improve workability and reduce water demand, the corrosion of the reinforced steel, segregation, bleeding, heat evolution, and permeability. The use of these materials will also inhibit alkali-aggregate reactions and enhance sulfate resistance, in addition to increasing economic and environmental benefits.

Similar studies showed this enhanced the integrity of concrete. Are they studying something different? This is saying how do we increase the opportunity by using the bottom ash along with the fly ash.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the recommendation of the Lignite Research Council to fund the grant application "Determining Optimum Coal Bottom Ash Content for Sustainable Concrete Infrastructure" and authorizes the Industrial Commission Executive Director/Secretary to execute**

**an agreement with the UND Department of Civil Engineering to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$118,614 (small research) with the following contingencies:**

- **Technical Advisor participates in project reviews.**
- **Technical Advisor reviews the project management plan with the project team and reviews the cost share commitments.**

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

Mr. Holmes provided an update on the two Lignite Research Council appointments to the Clean Sustainable Energy Authority. It is expected that the individuals will be named in early July. Looking forward to guidance from the Commission.

### **NORTH DAKOTA TRANSMISSION AUTHORITY (NDTA)**

Mr. John Weeda, Transmission Authority Director, gave an update which included:

Responding to the legislative requirements for NDTA.

- Participation in transmission studies
- Providing biennial status of the grid
- Utilizing NDTA options for transmission line ownership and financial support
- Leveraging resources to meet the needs

Utilizing NDA authorities to support transmission infrastructure

- Existing Facilities
- Potential new opportunities

Tracking SPP and MISO activities

Mr. Weeda noted that the Transmission studies will include his monitoring of the MISO and SPP studies; utility studies are for their own use and do not need NDTA involvement; developers often perform studies to get preliminary assessment of interconnection to the grid and the NDTA may be consulted; NDTA studies can be a motivator for broad development potential, merchant transmission options, etc. and may require a financial commitment to participate in that work.

SB 2313 assigned responsibility to NDTA to prepare a report on the resilience of the electric grid by September 1, 2022. The report is to include the following:

- The adequacy of the state's electric grid to meet the demands of load within the state and to continue to export electricity from the state.
- The resilience of the state's electric grid, including local resilience.
- The plans of generation owners, developers, or operators to add or remove generation assets connected to an independent system or regional transmission operator in excess of an aggregate of twenty-five megawatts.

Mr. Weeda stated that he will depend on publicly filed information as much as possible, but will also ask for information when appropriate on a volunteer basis.

In response to the directive in SCR No. 4012, Mr. Weeda will enhance his Annual Report to include information that was requested in that legislation.

It was noted that the workload for NDTA has been much higher than usual the past year. This was attributed to a variety of factors. Coal Creek discussions have taken a lot of time. The legislative season was very busy due to the high level of interest on energy topics. Interest in transmission solutions for North Dakota has increased and is expected to continue. Increased vulnerability of the grid drives the need to have more information available to decision makers on a regular basis. To compensate for this, the NDTA will leverage other resources (PSC, BND, NDPFA, LEC staff) and utilize contract help.

Mr. Weeda reported on receipt of Senate Concurrent Resolution No. 4012 regarding the Transmission Authority annually developing a comprehensive report.

### **PUBLIC FINANCE AUTHORITY (PFA)**

Ms. DeAnn Ament, PFA Executive Director, presented the following Drinking Water State Revolving Fund loan application.

*City of Bismarck – \$2,000,000 increase, total loan amount of \$7,000,000 (net loan after loan forgiveness is \$5,618,000)*

This project will replace obsolete cast-iron mains and lead service lines. It is expected that 100,000 people will benefit from the project. The requested term is 15 years for the loan. The City will issue revenue bonds payable with water user fees. The average annual payment for the revenue bonds will be \$401,911. The reserve requirement will be \$436,450 and the 120% coverage requirement will be \$482,293. The City has 20,367 residential connections and 2,325 commercial connections which pay base rates depending on meter size ranging from \$5.69 to \$1,195.10 per connection per month. Annually, the City reviews and adjusts utility rates as necessary.

