

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on July 29, 2020 beginning at 1:00 p.m.
Pioneer Room - State Capitol

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

Also Present: Some attendees are listed on the attendance sheet available in the Commission files
This meeting was open through a call-in number/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 Public Finance Authority Business.

PUBLIC FINANCE AUTHORITY (PFA)

Ms. DeAnn Ament, PFA Executive Director, introduced Ms. Mindy Piatz, Brady Martz. Ms. Piatz presented the PFA 2019 Audit Report and stated that the audit had an unmodified clean opinion regarding the financial statements. Regarding internal control over financial reporting, the audit did not identify any deficiencies that would be material weaknesses. There were no instances of noncompliance or other matters required to be reported under government auditing standards.

The Drinking Water program was tested for material compliance with federal requirements. An unmodified, clean opinion was issued regarding PFA complying with federal requirements.

Last, Ms. Piatz stated that their firm had conducted tests for fraudulent activities and no instances had occurred.

The Commission commended Ms. Ament and her staff on the clean opinions.

Ms. Ament presented the 2019 Annual Report and highlighted the following program details:

- The Capital Financing Program provides market rate loans to political subdivisions. Because it is a market rate program there is less demand for the program. However, there was one loan to Morton County for \$2,515,000. There is currently \$146 million outstanding in the program total. The program currently has a rating of AA-, as it is always one level below the rating of the State.
- Capital Finance Disaster Loan Program – there were no new loans under this program.
- In 2019, the PFA approved 9 Clean Water State Revolving Fund (SRF) program loans totaling \$19,537,000 and 12 Drinking Water SRF loans totaling \$42,174,000. As of December 31, 2019, the total amount of SRF program bonds outstanding was \$323,275,000, and the total outstanding amount of SRF program loans was \$728,001,747.
- Industrial Development Loan Program – there are two outstanding loans with limited activity

In response to a question regarding potential policy recommendations, Ms. Ament stated that being able to offer below market interest rates is very attractive to borrowers. The Commission did approve a change to the Disaster Loan Program to allow for PFA to assist political subdivisions if they needed to borrow to meet cashflow needs. The Disaster Program has a variable rate because the funds are borrowed from the Bank of North Dakota (BND) as needed. In 2011, bonding wasn't required because PFA was able to borrow funds from BND. Discussions have been held with BND, and they are willing to operate this program in

the same manner again. If it gets to a point where it makes sense to go into the market and bond, then once the bonding is done, BND would be repaid, and all borrowers would have a fixed rate bond at that time. While a federal program—Municipal Liquidity Facility-- has been established in response to the Covid-19 pandemic, the structure established with the PFA and BND is more cost effective and the State is fortunate to have BND and the flexibility it is able to provide.

Ms. Ament presented a proposed Resolution Providing for Reimbursement of Certain Costs for the State Revolving Fund Programs for the Commission's consideration. Federal regulations require that 30% of bond proceeds are spent within 1 year and 95% are spent within 3 years. One way to help ensure these requirements are met is to put a reimbursement resolution in place. This Resolution will allow reimbursements for loans issued between now and when the bonds are issued to be considered spent when the bond issues are closed.

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

**RESOLUTION PROVIDING FOR REIMBURSEMENT OF CERTAIN COSTS FOR THE STATE
REVOLVING FUND PROGRAMS**

WHEREAS, the North Dakota Public Finance Authority (the "Authority") is duly constituted as an instrumentality of the State of North Dakota exercising public and governmental functions under the operation, management and control of the Industrial Commission of North Dakota (the "Industrial Commission"), pursuant to Chapter 6-09.4, North Dakota Century Code (the "Act");

WHEREAS, pursuant to the Act, the Authority is authorized to issue bonds and to make loans to political subdivisions of the State of North Dakota and certain other entities through the purchase of municipal securities and other obligations;

WHEREAS, the Legislative Assembly of North Dakota has established a revolving loan fund (the "Clean Water State Revolving Fund" or "Clean Water SRF") pursuant to Chapter 61-28.2, North Dakota Century Code (the "Clean Water SRF Act") to be maintained and operated by the North Dakota Department of Environmental Quality (the "Department") to provide for loans for the design, construction and rehabilitation of wastewater treatment facilities and certain other activities in accordance with Title VI of the Clean Water Act (the "Clean Water Program");

WHEREAS, the Legislative Assembly of North Dakota has established a revolving loan fund (the "Drinking Water State Revolving Fund" or "Drinking Water SRF") pursuant to Chapter 61-28.1, North Dakota Century Code (the "Drinking Water SRF Act") to be maintained and operated by the Department to provide for loans for expenditures on public water systems and certain other activities in accordance with the Safe Drinking Water Act (the "Drinking Water Program");

WHEREAS, the Industrial Commission, acting pursuant to provisions of the Act, the Clean Water SRF Act, and the Drinking Water SRF Act, and pursuant to the Amended and Restated Master Trust Indenture dated as of July 1, 2011, between the Authority and the Bank of North Dakota, as Trustee, as amended (the "Master Trust Indenture") expects to authorize and direct the issuance by the Authority of a future series of its State Revolving Fund Program Bonds (the "Bonds");

WHEREAS, the Authority desires to fund additional projects pursuant to the Clean Water Program and the Drinking Water Program with amounts on deposit in the Federally Capitalized Loan Accounts and Unrestricted Cumulative Excess Subaccounts (the "Accounts") and, at a later date as determined in the discretion of the Executive Director, and in compliance with Treas. Reg. §1.150-2, reimburse those Accounts of the Clean Water Program and the Drinking Water Program from the proceeds of Bonds subsequently issued pursuant to the Master Trust Indenture;

NOW THEREFORE, BE IT RESOLVED BY THE INDUSTRIAL COMMISSION OF NORTH DAKOTA, AS FOLLOWS:

Section 1. Definitions. All terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Master Trust Indenture.

Section 2. Purpose and Expectations. The Industrial Commission declares that it intends for the Authority to undertake the making of Loans pursuant to the Clean Water Program and the Drinking Water Program with amounts on deposit in the Accounts and to reimburse the Accounts for expenditures made pursuant to the Loans out of the proceeds of the Bonds. This declaration is a declaration of official intent adopted pursuant to Treas. Reg. §1.150-2.

Section 3. Timing and Amount of Reimbursement. Reimbursement allocations made under the provisions of this resolution shall be made within 18 months of the date hereof and shall not exceed \$180,000,000 in aggregate principal amount consisting of up to \$100,000,000 for the Clean Water Program and up to \$80,000,000 for the Drinking Water Program. The Executive Director shall be responsible for the timing and amount of the reimbursement allocations. Each allocation shall be evidenced by an entry on the official books and records of the Authority maintained with respect to the Bonds.

