

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on August 26, 2022 beginning at 9:00 a.m.
Governor's Conference Room – State Capitol

Present: Governor Doug Burgum, Chairman
Attorney General Drew H. Wrigley
Agriculture Commissioner Doug Goehring

Also Present: This meeting was open through Microsoft Teams so not all attendees are known
Agency representatives joined various portions of the meeting.

Governor Burgum called the meeting of the Industrial Commission to order at approximately 9:00 a.m.

HOUSING FINANCE AGENCY (HFA)

Mr. Dave Flohr, Housing Finance Agency Executive Director, introduced Brandon Dettlaff, HFA Homeownership Division Director, who presented the request to update the Federal Home Loan Bank Institution Agreement Resolution. With a change in staffing two new names needed to be added to the Agreement – Kayla Axtman and himself. This is the same resolution the Commission has approved in the past.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the Resolution for Mortgage Partnership Finance Participating Financial Institution Agreement as follows:

**Resolution for Mortgage Partnership Finance Participating Financial Institution Agreement
Resolved, that any one person is a duly qualified signer of the North Dakota Housing Finance Agency**

**David Flohr, Executive Director,
Pat Nagel, CFO,
Kayla Axtman, Assistant CFO
Brendan Detlaff, Homeownership Division Director**

be and they hereby are authorized to: (1) execute the Federal Home Loan Bank of Des Moines ("Bank") MORTGAGE PARTNERSHIP FINANCE Participating Financial Institution Agreement ("PFI Agreement") substantially in the form of the PFI Agreement presented at this meeting (or if action by unanimous consent, sent with such consent), incorporated herein by reference (or in the case of previous execution of said PFI Agreement, such action is hereby ratified) and such further amendments, agreements, documents, certifications or instructions as may be requested by the Bank in connection with the PFI Agreement; (2) take such action from time to time in connection with such PFI Agreement as they may deem necessary, advisable or proper, including, but not limited to, entering into Master Commitments, Delivery Commitments and individual mortgage loan related transactions; and (3) delegate in writing from time to time to one or more officers or employees of this PFI or of its affiliates, acting individually, (a) the authority to take any of the actions specified in (1) and (2) above on behalf of this PFI, and (b) if the PFI participates in any MPF product that requires one or more Security Administrator ("SA"), one or more SA(s) to act on the PFI's behalf related solely to accessing MPF related electronic platforms, which access will include, without limitation, the authority to: (i) set up users, including, if applicable, assigning transactions authority to authorized PFI officers, employees, agents or

representatives ("Authorized User") to use MPF related electronic platforms; and (ii) add, modify or terminate an Authorized User's access to and/or privileges in MPF related electronic platforms.

RESOLVED FURTHER, that the Secretary, or any Assistant Secretary, of this PFI be and hereby is authorized and directed to certify to the Bank that (a) these resolutions have been duly adopted by the Board of Directors of this PFI at a regular meeting or duly called special meeting or by unanimous written consent if permitted by applicable law and the bylaws of this PFI, which adoption of these resolutions are reflected in the Board of Directors meeting minutes, and are in conformity with the charter and bylaws or other governing instrument of this PFI; (b) the PFI Agreement is continuously maintained as an official record of the PFI, and (c) further to certify to the Bank (i) a copy of these resolutions, (ii) the names of the present signers of this PFI authorized to act as aforesaid, and (iii) that the specimen signatures provided to the Bank of the signers authorized to act under these resolutions are true and correct signatures of such signers.

RESOLVED FURTHER, that these resolutions shall remain in full force and effect commencing on the date hereof and continuing until the discharge of all obligations of this PFI under the PFI Agreement. These resolutions supersede any existing resolution on file with the Bank which may be construed to apply to Mortgage Partnership Finance Program transactions. The authorizations set forth herein shall be construed as effective until receipt by the Bank of written notice of their amendment or revocation.

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

Jennifer Henderson, Housing Finance Agency Director, Planning and Housing Development, presented the Report on Declaration of Intent to Issue Multifamily Revenue Bonds in an amount not to exceed \$17,000,000 for the acquisition and construction of the Prairie Ridge Residences, a 120-unit elderly affordable housing rental project in Fargo. She stated the issuance of tax-exempt bonds is required in order for a project to qualify for non-competitive 4% tax credit allocation. It was noted that this is a project located at 3361 Westrac Drive South and is located in close proximity to public transportation, medical services, grocery and retail. Total project costs are estimated to be \$28,892,588. She indicated that funding was also being provided from the HOME program.