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

#### **RESOLUTION APPROVING LOAN FROM DRINKING WATER STATE REVOLVING FUND**

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

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

**WHEREAS, the City of Bismarck (the “Political Subdivision”) has requested a \$2,000,000 increase to their previously approved \$5,000,000 loan (total \$7,000,000) from the Program to replace cast iron mains and lead service lines; and**

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

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

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

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

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

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

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

Ms. Ament reported on the State Revolving Fund loans approved by the PFA Advisory Committee as follows.

*Valley City Clean Water Loan – \$250,000 Clean Water State Revolving Fund (CWSRF), \$180,000 Drinking Water Loan (DWSRF)*

The project consists of street reconstruction, watermain, storm and sanitary sewer replacement on 7th Avenue NW between 2nd Street SW and 4th Street NW, 4th Street NW between 8th Avenue NW and 7th Avenue NW, and 2nd Ave Northeast between 5th Street NE and 7th Street NE. The requested term is 20 years for the CWSRF loan. The City will issue improvement bonds payable with special assessments. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City will levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds. The total cost of the project is \$2,919,000, with Valley City contributing \$2,489,000.

*All Season Water Users District (Bottineau/Rolla area) DWSRF Loan – \$371,000*

The loan will fund a project to install a booster along the pipeline south of Rolla to increase flow in low pressure areas thus providing increased pressures to the existing system. The requested loan term is 20 years. The District will issue revenue bonds payable with user fees.

*Flaxton DWSRF Loan – \$993,000 (net after loan forgiveness is \$99,000)*

The project will replace lead water service lines due to public health concerns and continued lead level exceedances in water sampling. The requested loan term is 20 years. The City will issue revenue bonds payable with water user fees with oil and gas gross production tax being a secondary source of security.

Ms. Fine reported that Ms. Linda Svihovec's term on the Public Finance Authority Advisory Committee expires on July 1, 2021. Ms. Svihovec has served on the Committee since 2015 and has provided valuable input to the Committee and the PFA Executive Director. She has been an active participant in the work of the Committee and brings extensive expertise on municipal finance to the Committee's deliberations. It was recommended that she be reappointed for another three-year term.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accept the recommendation of the Commission's Executive Director/Secretary and reappoint Linda Svihovec, Bismarck, to the Public Finance Authority Advisory Committee for a three-year term extending to July 1, 2024. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Ament provided an update on the plans for the issuance of State of North Dakota Legacy bonds. She was in contact with bond counsel during the session regarding the wording in the Legacy Fund bonding

bills. The language has gone through the initial review and it was determined that PFA can issue taxable bonds. The initial tax review indicated that Legacy Fund earnings would be considered replacement bond proceeds. The only way to issue tax exempt bonds would be to yield restrict earnings on the Legacy Funds, which doesn't seem to be a viable option. Ms. Ament has reached out to the representatives for the projects approved for bonding. The projects that will be active right away include the NDSU Ag Products Development Center, which will meet with their architect in August. There will also be \$74.5 million issued for the Resource Trust Fund which will pay off the WAWS loan and then the money will be used for the Mouse River Flood protection. These two projects will move more quickly than the other projects.

Ms. Ament reported that finance plan discussions for the Fargo flood protection project are expected to occur in the next few months.

### **BANK OF NORTH DAKOTA (BND)**

Mr. Eric Hardmeyer, BND President, introduced Mr. Darrel Lingle, Eide Bailly, who reported on the following external December 31, 2020 audits.

- Beginning Farmer Revolving Loan Fund – An unmodified clean opinion on the financial statements was issued. No internal control deficiencies were identified. There were no matters of material weakness.
- Community Water Facility Loan Fund – An unmodified clean opinion on the financial statements was issued. No internal control deficiencies were identified. There were no matters of material weakness.
- North Dakota Guaranteed Student Loan Program – An unmodified clean opinion on the financial statements was issued. No internal control deficiencies were identified. There were no matters of material weakness.

Mr. Lingle presented the Independent Auditor's Report and Financial Statement – December 31, 2020 (FASB) on the Bank of North Dakota. The FASB standards were used for this audit since those are the accounting standards used normally for banks.