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

Ms. Ament presented the following Clean Water loan application for consideration:

City of Jamestown – \$3,170,000

The project will replace Lift Station 20, line the wet well on Lift Station 1 (main lift) and refurbish Lift Station 11 from a wet well/dry well prefabricated lift station to a wet well submersible station. The requested term for the CWSRF loan is 30 years. The City will issue revenue bonds payable with sewer user fees. The average annual payment for the revenue bonds will be \$133,813. The reserve requirement will be \$141,075 and the 120% coverage requirement will be \$160,576.

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

**RESOLUTION APPROVING
LOAN FROM CLEAN WATER STATE REVOLVING FUND**

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

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

WHEREAS, the City of Jamestown (the "Political Subdivision") has requested a loan in the amount of \$3,170,000 from the Program to replace Lift Station 20, line the wet well on Lift Station 1, and refurbish Lift Station 11 from a wet well/dry well prefabricated lift station to a wet well submersible station; and

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

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

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

- 1. The Loan is hereby approved, as recommended by the Advisory Committee.**
- 2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.**
- 3. The Executive Director is authorized to fund the Loan from funds on hand in the Clean Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.**
- 4. The Commission declares its intent pursuant to Treasury Regulations '1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.**

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

Ms. Ament reported on loans approved by the Public Finance Authority Advisory Committee to the following entities:

City of Center – \$547,000 (Clean Water State Revolving Fund), \$102,000 (Drinking Water State Revolving Fund)

This project involves replacing the water main and sewer main on Front Street and Bridge Avenue along with installing a sanitary lift station and force main at their intersection. Sanitary sewer mainline will be replaced from the creek to the lift station at Klein Avenue and Interstate Street. The requested term for the CWSRF loan is 20 years and the City will issue revenue bonds payable from sewer user fees. The requested loan term for the DWSRF is 20 years and the City will issue revenue bonds payable from water user fees.

City of Sykeston – \$411,000 (Drinking Water State Revolving Fund)

The project involves replacing the existing water storage tank with a 50,000-gallon elevated spheroid tank. The requested term for the DWSRF loan is 30 years. The City will issue revenue bonds payable from water user fees.

HOUSING FINANCE AGENCY (HFA)

Mr. David Flohr, HFA Executive Director, provided a report on the issuance of a Declarations of Intent to issue multifamily revenue bonds. NDHFA issued a Declaration of “Official Intent” on June 15, 2020 to issue Multifamily Revenue Bonds in the amount not to exceed \$7,000,000. The proceeds of these bonds will be used for the construction of Elliot Place, a 52-unit apartment complex located at 4462 30th Avenue South in Fargo. The issuance of the tax-exempt bonds is required in order for the project to qualify for a non-competitive 4% tax credit allocation.

Mr. Flohr stated the Fargo Housing and Redevelopment Authority is proposing the new construction of 84 units of senior housing to be developed as a twin 4 percent/9 percent transaction. This will be the first transaction with this financing structure that has been issued by the Housing Finance Agency. The 4 percent transaction, for which the tax-exempt bonds will be issued, will consist of 52 units. The remaining 32 units

will utilize 9 percent tax credits. This project is one aspect of the decommissioning of the Lashkowitz High Rise. Onsite supportive services will be provided 24/7 by Tami’s Angels and Valley Senior Services.

In response to questions, Mr. Flohr and Ms. Jennifer Henderson indicated that the project is located on 30th Avenue, set back from 45th Street. The timeframe of decommissioning is dependent on rehousing current residents but is estimated to be approximately two years. Public transportation is a priority, and one of the goals is to place residents back in areas with access to public transportation.

It was noted that the appointment of a public hearing officer is needed for a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing for the Multifamily Bond Issuance related to the project.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Dave Flohr, Housing Finance Agency Executive Director, be named as the Industrial Commission’s public hearing officer for the TEFRA hearing scheduled for August 6, 2020 for the issuance of Multi-family Revenue Bonds and approve the publication of the Notice of Public Hearing on July 29, 2020. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

NORTH DAKOTA MILL (Mill)

Mr. Vance Taylor, Mill President and CEO, along with Ed Barchenger and Cathy Dub, presented the following North Dakota Mill 4th Quarter Report and Fiscal Year End Report.

*North Dakota Mill
Review of Operations
4th Quarter Ended 6/30/20*

SUMMARY

Operations in the 4th Quarter led to a profit of \$1,412,507 compared to a profit of \$1,401,546 in last year’s 4th Quarter. For the year we had a profit of \$11,418,622 compared to \$10,622,211 last year. Increase of 7.5%. Restaurant and school closures caused shipments to decrease. Conversely, family flour shipments increased.

	Quarter		Year-to-Date	
	6/20	6/19	6/20	6/19
Profits	\$ 1,412,507	\$ 1,401,546	\$ 11,418,622	\$ 10,622,211
Sales	67,416,694	73,709,291	299,641,646	312,342,791
Cwt. Shipped:				
Spring	2,910,404	3,253,276	13,297,357	13,701,106
% to Total	92%	93.3%	92.9%	93.5%
Durum	252,744	233,333	1,012,324	960,296
	<u>3,163,148</u>	<u>3,486,609</u>	<u>14,309,681</u>	<u>14,661,402</u>
Bulk Shipments	2,558,058	2,871,780	11,760,658	12,073,911
% to Total	80.9%	82.4%	82.2%	82.4%
Bag Shipments	557,242	584,312	2,374,130	2,445,370
% to Total	17.6%	16.8%	16.6%	16.7%
Tote Shipments	47,848	30,517	174,894	142,121

% to Total	1.5%	.8%	1.2%	.9%
Family Flour Shipments	198,621	77,503	480,874	350,522
% to Total	6.3%	2.2%	3.4%	2.4%
Organic Flour Shipments	40,961	35,091	148,775	141,901
% to Total	1.3%	1.0%	1.0%	1.0%
Wheat Purchased				
Spring	6,010,206	7,256,476	28,647,669	29,095,539
Durum	595,068	485,125	2,252,810	1,956,143
Total	6,605,274	7,741,601	30,900,479	31,051,682

SALES

4th Quarter

Sales for the 4th Quarter were \$67,416,694 compared to \$73,709,291 last year. Shipments of 3,163,148 cwts. are 323,461 cwts. less than last year's 4th Quarter. Bag shipments for the 4th Quarter are 557,242 cwts. compared to 584,312 cwts. last year. Tote shipments are 47,848 cwts. compared to 30,517 cwts. last year. Family flour shipments of 198,621 cwts. is 156.3% higher than last year's 4th Quarter. States closing down restaurants due to COVID 19 had a positive effect on family flour as consumers were eating and baking more at home. Organic flour shipments of 40,961 cwts. is 16.7% above last year. Durum flour and semolina shipments increased 8.3% over last year's 4th Quarter.