Ms. Henderson stated that a hearing officer needs to be named for the public hearing on the bond issuance for the previously discussed project and she is recommending that Dave Flohr be named as the Industrial Commission's hearing representative for the public hearing.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission names Dave Flohr as the Public Hearing Representative for a hearing to be held on September 13, 2022 at 10:00 a.m. regarding the issuance of multi-family bonds not to exceed \$17,000,000 to provide funds to finance the acquisition, construction and equipping of the development Prairie Ridge Residences located at the SW Corner of the intersection of Westrac Drive and 34th Street South, currently known as 3361 Westrac Drive, Fargo, North Dakota and that the Commission approves the publication of the Notice of Public Hearing. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Kayla Axtman, Housing Finance Agency Assistant CFO, presented the Report on the recent sale of the Home Mortgage Finance Program 2022F Tax Exempt Social Bonds. She stated that the issuance was for \$75,000,000 with a bond rate of 3.83% which will result in a loan rate of 5%. With this issuance the Agency will be able to fund approximately 389 loans from these bond proceeds. The financing team was happy with this bond pricing considering the recent volatility in the bond market.

In response to a question, Ms. Axtman stated that with the higher mortgage loan interest rates in the market the Agency has seen a slowdown in the demand under the Roots Program. For the First Home Program the demand has been good as they have been able to offer loans at approximately a 4.75% rate. Activity and reservations have stayed high.

PUBLIC FINANCE AUTHORITY

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a State Revolving Fund Clean Water Program loan application for the Cass Rural Water Users District. The loan request is for \$28,646,000 of a project totaling \$41,915,000. The Department of Water Resources is providing cost share of \$13,269,000. The purpose of the project is to treat wastewater reuse water and deliver it from the City of Fargo's regional water reclamation facility through a pipeline to the soybean processing facility. It is a ten-year loan. Cass Rural Water Users District will issue revenue bonds payable with user fees from the ND Soybean Processors. In addition, the ND Soybean Processors will be providing a letter of credit in the amount of the loan as well as funding a reserve of \$8,000,000. Based on that information the Public Finance Authority Advisory Committee recommended approval of the loan request.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission adopt 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, Cass Rural Water Users District (the "Political Subdivision") has requested a loan in the amount of \$28,646,000 from the Program to treat wastewater reuse water and deliver it from the City of Fargo's regional water reclamation facility through a pipeline to the soybean processing facility; 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 Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Ament presented a State Revolving Fund Drinking Water Program loan application for the City of Dickinson. The loan request is for \$2,800,000 with loan forgiveness of \$400,000 for a net loan of \$2,400,000. It is a 20-year loan term. The City of Dickinson will issue revenue bonds payable with water fee revenues and 50% of the 1% city sales tax dedicated to infrastructure. In addition oil and gas gross production tax will be a secondary source of security. The project is for Phase 1 of a water main and lead service line replacement. Based on that information the Public Finance Authority Advisory Committee recommended approval of the loan request.

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

RESOLUTION APPROVING
LOAN FROM DRINKING WATER STATE REVOLVING FUND

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

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

WHEREAS, the City of Dickinson (the "Political Subdivision") has requested a loan in the amount of \$2,800,000 from the Program for water main and lead service line replacement – Phase 1; 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 Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

There was discussion regarding the IJIA federal funding that is available for lead pipe replacement. Ms. Ament indicated that the new federal funding offers loan forgiveness up to 49% of a project. Under the current program the Department of Environmental Quality has been able to offer 90% forgiveness. The new lead pipe forgiveness federal funding is \$28,000,000 and they are working on solutions on how to encourage usage of those dollars and by using the tools that they have provided get highest percentage of forgiveness that is available. She reviewed the additional federal requirements to use the funding and noted that some of the grant programs haven't released their regulations.

Ms. Ament distributed a memorandum regarding the one loan that was under the \$2,000,000 threshold that was approved by the Public Finance Authority Advisory Committee. The Drinking Water SRF loan was to Tri-County Water District in the amount of \$1,090,000. It was a refinancing of a 2012 Capital Financing Program bond.

Ms. Ament provided a report on the sale of the \$320,915,000 Legacy Fund Infrastructure Program Bonds, Series 2022. This was the second series of bonds issued under the 2021 Legislative Session Legacy Bonds authority. These were taxable bonds; it was sold competitively with three bidders—J.P. Morgan Securities LLC was the lowest bidder at 4.5886% (True Interest Rate). The bond issue was closed on July 19.

PFM Financial Advisors LLC, the Industrial Commission's Financial Advisor, stated the following:

“PFM reviewed the results of the Authority's Series 2022 Bonds with regard to prevailing market conditions, and it is our opinion that the interest rate scales, couponing, reoffering yields and underwriting compensation received for the Series 2022 Bonds are fair and favorable to the Authority....

We also opine that the Authority's Series 2022 Bonds were appropriately priced relative to other issues sold or trading in the secondary market during the same period. PFM believes that the final all-in true interest cost of 4.5956% for the Series 2022 Bonds are favorable to the Authority in light of prevailing market conditions. Additionally, PFM believes that these statistics are comparable to the interest rate levels of similar transactions sold either competitively or through negotiated placement in the market during the week of sale.”