Mr. Lingle stated that because the Bank is owned by the State its primary accounting standard must be done under governmental accounting standards (GASB). Within the last 10 years it was determined that the auditor could only issue an unmodified opinion using the primary accounting standard which in this case is GASB. Because FASB is not the primary standard, it was not possible for the auditor to issue a clean opinion on the FASB audit. However, in their opinion they do state that if they had been able to issue an opinion under the FASB standards these financials were prepared in accordance with the FASB standards and would have received an unmodified opinion.

Mr. Lingle commented on 2020 and impact of pandemic. A common theme among the banks that their firm audits was the increased amount of liquidity on banks' balance sheets as stimulus dollars were provided to support the economy. There was a significant increase in cash and cash equivalents from 2019 to 2020. The allowance for loan losses as a percentage of total loans increased by .13%. This was very typical because of the impact of Covid 19. As the economy begins to open up banks are beginning to reduce their reserves, but many are waiting to see how the economy improves. The Bank's concentration in agriculture and the impact of the drought is also reflected in the Bank's reserve allowance.

During the audit, a past adjustment (an audit difference) was identified regarding student loans. As part of the audit procedures, account holders are requested to confirm account balances as part of the testing. If exceptions come back, they are extrapolated. Two errors came back as part of the confirmation process totaling \$10,850 which when extrapolated on a \$1.2 billion dollar portfolio comes out as a projected error

of \$2.7 million. It was determined that quantitative and qualitatively to be immaterial regarding the financial statements as a whole. It did not require an adjustment to the financial statements. However, it was significant enough that it needed to be tracked to make sure that the financial statements were correct.

One of the two errors was \$10,836 and involved a full repayment on an outstanding loan that was misapplied to the wrong account. Normally a payment that large doesn't come through the system. Management's implementation plan to mitigate the risk of this occurring again was to establish a threshold so that when larger payments come through it is flagged and it is doublechecked to make sure it gets applied appropriately. In this case, it was applied to an account with the same last name right at year end. It was identified and corrected the next day. However, because it happened on the last day of the year, it was noted in the audit. The Bank had identified that there was an error and had corrected it the next day. Additional controls have been put in place.

Mr. Lingle stated that when they have an audit difference, they have to make a determination of whether it is a material weakness or a significant deficiency. It was concluded that this was a significant deficiency, meaning that it would not result in a material difference to the financial statements, but those charged with governance would need to be aware of it.

Mr. Lingle stated their firm also issued an unmodified opinion under the GASB accounting standards. The GASB financial statements are incorporated into the State's CAFR.

Mr. Hardmeyer presented the 2020 BND Annual Report. The theme is responding with confidence and addresses Covid and the accompanying issues. Mr. Hardmeyer stated that although the Bank did not have records profits, 2020 has been the Bank's finest year in terms of meeting its mission. The treasury team broke records with the amount of dollars and securities in safekeeping. Fixed interest rates were reduced by 1% for student loan borrowers. CollegeSave ended the year with a new record of 25,000 accounts holding \$240 million in assets. The return on investments was 15%. Mr. Hardmeyer gave credit to BND employees, stating that they understand the mission and rose to the occasion. It was noted that the report was done in-house by BND staff. The Commission noted it is a nice report that is well laid out.

Attorney General Stenehjem stated that 2020 was an anomaly for everyone. BND can be proud of what was accomplished. Governor Burgum stated that the role of the Bank during the pandemic was critical. During an economic crisis, businesses kept going. North Dakota outperformed other states in PPP loans because of the work the Bank did. Approximately \$1.7 billion in PPP loans came to North Dakota. It was noted that because of federal funds, the Bank has topped \$9 billion in assets last week due to federal emergency response funds and may go to \$10 billion in 2021.

Ms. Fine presented a Resolution of Appreciation for consideration.