Year-to-Date

Sales for the fiscal year came in at \$299,641,646. This is 4.1% less than last year. The price of grain settled is \$0.28 per bushel less than last year. Shipments of 14,309,681 cwts. are 351,720 cwts. less than last year. Year-to-date bag shipments are 2,374,130 cwts. or 71,240 cwts. less than last year. Year-to-date tote shipments are 174,894 cwts. compared to 142,121 cwts. last year. Family flour shipments for the year are 480,874 cwts., which is a 37.2% increase from last year. Organic flour shipments are 148,775 cwts. compared to 141,901 cwts. last year. Durum flour and semolina shipments increased 5.4% over last year.

OPERATING COSTS

4th Quarter

Operating costs for the 4th Quarter are \$9,247,605 compared to \$9,633,077 last year, a decrease of 4.0%. The Mill experienced an unexpected pension benefit expense of \$1,153,892.58 in the last few months of the fiscal year. Operating cost per cwt. of production is \$2.95 compared to \$2.78 last year, an increase of 6.1%.

Year-to-Date

Year-to-date operating costs are \$37,340,656 compared to \$36,233,606 last year, an increase of \$1,107,051. Operating costs per cwt. of production for the year is \$2.62 compared to \$2.46 last year.

PROFITS

4th Quarter

For the 4th Quarter we experienced a profit of \$1,412,507 compared to a profit of \$1,401,546 last year. Gross margins as a percent of gross sales for the Quarter was 16.3% compared to 15.5% last year, an increase of 0.80%.

Year-to-Date

For the year we had a profit of \$11,418,622 compared to profits of \$10,622,211 last year. Gross margins as a percent of gross sales for the year were 16.8% compared to 15.5% last year, an increase of 1.3%.

Risk Management Position

The table below shows our hedge ratio by futures month going forward. A hedge ratio shows the relationship between our net cash position and our futures position. The Mill does remain at risk for the basis.

**Position Report
30-June-20**

Period	Hedge Ratio
Sep-20	1.0
Dec-20	1.1
Mar-21	1.0
Net Position	1.1

The Mill continues to consult with Dr. Bill Wilson on risk management. Current hedge ratios are at ~1.1%.

The wheat crop is looking good for this year and are hoping for some good dry harvest conditions over the next few weeks.

Discussion was held regarding the pandemic and its effects on demand and forecasting. The pandemic will continue to affect demand as restaurants and schools are large consumers. It was noted that organic flour ends up in retail, so the increase in family flour demand affected the increase. The increase in family flour demand is anticipated to outlast the pandemic. Accounts receivable risk increased, but not substantially.

It was noted that the Mill budgets for pension expenses, but the Public Employees Retirement Fund (Fund) has been underfunded and additional charges have been passed along to agencies. This year the expense was \$1.1 million. Hopefully the Fund will be funded to the level needed to avoid the year after year large expenses. The Mill will seek feedback on the level of expenses that may be passed on to the Mill during the upcoming biennium so they can be included in their budget request.

Sales volume has mostly recovered, being slightly below the previous average. The Mill has a new bulk account and hopes to add a few more accounts this fall.

Mr. Taylor reported on year end transfers made on July 23, 2020 as follows.

NORTH DAKOTA MILL		
FY 2020 Transfers		
	Dollars	Percent
FY 2020 Profit	\$11,418,611.87	
Ag Product Utilization Fund	\$570,930.59	5.0%
General Fund	\$5,423,840.64	50% of remaining profits
Total Transfers	\$5,994,771.23	

Mr. Taylor presented the FY 2021 Gain Sharing Plan for consideration. He first reported on the FY2020 plan noting that all 4 goals were met resulting in a percentage of 18.99%. The average employee payout was \$13,811.28 and the total cost was \$2,016,446.97. He stated that the gain sharing plan is a key in obtaining the level of profits that were seen in 2020 especially in the fourth quarter when the Mill team was dealing with Covid-19 issues.

The only proposed change to the goal criteria involves increasing the cost per cwt. goal from \$2.40 to \$2.47. The reasons for the change include insurance costs which have doubled in the last two years and potential Covid-19 related delays in production. The goals are achievable but challenging to attain.

Mr. Taylor clarified that the Mill needs to have a profit of \$3 million before a payout based on goals is triggered and a profit of \$5 million before a payout based on profits.

In response to a question on yield of flour, Mr. Taylor indicated that a 1% increase in yield is worth approximately \$1.2 million to the Mill.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approves the following North Dakota Mill Gain Sharing Program for Fiscal Year 2021:

**NORTH DAKOTA MILL
GAIN SHARING PROGRAM
FY2021**

- Eligibility – all full-time employees on June 30, 2021 that worked a minimum of 1,000 hours during the program year are eligible.
- No pay out of any bonuses if profit before gain sharing expense accrual and any unknown adjustments (Pension, etc.), positive or negative does not exceed 3.0 million dollars.
- No payout on the profit part of the plan if profit before gain sharing expense accrual and any unknown adjustments (Pension, etc.), positive or negative does not exceed 5.0 million dollars.
- Payout will be calculated as a percent of earnings from July 1, 2020 to June 30, 2021.
- Goal numbers were set to reflect current realities for the new plan year.
- Goal numbers were set by the President and CEO and are attainable with effort.

The plan consists of two independent parts. 4% potential payout is from exceeding gain sharing goals and an un-capped potential payout is from profits. For the year ending June 30, 2021 the goals are as follows:

Gain Sharing 1st Part – 4% Bonus Potential*

Goals

Cwt./man-hour (includes all hours)	38.0
Cost per cwt. (pre gain sharing exp. and pension adjust.)	\$2.47
Yield	77.8%
Safety Record	172 Points

*4% bonus potential if all numbers are met or exceeded. Each goal is worth 1% of the 4%.

Gain Sharing 2nd Part – Uncapped Bonus Potential

Profits (before gain sharing expense accrual and pension adjustments):

3.0 million = 0.0% bonus pay out

5.0 million = 5.0% bonus pay out

Each additional 1.0 million in profits = 1.0% additional bonus payout.

NOTE: The 1st Part of the gain sharing goals begin to pay out at a profit (before gain sharing expense accrual and any unknown adjustments - Pension, etc., positive or negative) level greater than \$3.0 million. The 2nd Part of the gain sharing goals begin to pay out at a profit (before gain sharing expense accrual) level greater than \$5.0 million.