In response to a question, Ms. Ament stated that the debt service cost will be slightly higher than what had been forecasted during the legislative session. The rate is lower than the current inflationary rate.

NORTH DAKOTA TRANSMISSION AUTHORITY (NDTA)

Mr. John Weeda, NDTA Director, and Mr. Claire Vigesaa, NDTA Deputy Director, presented the first annual Electric Grid Resiliency Report that had been directed by the 67th Legislative Assembly in Senate

Bill 2313. In addition to providing this report to the Industrial Commission and Legislative Council, Mr. Weeda stated that this Annual Report will be provided to the Midcontinent Independent System Advisors (MISO) and the Southwest Power Pool (SPP) and Minnkota Power Cooperative (MPC). (A copy of the report is available in the Commission files and posted on the Industrial Commission website.)

Mr. Weeda and Mr. Vigesaa provided information on the method of evaluation of the grid resilience—utility ten-year plans, SPP operational information, and MISO current operational information. Mr. Vigesaa reviewed the following information regarding the utility Ten-year Plans:

- Plans for Basin Electric Power Cooperative, Minnkota Power Cooperative, Northern States Power (Xcel), Montana Dakota Utilities and Ottertail Power Company are all summarized in the report.
- All utilities are treating North Dakota Resiliency need as an important point of their future plans.
- No baseload retirements in North Dakota are scheduled but Ottertail is seeking to withdraw from their 35% ownership of Coyote Station.
- Xcel has plans to retire units in Minnesota.
- Additional wind generation most likely added for most utilities.
- Basin Electric has plans to add some gas fired generation.
- MDU plans to build a gas fired generator at the location of retired Heskett Station in Mandan.

Mr. Vigesaa and Mr. Weeda provided a summary of the detailed information on the operational plans for both the SPP and MISO that are included in the Electric Grid Resiliency Report. It was stated that the analysis of what is included in the definition of a carbon footprint is important. All factors should be included.

Mr. Weeda commented on the National Grid planning being done by Northwest National Labs that the Department of Energy has funded. This planning study is aligned with carbon goals and mandates by various states and utilities. Preliminary information from this study shows that a massive build out of new transmission in highly populated areas are needed to reach those goals. North Dakota is only affected to a minor amount in these studies.

Mr. Weeda provided the following information on Grid Stabilization Technologies:

Batteries and grid forming technologies are often referred to as the answer to a stable grid without conventional generation.

- Batteries are slow to progress beyond a four-hour rating
- Huge numbers of batteries would be required to meet the need
- Current price on electricity from batteries is far above the current wholesale market price

Grid forming technologies from inverter-based generation is not proven at any scale

- There are not grid forming technologies proposed for North Dakota in spite of the forecasts that grid stability problems would arise in North Dakota under high renewable generation scenarios.

Mr. Weeda stated his conclusions in this Electric Grid Resiliency Report are as follows:

- Current grid operation is meeting needs but limiting export.

- Additional lines for both SPP and MISO will enhance the grid for North Dakota and ability to meet needs in the state.
- Utilities in North Dakota have plans that support grid resilience.
- The major amount of generation in the queues is a concern for both congestion and weather dependency.
- North Dakota needs to continue to encourage development in a thoughtful manner with plans that do not overstep the time and ability to make transition in an orderly manner
- The greatest threat to the resiliency of the grid in North Dakota is from the rapid changes that are being pursued outside of North Dakota
- Environmental regulations.

It was the consensus of the Commission and Transmission Authority staff that there needs to be more information provided to the public on the issues related to transmission and how a policy in one area can impact the entire electric reliability of the system.

Mr. Weeda presented the North Dakota Transmission Authority FY2022 Annual Report. A copy of the report is available in the Commission files and is posted on the Industrial Commission website. The Annual Report highlights the following information:

Electric Power Demand Continues to Grow

- Power Forecast 2021 update issued this
 - Increase of 10,000 GWhr per year of energy demand growth
 - Capacity growth of 2,200 to 2,500 MW over next 20 years
- Increase in gas to oil ratio in the Bakken brings challenges and opportunity
- Carbon capture for coal fired generation can be a game changer for both longevity of the coal fired power as well as enhanced oil recovery
- The Clean Sustainable Energy Act increased interest in development
- North Dakota intentions to provide reduced carbon options to the energy markets has attracted attention to North Dakota

The Transmission Grid and Resources are Stressed

- Congestion on the electric grid limits power from North Dakota getting to market
- Low to negative prices impact North Dakota generators of coal, gas and wind generation
- Both Independent System operators continue to be dependent on coal and gas fired plants that are subject to retirement
- Wind generation is the fastest growing resource
- Electric storage has not grown to meet market needs
- Stability issues concern the industry – an example in the Texas panhandle currently being investigated

Summary of Generation Resource

- Renewable generation has increased to 4,250 MW of nameplate capacity
 - Capacity of wind generation at 39%
 - No solar installations in service – quite a few in the queue
- Coal generation at 4,048MW
 - Heskett Station: 100 MW capacity retired in 2022
 - Rainbow Energy purchased Coal Creek Station May 1, 2022

- Capacity factors on coal generation between 65% and 91%
- Gas generation of approximately 596 MW
 - Serves an important role in the Bakken
 - Adding to MDU capabilities in Mandan.