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

#### **Resolution of Appreciation**

**Whereas, Eric Hardmeyer began his career at the Bank of North Dakota in 1985 and rose to the positions of President and Chief Executive Officer in 2001. Eric has faithfully served in that role for 20 years, achieving the distinction of being the longest-serving president in the Bank's 102-year history; and,**

**Whereas, Over his 35-year career with the Bank, Eric has seen its assets grow from \$1.81 billion to the current level of over \$9 billion and its loan portfolio grow from \$1.16 billion to \$4.75 billion. During his tenure, the Bank achieved record profits for 16 consecutive years; and,**

**Whereas, Eric was instrumental in the construction of new Bank headquarters, oversaw the Bank's 100-year celebration, and has led an exemplary team of Bank employees committed to serving North Dakota citizens; and,**

**Whereas, Under Eric's leadership the Bank has expanded services to its Bank partners, making innovative programs available when North Dakotans were faced with natural disasters, launching new programs that have assisted North Dakotans in saving and borrowing for postsecondary education and identifying and creating programs that enhance economic opportunities for businesses across the state; and,**

**Whereas, Eric has demonstrated a deep passion and commitment to the Bank's mission of delivering quality, sound financial services that promote agriculture, commerce and industry that has resulted in positive impacts on North Dakota families; and,**

**Whereas, Eric has decided that it is time to retire and spend more time with his family and friends, pursuing outdoor activities like hiking, kayaking, golfing, biking and traveling.**

**Now, therefore, the Industrial Commission hereby expresses its deepest gratitude to Eric Hardmeyer for his 35 years of dedicated service to the Bank of North Dakota and the citizens of North Dakota and wishes him the very best in his retirement.**

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

Mr. Hardmeyer stated that it has been an honor to work for the Bank. He loves the Bank and what it stands for. He is proud to be a part of the Bank team and appreciates all the team's hard work over the 35 years. He thanked the Commission for their guidance and leadership.

Mr. Hardmeyer presented the Bank of North Dakota Advisory Board and Bank President recommendation for Bank Officer Compensation for consideration, stating that the proposed adjustments are necessary for the following reasons.

- Retention of key talent: BND officers provide the strategic direction to continue to execute on the mission and strategies.
- Succession management: BND is at risk of losing key successors to outside entities due to inadequate compensation.
- Risk management: The loss of successors is a key risk indicator because of the impact such departures would have on the leadership and execution of the strategic plan.
- Increased competition for talent: In the past 6 years, 32 new hires came from the financial industry, while conversely, 13 employees departed BND for employment with other financial institutions. There is market competition for talent, and when compensation is inadequate, the risk of losing key officers is high.
- Fair and equitable compensation: When compared to the proxy and financial industry survey data information, BND officer salaries fall significantly below a very conservative benchmark. The BND officer core compa-ratio averages 76% where our employees average 96.7%.

Attorney General Stenehjem thanked Eric for appreciating that all agencies are facing this issue. He noted that Mr. Hardmeyer has forcefully and eloquently gone to bat for his team time and again. His legacy will be that this issue was brought to the forefront and the Commission was made aware of this need.



Commissioner Goehring thanked Mr. Hardmeyer for bringing forward this issue and noted that some legislators are recognizing that this is a major concern in retaining employees.

Mr. Hardmeyer indicated that this accomplishment is important to him and noted that during the legislative session he took advantage of every opportunity to express his opinion on this issue. He feels this is a missed opportunity by the Legislature to recognize the value and importance of state employees.

The Commission thanked Mr. Hardmeyer for his work to draw attention to this matter.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accept the recommendation of the Bank President and Bank Advisory Board and approve the following salary increases effective July 1, 2021:**

	% increase	Annual increase	New salary
Tim Porter, CFO	3.0%	\$ 5,826	\$ 200,027
Lori Leingang, CAO	5.0%*	\$ 7,590	\$ 159,399
Kirby Evanger, CCO	5.0%*	\$ 9,696	\$ 203,624
Christy Steffenhagen, CRO	5.0%	\$ 7,245	\$ 152,145
Jeff Weiler, CIO	5.0%	\$ 7,859	\$ 165,042

**\*It is noted that Bank President Hardmeyer and the Bank Advisory Board recommended additional raises of 3% and 5% in six months for the CAO and CCO respectively in order to move them towards the desired 90% compa-ratio goal.**

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

Mr. Hardmeyer presented the Bank of North Dakota Advisory Board April 15, 2021 nonconfidential meeting minutes.