EXAMPLE #1:

The Mill makes \$3.0 million profit (before gain sharing expense accrual and any unknown adjustments - Pension, etc., positive or negative) and we exceed the goal for cwt./man-hour and cost/cwt. but not the safety record or yield. The total bonus received would be 2% for goals + 0% for profit = 2.0%.

EXAMPLE #2:

The Mill makes \$6.0 million profit (before gain sharing expense accrual and any unknown adjustments - Pension, etc., positive or negative) and we exceed the goal for cwt./man-hour, cost/cwt., and the safety record but not the yield. The total bonus received would be 3% for goals + 6.0% for profit = 9.0%.

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

Mr. Taylor reported on the FY 2020 Capital Expenditures as follows.

NORTH DAKOTA MILL				
Capital Expenditures for FY 2020				
July 29, 2020				
Capital Expense Item	Approved/Remaining Budget	Net Capital Cost	Under/(Over)	Completed Project Cost
Plant				
Grain Receiving Land & Engineering	\$ 460,548	447,253	13,295	3,336,704
* Phase II Shuttle Track & Grain Storage	4,121,354	3,712,152	409,202	
Transformers and Electrical Room	270,579	142,057	128,522	321,853
Power Factor Correction Capacitors	251,450	182,063	69,387	190,613
* Freight Elevator Upgrade	950,000	317,152	632,848	
* Upper Bulk Flour Storage Renovation	635,000	204,567	430,434	
Rail Track & Crossing Upgrade	585,000	582,872	2,128	582,872
Old Warehouse North Dock Upgrade	225,000	199,665	25,335	199,665
* Roof Replacements	160,000	76,180	83,820	
* K Mill Wheat Leg Replacement	105,000	58,652	46,348	
Tractor	85,000	48,982	36,018	48,982
Motorized Roll Chill Transfer Cart	62,000	59,925	2,075	59,925
Protein Analyzer	53,000	46,587	6,413	46,587
* Terminal Receiving Scales & Conveyors	8,350,000	45,119	8,304,881	
Grain Receiving Land & Engineering	460,548	447,253	13,295	3,336,704
Computers/Technology				
Systems Improvements, Replacements, and Upgrades	300,000	28,237	271,763	
Data Center				22,134
Fiber Optic Line				6,103
Other	400,000	236,279	163,721	

Bobcat Snow Blower				5,147
Sifter				140,201
Ductwork for G Mill				62,000
Roll Conversion Kits				28,931
Total Capital Expenditures	\$17,013,931	\$6,387,741	\$10,626,190	\$5,051,716

* Carried over to Fiscal Year 2021

Mr. Taylor presented the FY 2021 Capital Plan for consideration as follows.

Automated Flour Packing System – \$2,350,000

Current situation:

The existing B1 50- and 100-pound flour packing system is over 25 years old and is worn out to the point where replacement with a new automated packing system is required. Unscheduled down time on this line has increased and excessive overtime is needed to meet customer demand for packaged flour. Return on investment can be achieved through increased output efficiency, gain on product overpack and losses, gain on replacing sewing system with heat seal closer system and a reduction in maintenance cost.

Proposed change and result:

Purchase and install a new Automated Flour Packing System with automated bag closure, bag flattening, metal detection and automatic palletizer. This integrated system will increase the speed of flour packaging on this line by more than 50% over the existing B2 line and will increase reliability.

Estimated Financial Return Summary:

Line efficiency cost savings	\$ 468,167
Product overpack & loss savings	\$122,225
Heat seal vs Sewing cost savings	\$ 67,424
Maintenance cost savings	\$ 20,800
ROI	28.9%
Payback Time	3.5 Years

Equipment listing Summary:

- Flour Conveyors
- Packing Machine
- Heat Seal System
- Bag Conveyors
- Check Weigh Scale and Reject Conveyor
- High Level Palletizer
- Full Pallet Conveyors
- Electronic Controls
- Catwalks and safety equipment

C Mill Equipment Upgrade – \$235,000

This project is needed to upgrade the equipment on the C Mill to provide for reliable operations. One additional roll stand is required to balance the flow of the C Mill increase yields. Eight new roll chills are needed to replace worn out chills.

Infestroyer Upgrades – \$210,000

Replaces the worn-out unit on the B Mill and adds infestroyer protection on the D Mill and Return flour unload systems.

Truck Lot Improvement – \$160,000

This project removes old concrete footings and resurfaces approximately 45,000 square feet of truck lot area including the installation of geo-grid fabric.

Grain Storage Bin Repair – \$135,000

Several of the concrete grain storage bins in the terminal elevator have significant cracks that require repair.

Packing Area Rebolt Sifters – \$130,000

Two sifters in the packing area are worn out to the point where replacement is required to meet food safety requirements. This project replaces the two sifters with larger capacity units.

High Pressure Steam Upgrade – \$115,000

Several undersized steam supply and condensate lines in the wheat cleaning house building are undersized and require replacement to operate reliably.

Skid Steer Loader – \$61,000

This specialized unit will provide additional equipment for snow removal on rail tracks and other maintenance duties.

Forklifts – \$54,000

Trade in two existing forklifts with excessive service hours and replace with two new units.

Roll Corrugation Analyzer – \$52,000

Purchase and install a laser detection unit for detailed measurement and analysis of the corrugation process. Includes PC, software and components.

Farinograph – \$78,000

Replaces an old worn out unit with the latest technology used to analyze flour mixing and baking qualities.

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

**NORTH DAKOTA MILL
Capital Plan for FY 2021
July 29, 2020**

Capital Expense Item	Remaining Budget
Carryover from FY 2020	
Plant	
Phase II Shuttle Track & Grain Storage	\$ 409,202
Freight Elevator Upgrade	632,484
Upper Bulk Flour Storage Renovation and Automation Phase 1	430,434
Roof Replacements	83,820
K Mill Wheat Leg Replacement	46,348
Terminal Receiving Scales & Conveyors	8,304,881
Total Carryover Capital Expenditures	\$ 9,907,169
FY 2021 Capital Expense Item	Plan
Plant	
Automated Flour Packing System	\$ 2,350,000
C Mill Equipment Upgrade	235,000

	Infestroyer Upgrades	210,000
	Truck Lot Improvement	160,000
	Packing Area Rebolt Sifters	130,000
	High Pressure Steam Upgrade	115,000
	Grain Storage Bin Repair	135,000
	Skid Steer Loader	61,000
	Forklifts	54,000
	Roll Corrugation Analyzer	52,000
Lab		
	Farinograph	78,000
Computers/Technology		
	Systems Improvements, Replacements, and Upgrades	300,000
Other		400,000
Total New Capital Expenditures		\$ 4,280,000
Total Capital Expenditures		\$ 14,187,169

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

In response to a question, Mr. Taylor stated that the Truck Lot Improvement will help in the Mill's efforts to reduce wait time for the grain trucks coming in and out of the Mill. The project approved earlier in the year which adds scales and conveyors will be a bigger factor in reducing wait times.

