

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on March 24, 2022 beginning at 10:00 a.m.  
Bank of North Dakota

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 joint meeting of the Industrial Commission and the Bank of North Advisory Board to order at approximately 10:00 a.m. The Bank Advisory Board members introduced themselves and the Commission thanked them for their service to the Bank and to the State of North Dakota. The joint meeting went into executive session at 10:10 a.m. to take up the following Bank of North Dakota confidential business.

- A. Consideration of a loan application
- B. Presentation of Bank of North Dakota Advisory Board January 7, 2022 confidential meeting minutes
- C. Other Bank of North Dakota confidential (as defined under N.D.C.C. 6-09-35) business

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BND EXECUTIVE SESSION

**Industrial Commission Members Present:**

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

**Bank of North Dakota Advisory Board Members**

Gary Petersen, Bank of North Dakota Advisory Board  
Karl Bollingberg, Bank of North Dakota Advisory Board  
Jean Voorhees, Bank of North Dakota Advisory Board  
Pat Clement, Bank of North Dakota Advisory Board  
Dennis Johnson, Bank of North Dakota Advisory Board  
Christie Obenauer, Bank of North Dakota Advisory Board

**Bank of North Dakota Personnel:**

Todd Steinwand, Bank of North Dakota  
Kirby Evanger, Bank of North Dakota  
Craig Hanson, Bank of North Dakota  
Kelvin Hullet, Bank of North Dakota  
Jeff Weiler, Bank of North Dakota  
Lori Leingang, Bank of North Dakota  
Rob Pfennig, Bank of North Dakota

**Others in Attendance:**

Reice Haase                      Governor's Office  
Ryan Nordell                     Governor's Office  
Dutch Bialke                     Department of Agriculture

Karlene Fine  
Katie Haarsager

Industrial Commission Office  
Department of Mineral Resources Technology Support

The BND executive session ended at 10:43 a.m. and the public was invited to return to the room. During the BND executive session, the Bank of North Dakota Advisory Board made a motion regarding a letter of credit request. On a roll call vote Petersen, Bollingberg, Johnson, Obenauer, and Voorhees voted aye. During the BND executive session, the Commission made a motion regarding a letter of credit request. **On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Todd Steinwand and Mr. Rob Pfennig, Bank of North Dakota, presented the Bank of North Dakota 2022 Budget. Mr. Pfennig stated that the proposed budget was developed in mid-December of 2021 and that the financial markets have seen substantial changes since that time. He also noted the changes in the rates since the budget was prepared and reviewed the budget commentary which had been distributed to the Commission. It was noted that the Bank Advisory Board had previously approved this recommended 2022 Budget.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the Bank of North Dakota Advisory Board and approve the Bank of North Dakota 2022 Budget as follows:**

#### 2022 Balance Sheet

Total Federal Funds and Cash	\$ 946,952,000
Investments	\$3,071,206,000
Commercial Loans	\$2,443,930,000
Agriculture Loans	\$ 715,882,000
Residential Loans	\$ 323,699,000
Student Loans	<u>\$1,108,934,000</u>
Total Loans	\$4,501,863,000
Total & Other Assets	\$ 86,682,000
<b>Total Assets</b>	<b><u>\$8,606,703,000</u></b>
Total Deposits	\$6,821,873,000
Total Federal Funds	\$ 662,500,000
Total Borrowings	\$ 55,000,000
Total & Other Liabilities	\$ 46,515,000
<b>Total Liabilities</b>	<b><u>\$7,585,888,000</u></b>
<b>Total Equity</b>	<b><u>\$1,020,815,000</u></b>

#### 2022 Budget Income Statement

<b>Interest Income</b>	
Investments and Cash	\$ 34,318,000
Fed Funds and Repo	\$ 4,381,000
Commercial Loans	\$ 89,470,000

Agriculture Loans	\$ 26,865,000
Residential Loans	\$ 13,497,000
Student Loans	<u>\$ 33,992,000</u>
Total Loans	\$163,824,000

Total Interest Income \$202,523,000

**Interest Expense**

Total Deposits	\$ 14,064,000
Total Borrowings	\$ 3,709,000
Off Balance Sheet	<u>\$ 9,611,000</u>
Total Interest Expense	\$ 27,384,000

Net Interest Income \$175,139,000

Non-Interest Income	\$ 6,299,000
Provision for Loan Loss	\$ 3,000,000
Non-Interest Expense	\$ 32,374,000

Net income \$ 140,064,000

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

Mr. Steinwand and Mr. Hullet presented the BND Economic Impact Report using the REMI model. *(A copy of the report is available in the Commission files. Highlights of the report included:*

1. BND – An Economic Engine for North Dakota
2. BND Statewide Economic Impact – 2011-2020
3. BND Employment Impact by Sector in 2020
4. BND GDP Impact by Sector in 2020
5. Average Annual Employment Impact by Region from 2011-2020
6. Aggregate Annual Personal Income Impact by Region from 2011-2020
7. Aggregate BND, GDP Impact by Region 2011-2020
8. Savings for BND Student Borrowers with Fixed Rate Loans 2011-2020

Mr. Steinwand and members of the Bank of North Dakota Advisory Board presented the BND Workforce Retention and Recruitment Concept/BND Governance proposal.

Regarding the Workforce Retention and Recruitment Concept Bank management and the Advisory Board members stated their goals were to:

- Retain and Attract Talent
- Limit Risk and Enhance Organizational Performance
- Promote Employee Engagement

It was noted that the Bank of North Dakota is different from most state agencies, but state agencies are facing many of the same issues and have the same goals as the Bank in regards to their workforce.