Pursuant to N.D.C.C. 6-09-35 the Industrial Commission entered into executive session. Governor Burgum reminded Commission members and those present in the executive session that the discussion must be limited to those items listed on the agenda which was anticipated to last between 10 and 20 minutes.

Governor Burgum noted that any formal action by the Commission on the loan application would occur after reconvening in open session. Commission members, their staff, and BND staff were asked to join the executive session at this time and the public was asked to leave the room. The BND executive session began at 3:58 p.m. to discuss the following items:

- Non-Accrual Loans Quarterly Recap/Detail
- Problem Loans – Adversely Classified Quarterly Recap
- Loan Charge-Offs and Recoveries Y.T.D. 03/31/2021
- Concentrations of Credit as of 03/31/2021
- Presentation of Bank of North Dakota Advisory Board April 15, 2021 confidential meeting minutes
- Other Bank of North Dakota confidential (as defined under N.D.C.C. 6-09-35) business

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BND EXECUTIVE SESSION

**Members Present:**

Governor Doug Burgum

Attorney General Wayne Stenehjem

**Bank of North Dakota Personnel:**

Eric Hardmeyer

Kirby Evanger

Todd Steinwand

Tim Porter

**Others in Attendance:**

Leslie Bakken Oliver     Governor's Office

Reice Haase                 Governor's Office

Karlene Fine                Industrial Commission Office

Andrea Pfennig             Industrial Commission Office

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The BND executive session ended at 4:41 p.m. and the public was invited to return to the room.

**CLEAN SUSTAINABLE ENERGY AUTHORITY (CSEA)**

Ms. Fine provided an updated on the Clean Sustainable Energy Authority and indicated that the Clean Sustainable Energy Authority (CSEA) was established by the Legislature earlier this year under the authority of the Commission and the law is to become effective on July 1, 2021. Staff has begun working on the implementation of the law and has developed a potential timeline for the program.

The law states that the eight voting members consist of:

The eight voting members consist of:

- One member appointed by the Legislative Management to serve as Chairman;
- Two members appointed by the Lignite Research Council;
- Two members appointed by the Oil and Gas Research Council;
- Two members appointed by the Renewable Energy Council; and
- One member appointed by the Western Dakota Energy Association.

Some of the groups have asked for guidance from the Commission regarding what the Councils/Board should be considering in naming their appointees. Suggestions include:

- Someone with entrepreneurial experience.
- Someone with financial experience.
- Someone who is forward looking and innovative.
- Someone who has a statewide perspective and not just focused on a specific industry or a particular area of the State.
- Someone who has a broad perspective on all types of clean energy projects—not limited to carbon capture projects.

Discussion was held and the consensus of the Commission was that the suggestions above were good criteria. In addition, it was noted that the people selected need to have the time and willingness to perform the duties as this role will play an important part in energy development in the State. It can be a challenge to find individuals willing to commit their time and an active search may be required. Fresh faces and higher-level executives that are driving investment may be a good way to bring fresh ideas and access to capital. The Authority should have individuals able to have a comprehensive approach rather than focusing on their specific industry. It was noted that the chairman has not been named, which could also impact the makeup of the board.

## ADMINISTRATION

Ms. Fine presented a salary increase recommendation for Mr. Hardmeyer of 1.5%, effective July 1<sup>st</sup>, 2021. Mr. Hardmeyer's last day is July 6<sup>th</sup>. The North Dakota 2021 Legislature passed 2021 compensation adjustments language authorizing increases averaging 1.5% with a minimum increase of \$100 per month.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accept the Industrial Commission Executive Director recommendation and approve an annual increase of \$5,243 for the Bank of North Dakota President Eric Hardmeyer effective July 1, 2021 bringing his annual compensation level to \$354,779. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Fine presented the draft April 27, 2021 non-confidential meeting minutes for consideration.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the April 27, 2021 non-confidential meeting minutes be approved. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.**

With no further Industrial Commission business, Governor Burgum adjourned the meeting at 5:05 p.m.

North Dakota Industrial Commission



Karlene Fine, Executive Director and Secretary