Mr. Taylor reported that the Mill continues to refine procedures to operate safely in response to the pandemic. Masks are a key strategy. Temperature checks have been well received and have been instrumental in prevention.

As this was the last meeting Mr. Ed Barchenger would be attending, the Commission expressed their congratulations on his retirement and appreciation for all of his great work at the Mill over the years.

BANK OF NORTH DAKOTA (BND)

Mr. Eric, Hardmeyer, BND President and CEO and Mr. Todd Steinwand, BND Chief Business Development Officer, presented the proposed amendments to the Accelerated Growth Loan Program (AGLP) for consideration. The program is designed for software companies that don't have hard collateral which can make it difficult to get financing. To date, BND has participated in seven AGLP loans that totaled just under \$12,000,000. Current balance on these loans is just under \$10,000,000.

It was noted that this is addressing a long-term problem the software industry has faced and appreciation was expressed to the team for addressing it.

Mr. Eric Hardmeyer noted that with the proposed changes, the program would be able to utilize up to 5% of Tier 1 Capital, which would equate to a maximum of approximately \$50 million.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the amendments to the Bank of North Dakota Accelerated Growth Loan Program as follows:

Qualifications

To qualify, the company must have:

1. **Strong prospects for growth that could include purchase orders for merchandise or services. The company must show through its application that prospect for sales growth of 15% or greater over the three-year period following the inception of the loan. Or;**
2. **A demonstrated sales record with minimum monthly recurring revenues of \$50,000 per month. Service as a Software (Saas) companies must have a minimum, net annual revenue retention rate of 85%.**

Maximum Loan Amount

- **BND's participation may not exceed \$3,000,000 or 9X the monthly recurring revenue, whichever is greater.**
- **The lead financial institution's share is a minimum of 10 percent of the total loan amount and will be negotiated on a case-by-case bases.**
- **Maximum loan term of 10 years.**

Use of Loan Proceeds

A loan must be for one of the following purposes:

- **Finance the acquisition of real property.**
- **Remodel or expand an existing business if owner occupied**
- **Purchase or lease equipment**
- **Provide working capital**
- **Refinance an existing loan with a maximum amount that may not exceed 30% of the new loan.**

Collateral

Security for the loan is evaluated on a loan-by-loan basis. Collateral is required and must be of such a nature that repayment of the loan can be reasonably expected. The cumulative amount of loans under this program may not exceed 5% of BND's Tier One Capital. The exposure to any borrower or group of related borrowers may not exceed 0.75% of BND's Tier One Capital at the time of origination. ~~The Cumulative amount of loans under this program may not exceed 3 percent of BND's Tier One Capital.~~

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

Mr. Kirby Evanger, BND Chief Credit Officer, presented proposed amendments to the COVID-19 PACE Recovery Program (CPR) for consideration. The change relates to buydown requirements for common ownership. If a borrower is a common owner at 20% or more ownership across multiple entities, each entity is eligible for a separate loan. However, current buydown requirements limit the loan to a \$500,000 maximum. The proposed change is to change the 20% to 51%.

It was noted that the change would be for CPR loans only, and only through November 30th, 2020. This change will remove a roadblock for some borrowers. The CPR program currently has 102 loans totaling \$89 million with approximately \$18 million of buydown.

Mr. Steinwand noted that several people invested in multiple companies will qualify for this. Without the change, a 51% owner wouldn't get buydown but the 20% owner would get part of the buydown. This change was perceived as being fairer under the circumstances.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approve the amendments to the Bank of North Dakota COVID-19 PACE Recovery Program as follows:

Buydown Requirements

- Upon conversion to term, loan will receive interest rate buydown to 1% for a maximum of five years or until such time the buydown dollars are fully expended. The requirements for a community match, job creation or minimum investment do not apply.
- When separate borrowers with common ownership amounts of 2051% or more apply for multiple loans, these borrowers must be labeled as and considered to have common ownership. The maximum buy down on all loans for entities designated as common ownership is \$500,000.

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

Mr. Hardmeyer presented officer salary recommendations for consideration, noting that competitive compensation is critical for retention and succession management. It has been identified as a major risk issue for BND. He stated 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 Bank's mission and strategies;
- Succession management. Three of BND's current officers will likely be retiring within the next two years. The Bank's succession planning process has identified successors from this officer group who could likely take on a higher-level role. 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 our 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. This is the market the Bank is competing in for talent and when compensation is inadequate the risk of losing key officers at BND is high.
- Fair and equitable compensation. When compared to the proxy and financial industry survey data information, BND officers fall significantly below a very conservative benchmark. The BND officer core compa-ratio averages 76% where other Bank employees average 96.7%. This points out that this is an issue for primarily the BND senior leadership team.

Mr. Hardmeyer noted that equity salary adjustments will be necessary in the future to move compa-ratios of BND officers toward a target of 95-90% compa-ratio. BND had been making slow progress toward more competitive compensation before the 2017-2019 legislative session when salary increases were put on hold. Because of that, the Bank is now significantly below the market and salary compression exists between BND officers and mid-level management positions.

Discussion was held. It was noted that the state budget outlook is not good for the next two years and there are internal fairness issues that need to be dealt with. Mr. Hardmeyer stated he is recommending 3.5% increases for the officers but this is just a small step toward bringing the Bank's compensation levels more in line with the market. Mr. Hardmeyer stated that he and the Bank Advisory Board feels strongly that the issue needs to be addressed because of the significant risk to the Bank leadership team. This is an issue that cannot continue to be kicked down the road or the Bank is at risk of losing key talent and being unable to recruit key talent because of the compensation levels.

It was stated that the Bank doesn't compete well with the private sector which has higher salaries and stock options. It is anticipated that there will be significant turnover in the next two years, and it may be difficult to bring people in from the outside. It was noted that employee compensation needs to be addressed throughout state government. Mr. Hardmeyer was commended for advocating for the Bank's employees on this issue that impacts many state agencies.

It was suggested that because the Bank is a business that generates revenue for the State, compensation levels need to be considered more on a competitive market level than limited to a state agency legislative-directed government level.