Electric Markets

- Demand in North Dakota growing a little faster than total generation
- Export as a percent of total generation at lowest in 10-year history
- Market prices in North Dakota weak to negative in early to mid-2021
- Market prices showing strength into 2022
- Average MISO market prices very strong

Mr. Weeda and Mr. Vigessaa provided graphics on the following information:

- Generation by Type in North Dakota
- Percent of Generation Exported from North Dakota
- North Dakota Sales, Generations & Exports
- DA LMP Price 2021
- MISO System-Wide Day-Ahead & Real-Time Locational Marginal Pricing

Information is also included in the Annual Report on the SPP, MISO and Minnkota Queues and Resource Projections

Mr. Weeda summarized the Annual Report as follows:

- System operating well currently
- Generation alerts increasing in both ISOs
- Market Price and transmission congestion more common
- Major interest in development of renewable resources in ND
- North Dakota utilities responding to internal North Dakota demand
- Long Range Transmission Planning moving forward but not timely enough for North Dakota needs
- Pace of change in the industry a concern
- All of the above energy policy still benefits North Dakota

There was discussion on how the pricing works each day and what impacts that pricing including how the markets work in different states.

The Commission thanked Mr. Weeda and Mr. Vigessaa for the detailed information and the two reports.

Ms. DeAnn Ament, North Dakota Transmission Authority Authorized Officer, presented the legislatively required annual financial report for the Transmission Authority. She noted that this report for the first time reflects the \$150,000,000 bond issuance that took place on May 2, 2022. The notes to the financials have been expanded to include information on the outstanding bonds. She stated the borrower makes monthly payments and the bondholders are paid semi-annually. The only gain reflected on the financials is the investment interest on the reserve fund for the outstanding bond issue. All the funds are restricted to be used for debt service repayments.

There was discussion on the importance of the Nexus line to the exporting of generation from North Dakota to Minnesota. This is a highly secured and valuable asset for North Dakota and is important to the resiliency of the electric grid. Mr. Weeda indicated that he anticipates an interest in the Transmission Authority using its bonding authority for other projects in the future.

Commissioner Goehring left the meeting.

Mr. Reice Haase, Deputy Executive Director, reported on the Transmission Authority's application for formula grants under Section 40101(d) of the Infrastructure Investment and Jobs Act. At the Commission's June meeting the Commission authorized John Weeda on behalf of the Transmission Authority to prepare and submit the application. One of the requirements of the application is to hold a public hearing. It is his recommendation that Mr. Weeda be appointed as Public Meeting Representative.

It was moved by Attorney General Wrigley and seconded by Governor Burgum that the Industrial Commission names John Weeda as the Public Meeting Representative for a public meeting to be held on September 15th at 1:00 pm regarding the Transmission Authority's application for formula grants under Section 40101(d) of the Infrastructure Investment and Jobs Act and that the Commission approves the publication of the Notice of Public Hearing. On a roll call vote, Governor Burgum, and Attorney General Wrigley voted aye. The motion carried. Commissioner Goehring was absent and not voting.

STATE ENERGY RESEARCH CENTER (SERC)

Mr. Reice Haase presented a memorandum regarding the development of a North Dakota State Energy Security Plan. He indicated that the one of the requirements of the grid resilience grants under the Infrastructure Investment and Jobs Act is the development of a state energy security plan. SERC is available to develop the state energy security plan for a total cost of \$375,000. The Department of Commerce is contributing \$200,000 to fund the development of the plan. Mr. Haase stated that the Industrial Commission approved a similar SERC project, "Assessing North Dakota's Energy Future", at its March 24th, 2020 meeting. Much of that effort can serve as a starting point for the development of the state energy security plan.

Mr. Haase stated that the state energy security plan would be developed with input from the Transmission Authority, Public Service Commission, Department of Commerce, Department of Emergency Services, North Dakota ITD, utilities, tribes and any other relevant agency. The plan will meet the requirements of the IJA grant application and will include recommendations for grid resilience, cybersecurity and operational improvements.

Commissioner Goehring returned to the meeting.