Mr. Hardmeyer inquired if he should bring an adjustment to the Commission later in the year. While some Commission members were in favor of that idea, others felt that if the State's financial situation does not change, it may remain a difficult proposition. It was pointed out that the Bank has a compa-ratio where in many state agencies there is no compa-ratio for senior leadership. Senior leadership across state government is below market and this issue should be looked at across the state. However, Mr. Hardmeyer should continue to advocate for the Bank leadership team and the Commission will continue to listen and examine what options can be acted on to deal with this risk to the Bank's success in the future.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept Bank of North Dakota President Hardmeyer's recommendation and approve the following Senior Vice President Officer salary increases effective July 1, 2020:

Officer/Title	% Increase	Annual Increase	New Salary
Tim Porter Chief Financial Officer (COO)	3.5%	\$6,567	\$194,201
Lori Leingang Chief Administrative Officer (CAO)	3.5%	\$5,134	\$151,809
Kirby Evanger Chief Credit Officer (CCO)	3.5%	\$6,558	\$193,928
Todd Steinwand Chief Business Development Officer (CBDO)	3.5%	\$7,497	\$221,697

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

Appreciation was expressed for the Bank team's dedication to the mission of the State and the Bank.

Mr. Hardmeyer presented the Second Quarter 2020 Performance Highlights.

- Deposits are over budget primarily due to the \$1.25 billion of Federal CARES Act dollars coming to the Bank.
- Of note, the Bank at the lowest level of borrowed debt in the last 10-15 years.
- Overall, loans are \$51 million over budget with agricultural loans \$69 million over what was budgeted. This is primarily due to the Farm Disaster Relief originations.
- Equity is currently at just under \$900 million—down slightly from what had been forecasted.
- Net income is roughly \$80 million. This is \$800,000 higher than budgeted; less than the prior year but still a good year.
- The provision for credit losses has been doubled in anticipation of continued stress in the business sector.
- Commercial loan originations have increased totaling 286 through June 30th compared to 209 for the same time frame a year ago. Ag loans are at 467 loans compared to 240 loans a year ago. Every category of loans is up from the prior year. In addition, the total administered loan volume has increased as well. The Bank is setting records in the volume of loans they are handling this year. The Bank employees are doing great work to deal with this volume of loans.

Regarding Covid-19/Disaster programs as of June 30, 2020, the Small Employer Loan Fund has 432 loans totaling over \$14 million. Covid-19 PACE Recovery Program has 41 loans totaling over \$30 million with \$4 million being used for buydown. The Farm Disaster Loan program has 188 loans totaling \$88 million.

In response to a question about student loan defaults, Mr. Hardmeyer clarified that because all loans are currently in deferment status, the number of defaults will be unknown until next spring. Currently, 8,700 borrowers or 27% of the portfolio are in deferment. Seventy-three percent of the borrowers are still paying on their loans.

Mr. Evanger discussed credit quality and noted that there is over \$100 million in the loan loss reserve—2.15% of the loan portfolio. This has been gradually increasing. This is in response to the pandemic and new programs for the pandemic. Adversely classified loans have dropped, but nonperforming loans have increased slightly—primarily in the ag industry.

A year ago, the Bank's delinquency percentage was at 2.28%. As of June 30, 2020, the Bank is at 2.96%. The Bank has provided payment modifications for 223 commercial loan borrowers; and \$22.1 million of federally guaranteed delinquent residential loans are in approved COVID-19 forbearance. Those deferrals and modifications are masking the overall percentage of delinquencies. The Bank has placed a moratorium on all legal action regarding all residential, farm, and student loans through the end of August

Mr. Hardmeyer reported that of the \$200 million the Bank was authorized to use of the CARES Act funds, the CPR program has utilized \$18 million and it is likely that the program will peak around \$25 – \$30 million. The Bank has applied to the Emergency Commission to repurpose \$100 million of the CARES dollars for interest expense relief on existing debt for businesses impacted by Covid-19. Details are still being developed. However, this interest expenses relief would be given in the form of a grant. The program would be linked to those shut down by executive order and applications would be submitted through local banks.

Mr. Hardmeyer presented the Bank of North Dakota Advisory Board May 1 and May 21, 2020 Nonconfidential Meeting Minutes.

ADMINISTRATION

Ms. Fine presented the May 29 and June 19, 2020 Industrial Commission non-confidential minutes for consideration.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the May 29 and June 19, 2020 Industrial Commission non-confidential minutes be approved. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Fine presented recommendations regarding compensation adjustments for the Industrial Commission agency directors. She noted that all the agency directors have done exceptional work during the past year. In addition, she recommended a workload adjustment increase for Ms. Ament as she is taking on the responsibilities for the North Dakota Building Authority. Ms. Fine also noted that the Bank of North Dakota Advisory Board has indicated that an equity adjustment will be necessary in the future for Mr. Hardmeyer as his compensation level is below market.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the Executive Director's recommendation and approves the following salary increases:

Eric Hardmeyer	\$11,820 (3.5% increase)	\$349,536
Lynn Helms	\$8,187 (3.5% increase)	\$242,112
Vance Taylor	\$8,443 (2.5% increase)	\$346,159
DeAnn Ament	\$2,676 (2.5% increase & workload increase)	\$121,717

and further approve an increase for Karlene Fine of \$2,477 (2% increase) for an annual salary of \$126,351.

The Commission indicated that inquiries should be made to determine if the percentage for Ms. Fine's salary can be expanded to outside the three administrative office employees to allow for a 3.5% increase.

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

DEPARTMENT OF MINERAL RESOURCES (DMR)

Following a short break Mr. Lynn Helms, DMR Director, and Mr. Bruce Hicks, Assistant Director of the Oil and Gas Division, presented the following orders for consideration.

Consideration of the orders for the following cases:

Case 27315, Order 29761 – Motion for Confiscation

This would confiscate an additional well for a total of six confiscated abandoned wells that have been abandoned by Vast Operations, LLC (Vast). He noted that Vast also has two abandoned wells in Divide County that had production that was above the economic limit so those wells are not being confiscated at this point in time. He noted that Vast has two abandoned wells in Divide County that have two active complaint cases pending an administrative law judge hearing. The total penalty being considered is \$1.2 million.

In response to a question regarding the relief Vast will be getting from CARES Act funding, Mr. Helms stated that the maximum amount would be \$900,000 to plug and reclaim the six wells. It is anticipated that through complaint actions and a judgement against active producing wells, \$1.2 million would be recouped. This well along with the prior 5 that were confiscated have been in abandoned status for a very long time and the landowners in Bottineau and Divide Counties have had to deal with the associated complications. Additionally, royalties have not been paid. The salable oil will be sold, and royalty owners compensated. The beneficiaries of the CARES funding will be the landowners and the royalty owners. This action will not be a plus for Vast Operations.

Mr. Helms noted that DMR has been successful with the administrative law judge in keeping the manager involved personally in the complaints. Because of this, the individual is personally liable.

In response to a question from Attorney General Stenehjem, Mr. Helms clarified that while the CARES Act funds will be used in the short term to reclaim the land and resolve the issue for local landowners, ultimately, the funds will be recovered from Vast.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that effective July 29, 2020, the Industrial Commission approve Order No. 29761 issued in Case No. 27315 confiscating all production-related equipment, and salable oil at the Koehler 32-23 #2 well (File No. 13299), SWNE Section 23, T.162N., R.81W., Bottineau County, ND, operated by Vast Operations, LLC. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Case 28495, Orders 31069, 31070, and 31071 – Petitions for Reconsideration

Mr. Helms noted that the orders had some findings in common. All three made the argument that DMR needed to serve a complaint prior to confiscation. It was determined that the Century Code cited is not applicable and proper notice was given. All three requested that the Commission waive forfeiture of bonds and civil action. The recommended orders state the intention to use CARES act funds but does not waive any available remedies.

Order 31069, COBRA OIL & GAS CORPORATION, Reconsideration of Order 30988

In this order, four wells will be dismissed from the prior order and 33 wells will be added. This order would anticipate the hearing on July 31st and a subsequent order confiscating the wells.

Mr. Helms clarified that this is a large group of wells that didn't meet the initial screening test. However, Cobra conducted economic analysis on the wells and determined that they will not be economic in the foreseeable future. Cobra approached the Commission to add them to the plugging program. Staff has evaluated the wells and agrees with Cobra's findings. The beneficiary will be the surface owners that will see the land reclaimed.

Mr. Helms noted that these are old vertical wells. Typically, last production occurred 9 years ago. All the wells date back to 1985 or older. Cobra acquired the wells through a bankruptcy process.

Order 31070, LIBERTY RESOURCES MANAGEMENT COMPANY, LLC, Reconsideration of Order 31005

Liberty asked that three wells be dismissed as they plan to utilize them in the future and asked to add seven wells that are not abandoned and not docketed for a hearing. They asked the Commission not confiscate surface facilities used by other producing wells in the unit, and this is agreed to in the proposed order. It was also requested that confiscation of salable oil that came from other producing wells in the unit be dismissed. This is also agreed to in the proposed order.

Order 31071, SCOUT ENERGY MANAGEMENT LLC, Reconsideration of Order 31026

Scout asked the Commission to confiscate 3 wells that were previously dismissed along with an additional 11 wells that are not docketed. The proposed order would include the 3 wells previously dismissed, but not the other 11. Scout also has a contractual agreement which requires non-operating interest owners to receive 30 days' notice and give them the opportunity to take over. It was determined that this applies to Scout's actions, not the Commission's.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the following orders with an effective date of July 29, 2020 in Case No. 28495:

- **Order 31069 to reconsider Order 30988 and grant the exclusion of 4 confiscated Cobra Oil & Gas Corporation operated wells, denying the request to confiscate 33 additional wells at this time and finding that the Commission is not required to serve a complaint, nor is it appropriate for the Commission to waive any available remedies.**

- **Order 31070 to reconsider Order 31005 and grant the exclusion of 3 confiscated Liberty Resources Management Company, LLC operated wells, denying the request to confiscate 7 additional wells at this time and finding that the Commission is not required to serve a complaint, nor is it appropriate for the Commission to waive any available remedies.**
- **Order 31071 to reconsider Order 31026 and grant the approval of confiscating 3 Scout Energy Management LLC operated wells that were previously dismissed, denying the request to confiscate 11 additional wells at this time, denying the request to address contract rights of working interest owners, and finding that the Commission is not required to serve a complaint, nor is it appropriate for the Commission to waive any available remedies.**

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

Mr. Ed Murphy, State Geologist, presented the following proposed rules for final approval.

- Amendments to In Situ Leach Uranium Mining Rules (NDAC 43-02-02.2) to expand to In Situ Leach Mineral Mining Rules;
- Amendments to Geothermal Energy Production (NDAC 43-02-07) to remove deep geothermal;
- Create a new Chapter, Deep Geothermal Energy Production (NDAC 43-02-07.1)
- Create a new Chapter, High-Level Radioactive Waste Rules (NDAC 43-02-13)

There were no comments during the public comment period and no changes have been made since previously brought before the Commission on May 29th.

The Attorney General's office will review them before going to the Administrative Rules hearing in September.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that effective July 29, 2020, the Industrial Commission approve Order No. 30957 in Case 28514 granting final approval of the following proposed rules:

- **Amendments to In Situ Leach Uranium Mining Rules (NDAC 43-02-02.2) to expand to In Situ Leach Mineral Mining Rules;**
- **Amendments to Geothermal Energy Production (NDAC 43-02-7) to remove deep geothermal;**
- **Create a new Chapter, Deep Geothermal Energy Production (NDAC 43-02-07.1)**
- **Create a new Chapter, High-Level Radioactive Waste Rules (NDAC 43-02-13)**

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

Mr. Bruce Hicks, Oil & Gas Assistant Director, presented the Oil and Gas Division Quarterly Report. (A copy of the Report is available in the Commission files.) The numbers for the permits seem to be up from the same time last year. However, because of the move to the NorthStar system, many permits were resubmitted. The permits this year are roughly half the number as last year. There was a rig count of 54 for the first quarter of the year. Currently, the rig count is 12. The number of well waiting on completion is at approximately 1,000. This number is expected to rise.

The number of barrels of oil produced per day had reached 1.5 million this year. The last production in May was approximately 900,000 barrels per day. In response to a question, Mr. Helms indicated that approximately 1 million barrels are being produced today and trending up.

He reviewed the price of oil and the differentials.

The gas-oil ratio continues to rise. While many wells have been shut in, the higher gas-oil ratio wells are likely still in production, and so this may continue to rise. Many projects that would increase plant capacity have been scaled back or postponed. The first quarter failed to meet the gas capture goal of 88%. However, April and May did meet the capture goal. It is anticipated that moving forward the 88% capture goal will be met. However, the 91% goal in November may be a struggle.

Regarding the report on wells proposed in Areas of Interest, he stated that no permits have been issued this year for wells in Areas of Interest.

He also pointed out that there are no new complaints so far in 2020.

Discussion was held about the status of the construction of processing plants and potential plans to move forward. While some projects have been delayed, they haven't been canceled.

A question was raised regarding whether production will need to be shut in to meet gas capture goals. Mr. Helms replied that he doesn't believe it will be necessary. However, when new wells are completed next year it may become a challenge. Discussion was held regarding whether it would be appropriate to modify the gas capture goal due to challenges from the pandemic. Mr. Helms indicated that DMR would be reviewing this and come to the Commission in September with any suggested modifications.