Mr. Haase noted that there is \$433,000 that remains available in SERC's biennial contract with the Commission. Mr. Haase recommended that the Commission approve \$175,000 for development of a state energy security plan under Contract SERC 2019-01 Task 2 – Provide Prompt Expertise for North Dakota.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission authorize the expenditure of \$175,000 under Contract SERC 2019-01 Task 2 – "Provide Prompt Expertise for North Dakota" for the purpose of developing a state energy security plan. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

ADMINISTRATION – STATE FIRE AND TORNADO FUND

Mr. Brennan Quintus, North Dakota Insurance Reserve Fund, presented the recommendation from State Insurance Commissioner Jon Godfread regarding the Excess Loss Reinsurance and Equipment Breakdown Coverage for the Fire and Tornado Fund.

Mr. Quintus reviewed the current coverage follows:

- \$250,000,000 excess of \$2,000,000 any one occurrence
- Treaty Period: August 1, 2021 through August 1, 2022
- Rate: .0265 per \$100 of Total Insurable Values (TIV)
- In-force TIV: \$17,056,582,758
- Deposit premium: \$4,520,000
- Reinsured 100% with Travelers Insurance Company (A++ AM Best Rating; \$7b PHS)

Each year the Insurance Reserve Fund approaches the market to seek the best possible rates for the State. This year they approached 50 entities and received only one quote from Travelers. They quoted the same structure with two changes to that structure. The changes were to exclude the NDSU's Heating Plant and the UND's EERC buildings. They cited retro-reinsurance placement difficulties because of the exposure to coal. They sought other alternatives and worked with a company until the deadline, but that entity withdrew their proposal. After further discussions with Travelers they agreed to providing coverage on the EERC buildings except for explosion coverage and added NDSU's Heating Plant back on for an additional cost.

Mr. Quintus reviewed the efforts they have made to find other coverage options, the current status of the insurance market, involvement of national brokers and the largest brokers in North Dakota and have not been able to find an alternative at this time for the NDUS heating plant and the EERC buildings explosion coverage. There was discussion on the ESG movement and its impact on anything related to coal.

Mr. Quintus presented the Insurance Commissioner Godfread's recommendation as follows:

- \$250,000,000 excess of \$2,000,000 any one occurrence
- Treat Period: August 1, 2022, through August 1, 2023
- Rate: .029273 per \$100 of TIV
 - 10.5% increase from expiring
- In-force TIV: \$18,363,713,324
 - 7.7% increase from expiring
- Deposit: \$5,375,604
 - 18.9% increase from expiring

Changes from 2021

- NDSU's Heating Plant limited to \$12 million
- Excludes Explosion coverage for UND's EERC buildings

Mr. Quintus stated they will continue to work on finding full coverage for the NDSU Heating Plant and the EERC buildings and will bring that before the Industrial Commission at a future meeting.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the North Dakota Insurance Commissioner regarding the Excess Loss Reinsurance Coverage for property coverage provided by the Fire and Tornado Fund and approve the Travelers Indemnity Company's proposal which will provide \$250 million of coverage excess a \$2 million retention in any one occurrence at a rate of .029273 per \$100

of total insured value with a deposit premium of \$5,375,604 noting that this excludes coverage for explosion at the EERC buildings on the University of North Dakota campus and has reduced the coverage limit on the North Dakota State University heating plant to \$12 million. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

NORTH DAKOTA PIPELINE AUTHORITY/NATURAL GAS PIPELINE GRANT PROGRAM

Mr. Justin Kringstad, North Dakota Pipeline Authority Director, presented an update of the Natural Gas Production Outlook and Transmission Projects. A copy of his PowerPoint presentation is available in the Commission files and is posted on the Pipeline Authority website.

Mr. Kringstad summarized information on the following topics:

- North Dakota's Abundant Gas Opportunities
- A Complete Gas Capture Solution
- Current Bakken Wellhead Economics – noted the changes in the economics as the value of natural gas has increased
- Understanding the Challenge
- Major Residue Gas Pipeline Infrastructure – current infrastructure will not be sufficient
- Driving Forces for New Gas Pipelines – Supply Push; Demand Pull, System Reliability
- Who Signs Up for Capacity – Shippers – Producers, Marketing Firms, Consumers/Local distribution companies (LDC)
- Northern Border Pipeline P.O.M. Shipper Mix – breakdown of who they are (Canadian Producers, LDC users, Marketing firms; N.D. Midstream, ND Producers)
- Major Residue Gas Pipeline Infrastructure
- WBI Energy – Proposed Grasslands South Project – Q3 2023 proposed completion
- TC Energy – Proposed Bison Xpress Project – Q1 2026 targeted in-service date
- Value of a Dekatherm (MMBTU) - \$3.74 in combined oil and natural gas taxes to the State of ND
- Bakken Natural Gas Infrastructure
- Global Natural Gas Prices (as of August 24, 2022)
- North American LNG Export Terminals – 13.96 Bcfd Existing
- North American LNG Export Terminals – Approved, Not Yet Built – 29.59 Bcfd Approved
- North American LNG Export Terminals – Proposed – 10.47 Bcfd
- Proposed Market Analysis: Key Questions
- Pipeline Authority Tools – possible legislative changes may be needed.