Attorney General Stenehjem noted that the Commission adopted an oil conditioning standard of 13.7 psi based on the national standard of 14.7. Considering the current factors at play, such as the possibility of DAPL being shut down, increase in rail transportation, and the PHMSA ruling, a question was raised of what is being spent to get to the 13.7. A review may be beneficial. Mr. Helms indicated that the Oil and Gas Measurement Supervisor began working with DMR's Assistant Attorney General 10 days ago to look into the matter. The current oil conditioning guidance doesn't require any activity from April 1st to October 1st. At this time no one is spending any money on oil conditioning. DMR plans to have recommendations, hopefully, next month that include legal analysis and an appropriate response to the PHMSA guidance. The current guidance adds \$.10 to \$.25 per barrel operating costs to meet current oil conditioning requirements.

Mr. Helms provided a report on the communication plan regarding the CARES funded plugging and reclamation program. DMR has put together a three-part educational series that will be available to the Department's 2600 e-mail contacts. In addition, local TV stations want to take a trip out to see the first wells plugged and the first reclamation sites. Dave Thompson from Prairie Public has agreed to do a pod cast type interview with him about the three-part education series.

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. 05-2019-cv-00085/Northwest Landowners Association vs. State of North Dakota, et al.**
- **Supreme Court Case No. 20190203/Case No. 09-2018-cv-00089/Sorum, et al vs. State of North Dakota, et al.**
- **Standing Rock Sioux Tribe, et. al. vs U.S. Army Corps of Engineers - DAPL**

And further moved that upon conclusion of the DMR Executive Session the Industrial Commission enter into executive session for the purpose of reviewing a confidentiality request under the authority of North Dakota Century Code 17-05-14 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 noted that the Commission is meeting in executive session to consult with the Commission's attorney(s) regarding the current adversarial proceedings listed on the agenda. Any formal action by the Commission would occur after it reconvenes in open session. Only the Commission members, their staff, DMR staff, and counsel with the Attorney General staff will participate in the executive session.

Following the DMR executive session, the Industrial Commission will enter into executive session regarding the Transmission Authority to consider a confidentiality request. Governor Burgum noted that any formal action by the Commission would occur after reconvening in open session. Results of that vote would be available by contacting the Industrial Commission Executive Director/Secretary following adjournment of the meeting. Only Commission members, their staff, Transmission Authority staff, and counsel with the Attorney General staff will participate in that executive session.

Following the Transmission Authority executive session, the Industrial Commission will enter into executive session regarding Bank of North Dakota business pursuant to N.D.C.C. 6-09-35 to discuss the following items:

- Presentation of the following quarterly reports:
- Non-Accrual Loans Quarterly Recap/Detail
- Problem Loans/Adversely Classified Quarterly Recap
- Loan Charge-Offs and Recoveries YTD 6/30/20
- Off-Balance Sheet Risk Quarterly Recap
- Report on Approved CPR Loans
- Presentation of Bank of North Dakota Advisory Board May 1 and May 21, 2020 Confidential Meeting Minutes.
- Other Bank of North Dakota Confidential Business (as defined under N.D.C.C. 6-09-35)

Only Commission members, their staff, and BND staff will participate in that executive session.

Governor Burgum reminded the Commission members and those present in the executive sessions that the discussion must be limited to the announced purpose for entering into executive session which was anticipated to last between 15 and 30 minutes for DMR, 15-20 minutes for Transmission Authority and 20-30 minutes for BND.

DMR staff and counsel were asked to dial into the session using the instructions that had been given. Transmission Authority staff and BND staff are asked to dial into their executive sessions at approximately 4:10 and 4:30 p.m. respectively. The DMR executive session started at 3:30 p.m.

DMR EXECUTIVE SESSION

Members Present:

Governor Doug Burgum

Attorney General Wayne Stenehjem

Commissioner Doug Goehring

DMR Personnel Present:

Lynn Helms	DMR
Bruce Hicks	DMR – Oil and Gas Division
Ed Murphy	DMR – Geological Survey
Katie Haarsager	DMR

Others in Attendance:

Leslie Bakken Oliver	Governor’s Office
Reice Haase	Governor’s Office (phone)
John Schneider	Department of Agriculture
David Phillips	Attorney General’s Office (phone)
Dan Gaustad	
Karlene Fine	Industrial Commission Office
Andrea Pfennig	Industrial Commission Office

The DMR executive session ended at 4:05 p.m. The Transmission Authority executive session began at 4:07 p.m.

TRANSMISSION AUTHORITY EXECUTIVE SESSION

Members Present:

Governor Doug Burgum
Attorney General Wayne Stenehjem
Commissioner Doug Goehring

Others in Attendance:

Lt. Governor Brent Sanford	
Leslie Bakken Oliver	Governor’s Office
Reice Haase	Governor’s Office (phone)
John Schneider	Department of Agriculture
David Phillips	Attorney General’s Office (phone)
John Weeda	Transmission Authority
Karlene Fine	Industrial Commission Office
Andrea Pfennig	Industrial Commission Office

The Transmission Authority executive session ended at 4:29 p.m. The BND executive session began at 4:30 p.m.

BND EXECUTIVE SESSION

Members Present:

Governor Doug Burgum
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Bank of North Dakota Personnel Present:

Eric Hardmeyer	Bank of North Dakota (Phone)
Kirby Evanger	Bank of North Dakota (Phone)

Others in Attendance:

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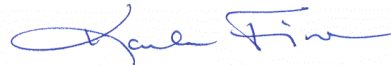
Reice Haase	Governor's Office
John Schneider	Department of Agriculture
Karlene Fine	Industrial Commission Office
Andrea Pfennig	Industrial Commission Office

The meeting reconvened in open session at 4:47 p.m. Governor Burgum noted that during the DMR executive session, guidance was provided to the Commission's counsel regarding the matters listed on the agenda. During the BND executive session, guidance was provided to BND staff regarding the matters listed on the agenda.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accept the recommendation of the Transmission Authority Director and pursuant to section 17-05-14, section 44-04-17.1, 44-04-18.4 and 47-25.1-01 grant the confidentiality request from Great River Energy (GRE) and the procedures outlined therein and determine that the GRE information described in their request is a trade secret and is confidential. On a roll call vote, Governor Burgum, Attorney General Stenehjem, Commissioner Goehring voted aye. The motion carried unanimously.

With no further Industrial Commission business, Governor Burgum adjourned the meeting at 4:48 p.m.

North Dakota Industrial Commission



Karlene Fine, Executive Director and Secretary