Mr. Kringstad stated he is considering doing a market analysis. The key questions are:

- What North American market hubs will offer best value to Bakken gas production in the next 5-10+ years?
- How could Canadian gas production growth, LNG export expansions, and pipeline expansions influence flows from Canada on the Northern Border and Alliance pipelines?

After he gathers more information, he will determine if this type of analysis should be done and will bring a proposal to the Commission for their consideration.

The Commission encouraged Mr. Kringstad to move forward with preparing proposed legislation as needed as the Pipeline Authority should be considering all options for making the industry competitive in the market.

Mr. Kringstad provided an update on the Natural Gas Pipeline Grant Program and provided graphics on the Residue Gas Pipeline Capacity Visualization and Residue Gas Pipeline Flow Directions.

Mr. Kringstad stated that the application for the Grand Forks natural gas pipeline is under review but there have been no applications on the west to east pipeline funding. He requested that the Commission extend the application deadline to December 15, 2022.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Natural Gas Pipeline Guidelines be amended as follows to allow a December 15, 2022 application deadline for natural gas pipeline grant funding:

NGP – 3.02 Application Deadlines. Applications must be delivered to the Industrial Commission or postmarked on or before May 1, 2022 for consideration of the \$10 million pool of funds established for Grand Forks County and on or before December 15, August 15, 2022 for consideration of the remaining pool of funds.

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

Mr. Kringstad provided the graphics the Commission had requested at a prior meeting regarding natural gas pipelines: (Copies are available in the Commission's files)

- Residue Gas Pipeline Capacity Visualization
- Residue Gas Pipeline Flow Directions

DEPARTMENT OF MINERAL RESOURCES

Mr. Lynn Helms, Director of the Department of Mineral Resources, presented a proposed Order 32057 for Case 29487 regarding a risk penalty application. Mr. Helms reviewed the information that had been presented at the hearing, and the review by the staff of whether Bowline Energy LLC had followed the required steps and had made a good faith attempt to lease the mineral interests.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve Order No. 32057 issued in Case No. 29487 granting Bowline Energy LLC authorization to recover a risk penalty from the Denowh Family Trust mineral interests for the drilling and completion of the HEEN 153-104-35-26-3H well (File No. 35588), HEEN 153-104-35-26-4H well (File No. 35589), HEEN S 152-104-5-17-1H well (File No. 38648), and HEEN S 152-104-5-17-2H well (File No. 38841), Williams County, ND. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Ed Murphy, State Geologist, presented the Geological Survey Second Quarterly Report (April 1, 2022 to June 30, 2022). The report included information on the following topics: (A copy of the report is available in the Commission files.)

- Wilson M. Laird Core and Sample Library Usage Data
- High-Level Radioactive Waste Advisory Council Meetings and Information on what had been considered by the Council at their meetings

- Critical Minerals Reports – two more anticipated this year.
- 2021 Paleontologic Reviews – 433 paleontologic reviews.
- Regulatory Programs
- Listing of Publications and Presentations from the quarter

A request was made to look at the federal legislation that was passed and the opportunities for funding related to critical minerals. Mr. Helms indicated that their proposed 2023-2025 budget request includes additional staffing for the Geological Survey to make applications for grants and to enhance the work that is already being done on critical minerals.

Mr. Helms provided an update on litigation

- Case No. 31-2020-CV-0018 - Northern Oil and Gas, Inc. vs. Continental Resources, Inc; Board of University and School Lands and ND Industrial Commission et al (Ordinary High Water Mark) – *trial set for May 16 of 2023. Depositions scheduled for November. Has been some discussion about mediation before depositions.*
- Case No. 05-2019-CV-00085 - Northwest Landowners Association vs. State of North Dakota, et al. – *The joint petition for rehearing has been denied. A motion has been filed by the Landowners Association for additional attorneys fees.*
- Case No. 27-2022-CV-00305 - Blue Steel Oil and Gas, LLC v. North Dakota Industrial Commission, Slawson Exploration Company, Inc and White Butte Oil Operations, LLC - *waiting for the District Court decision*
- North Dakota Industrial Commission v. U.S. Department of Interior – *Mr. Helms summarized the status of the cases in the various jurisdictions around the United States involving the holding of lease sales.*
- Case No. 13-2022-CV-00059 – Specialized Technological Threading, Inc., v. North Dakota Industrial Commission – *Briefs are due in September and October. In the meantime, there has been an interest in settling the case.*
- Dominek v Equinor et al. – *decision pending*

Mr. Helms stated the initial grant of \$25 million was awarded yesterday for the orphan well program. The money will be available on October 1, 2022. The staff is moving forward with an RFP for a grant administrator. This funding will allow for the plugging of 92 additional wells and the reclamation of 157 well sites.

Regarding the Department of Mineral Resources efforts to convert 18 confiscated wells for livestock and fire suppression uses, Mr. Helms stated the Bureau of Land Management and U.S. Forest Service continue to be uncooperative. Mr. Helms stated he will continue to meet with the officials to move this important project forward.

Mr., Helms indicated he will be putting together a report on the federal legislation – HR 5376 and IJA -- and identify the impact that legislation will have on the State as it relates to the oil and gas industry, CO2 capture and critical minerals.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that under the authority of North Dakota Century Code Sections 54-63-02, 54-63.1-06, 44-04-18.4, 44-04-19.2, and 44-04-19.1(5) enter into executive session for the purpose of considering Renewable Energy Program, Clean Sustainable Energy Authority confidential information requests and for attorney consultation. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Governor Burgum stated that the Commission is meeting in executive session for attorney consultation and to consider confidentiality requests. Only the Commission members, their staff, Industrial Commission staff, attorneys and the appropriate agency staff will be in the various executive sessions.

Following the attorney consultation and executive sessions on confidentiality requests, the Industrial Commission will enter into executive session regarding Bank of North Dakota business pursuant to N.D.C.C. 6-09-35 to consider those items listed on the agenda under Bank of North Dakota confidential business. Only Commission members, their staff, and BND staff will participate in that executive session. Any formal action by the Commission will occur after it reconvenes in open session. I remind the Commission members and those present in the executive sessions that the discussion must be limited to the announced purposes which is anticipated to last approximately 30 minutes.

The executive session will begin at 12:00 noon.

INDUSTRIAL COMMISSION/RENEWABLE ENERGY EXECUTIVE SESSION

Members Present:

Governor Doug Burgum
Attorney General Drew H. Wrigley
Commissioner Doug Goehring

Others in Attendance:

Ryan Nordell	Governor's Office
John Reiten	Governor's Office
Dutch Bialke	Department of Agriculture
Karlene Fine	Industrial Commission Office
Reice Haase	Industrial Commission Office
Karen Tyler	Industrial Commission Office

This executive session ended at 12:23 p.m. and the Commission continued in executive session regarding Clean Sustainable Energy Program confidentiality requests.

INDUSTRIAL COMMISSION/RENEWABLE ENERGY EXECUTIVE SESSION

Members Present:

Governor Doug Burgum
Attorney General Drew H. Wrigley
Commissioner Doug Goehring

Others in Attendance:

Al Anderson	Clean Sustainable Energy Authority
Ryan Nordell	Governor's Office
John Reiten	Governor's Office
Dutch Bialke	Department of Agriculture
Karlene Fine	Industrial Commission Office
Reice Haase	Industrial Commission Office
Karen Tyler	Industrial Commission Office

This executive session ended at 12:30 p.m. and the Commission continued in executive session pursuant to N.D.C.C. 6-09-35 and considered the following items listed on the agenda under BND confidential business:

- Consideration of loan requests
- Presentation of the Concentrations of Credits as of 6/30/22 Report – *delayed until next meeting*
- Problem Loans
- Presentation of Bank of North Dakota Advisory Board June 16, 2022 confidential meeting minutes
- Other Bank of North Dakota confidential (as defined under N.D.C.C. 6-09-35) business

BND EXECUTIVE SESSION

Industrial Commission Members Present:

Governor Doug Burgum
Attorney General Drew H. Wrigley
Agriculture Commissioner Doug Goehring

Bank of North Dakota Personnel:

Kelvin Hullet, Bank of North Dakota
Kirby Evanger, Bank of North Dakota
Craig Hanson, Bank of North Dakota
Rob Pfennig, Bank of North Dakota
Gus Staahl, Bank of North Dakota

Others in Attendance:

Ryan Nordell	Governor's Office
John Reiten	Governor's Office
Dutch Bialke	Department of Agriculture
Karlene Fine	Industrial Commission Office
Reice Haase	Industrial Commission Office
Karen Tyler	Industrial Commission Office

Governor Burgum stated the BND executive session has ended at 12:45 p.m. and the Commission is reconvened in open session. **During the BND executive session, the Commission made motions on three loan requests. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye on the three motions. The motions carried unanimously.**

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the Reice Haase, Industrial Commission Deputy Executive Director, and pursuant to sections 54-63-02, 44-04-18.4 and 44-04-19.2 grant the confidentiality requests and determine that the information described in the Grant Round 50 requests consists of trade secrets and/or financial or proprietary information and is confidential and that the Commission accept the recommendation of the Clean Sustainable Energy Authority Director and pursuant to sections 54-63.1-06, 44-04-18.4 and 44-04-19.2 grant the confidentiality requests and determine that the information described in the Grant Round 3 requests consists of trade secrets and/or financial or proprietary information and is confidential. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Commissioner Goehring left the meeting at this time.

BANK OF NORTH DAKOTA

Mr. Rob Pfennig, Bank of North Dakota, presented the College SAVE Audit Report – December 31, 2021. This audit was conducted by Landmark PLC, Little Rock, Arkansas. He stated it was a clean audit; there were no findings or internal issues. The net position has increased by 7.91% over 2020 to \$647,291,263. Contributions increased 6.3% over 2020 to \$53.7 million and withdrawals increased to by 23% over 2020 to \$55 million. The program is doing what it is intended to do – funding education purposes.

Mr. Kelvin Hullet, Bank of North Dakota, and the Commission discussed the recent announcement by President Biden to further defer student loan payments and forgive student loan debt. Governor Burgum provided the history on the growth of student loan debt over the past decade and the impact this action will have on inflation and the economy.

Mr. Hullet stated that the Bank has been receiving calls asking if the action by President Biden will impact the loan the borrower has at the Bank of North Dakota. He stated the majority of the callers already know the answer that it does not apply to their Bank of North Dakota loan but they still called to make sure that was the answer. He stated the Bank has done some media interviews regarding Bank of North Dakota student loans and explaining the difference from federal loans. Overall North Dakotans understand their responsibility to repay debt.

Mr. Hullet stated he has been on a number of calls regarding the federal announcement and there are still a number of unknowns.

Bank management then reviewed the Second Quarter 2022 Performance Highlights. Mr. Pfennig reviewed the balance sheet – ended June with total assets just over \$10 billion. The income statement shows a net income \$81,067,000 - \$10,183,000 higher than budget. It was pointed out that the Provision for Credit Losses is at zero. During the pandemic the Bank had increased their transfers to the provision in anticipation of losses they expected in their loan portfolios. Those losses were not as high as anticipated, so the Bank has been able to delay any additional transfers to the provision for loan losses since July, 2021.

Mr. Kirby Evanger reviewed the credit quality of the portfolio and stated the Allowance for Credit Allowances is currently at \$107,510,000. Bank management believes this amount is sufficient even with the growth the Bank has seen in its commercial and agriculture portfolio. He noted that delinquencies are down and there has been an improvement in the Risk 5 loans in the last year. He reviewed the delinquency chart for the various loan portfolios.

There was discussion about the impact of the pandemic and the choices that are now being made to allow employees to work remotely. Mr. Evanger stated he will bring information at the next meeting on the Bank's commercial loan portfolio that is related to office space.

Mr. Hullet presented a preview of the student loan education campaign that the Bank of North Dakota is rolling out to better educate students and parents on how to finance a student's education. It is called Be Confident with your Student Loan decisions. It will go public in West Fargo next week. It can be found on the Bank of North Dakota's website. He discussed the details of the event and the involvement of the local financial institutions. The Commission complimented the Bank team on putting together this campaign.

The Bank of North Dakota Advisory Board May 19 and June 16, 2022 nonconfidential meeting minutes were distributed to the Commission.

CLEAN SUSTAINABLE ENERGY AUTHORITY (CSEA)

Mr. Al Anderson, CSEA Director, provided a summary of the four applications that were currently being considered under Grant Round 3. Mr. Anderson stated five applications were submitted and after initial review the applicant withdrew their application. The remaining applications were all requests for grants as there is no funding available for loans. The applications and grant requests are as follows:

Liberty H2 Hub Front-End Engineering and Design	- EERC	\$10,000,000 (hydrogen)
Project Phoenix Manufacturing bio-degradable polymers using methane as feedstock	- Newlight Technologies	\$4,185,625
Geothermal Power Generation for Oil & Gas Production	- Enerplus Corporation	\$1,098,500
Combustor Development and Engine Demonstration of Pure Ammonia Combustion for Zero-Carbon Power Generation in a Commercial Micro-Gas Turbine	- Creative Power Solutions	\$1,500,000

Mr. Anderson gave a summary of what each of the applicants are proposing in their requests. Mr. Anderson stated they have completed the independent technical reviews, and the Bank of North Dakota is completing their review of the financial information. The applications will be going to the CSEA Technical Committee and to the CSEA in September with the plan to present recommendations to the Commission at their September meeting.

Governor Burgum requested information from Mr. Anderson and Mr. Hullet on funding needs for the CSEA program and related Bank of North Dakota programs by November 1st. Mr. Anderson stated he would seek input from the Clean Sustainable Energy Authority at their meeting in September.

INDUSTRIAL COMMISSION ADMINISTRATIVE BUSINESS

Ms. Fine provided a background memorandum regarding the legislative process that the Commission and its agencies have previously followed.

Governor Burgum welcomed Karen Tyler to the Industrial Commission team.

Governor Burgum adjourned the meeting at 1:25 p.m.

North Dakota Industrial Commission



Karen Tyler, Interim Executive Director and Secretary