The Commission outlined some suggestions that should be considered as the Advisory Board continued their work on the BND Workforce Retention and Recruitment Concept. Also expressed was support for

the Bank Advisory Board to continue to work on their concept and noted that it could be considered as a pilot program for the entire State of North Dakota.

The Bank Advisory Board provided an outline of their BND Governance Plan. It was noted that the benefits would be:

- A committee governance structure similar to other large financial institutions;
- Mitigation of risk;
- Strategy-focused discussions at regular meetings;
- Engagement of Advisory Board in committee assignments;
- Improve Advisory Board efficiency and effectiveness.

The Commission expressed support for the Bank Advisory Board to continue to work on BND Advisory Board governance and bring back amendments to the Bank of North Dakota Advisory Board policy for consideration at a future meeting.

Mr. Steinwand provided the Commission with a copy of the Bank of North Dakota Advisory Board January 7, 2022 non-confidential meeting minutes.

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

Mr. Dave Flohr, HFA Executive Director, noted that Pat Nagel, Chief Financial Officer, and Kayla Axtman, Assistant Chief Financial Officer. were present for the meeting.

Mr. Flohr and Ms. Jennifer Henderson, Director, Planning & Housing Development, presented the proposed 2023 Low Income Housing Tax Credit Qualified Allocation Plan and provided a memorandum highlighting the substantial changes to the Plan from the previous year. It was noted there is \$3,000,000 available for allocation this year.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve the 2023 Low Income Housing Tax Credit Qualified Allocation Plan. (A copy of the Plan is available in the Commission files.) On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Flohr and Ms. Henderson presented the 2022 Housing Incentive Fund Allocation Plan and noted the four significant changes that had been made to the law during the 2021 legislative session. The Agency is planning to create a separate allocation plan for the ten percent (\$950,000) set aside for preventing homelessness in the future. That plan will require allocation for activities such as rental assistance, emergency assistance, barrier mitigation or targeted supportive services. The Housing Incentive Fund Allocation Plan that is being recommended by the HFA Advisory Board has no changes except for date adjustments. All the funds under this program have been committed.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve the 2022 Housing Incentive Fund Allocation Plan. (A copy of the Plan is available in the Commission files.) On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Flohr and Ms. Henderson reported on the following two Allocation Plans noting that these Plans are being considered by HUD. No action is required by the Industrial Commission.

1. 2022 HOME Investment Partnership Program Allocation Plan Final Draft
2. 2022 National Housing Trust Fund Allocation Plan Final Draft

Mr. Flohr and Ms. Henderson noted that the North Dakota Housing Finance Agency had made \$200,000 available for the 2022 Helping HAND program. The proposed award of funds is consistent with Program Criteria as well as the established set-asides of \$153,600 for Community Action agencies (distributed by poverty level amongst seven agencies); \$44,000 for tribal entities (two tribal entities with a maximum of \$22,000 per entity. and \$2,400 for two eligible non-profits (Rebuilding Together Greater Bismarck/Mandan and Rebuilding Together Fargo/Moorhead Area with a maximum of \$1,200 per non-profit).

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve the following 2022 Helping Hand Grant Awards:**

<b>Applicant</b>	<b>Community</b>	<b>Amount</b>
Community Action Partnership Regions 1 & 8 Combined	Dickinson/Williston	19,771
Community Action Partnership - Minot Region	Minot	18,214
Dakota Prairie Community Action Agency	Devils Lake	13,563
Red River Valley Community Action	Grand Forks	20,901
Southeastern ND Community Action Agency	Fargo	40,937
Community Action Region VI	Jamestown	10,700
Community Action Program Region VII, Inc.	Bismarck	29,514
<b>Subtotal - CA Agencies</b>		<b>\$153,600</b>
Trenton Indian Service Area	Trenton	22,000
Turtle Mountain Band of Chippewa	Belcourt	22,000
<b>Subtotal – Tribal Housing</b>		<b>\$ 44,000</b>
Rebuilding Together Fargo/Moorhead Area	Fargo	1,200
Rebuilding Together Greater Bismarck/Mandan	Bismarck	1,200
<b>Subtotal – Non-Profits</b>		<b>\$ 2,400</b>
<b>Total</b>		<b>\$200,000</b>

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

Mr. Flohr requested that the Commission appoint him to serve as the hearing officer for a public hearing regarding the issuance of multifamily revenue bonds and a multifamily note. The Agency is working on a transaction to provide funds for the acquisition, rehabilitation and equipping of the Grand Forks Portfolio multifamily rental housing development which will provide 182 low to moderate income units.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission appointment Dave Flohr, Housing Finance Agency Executive Director, as the Commission’s hearing officer for the public hearing scheduled for April 21, 2022 at 10:00 a.m.**

**regarding the issuance of Multifamily Revenue Bonds and a Multifamily Note. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Flohr and Pat Nagel, Chief Financial Officer, presented the proposed 2022 Series ABC Supplemental General Authorizing Resolution which includes the approval of the 2022 Series AB Bond Resolution (\$155,000,000) – fixed rate and the 2022 Series C Bond Resolution (\$30,000,000) (variable rate). Mr. Nagel explained the structure of the bond issuances and the reason for the fixed rate bonds and the variable rate bonds.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the 2022 Series ABC Supplemental General Authorizing Resolution as follows:**

STATE OF NORTH DAKOTA  
NORTH DAKOTA HOUSING FINANCE AGENCY  
HOUSING FINANCE PROGRAM BONDS  
HOME MORTGAGE FINANCE PROGRAM  
2022 SERIES A – NOT TO EXCEED \$125,000,000  
2022 SERIES B – NOT TO EXCEED \$30,000,000  
2022 SERIES C – NOT TO EXCEED \$30,000,000

**SUPPLEMENTAL  
GENERAL AUTHORIZATION RESOLUTION**

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

WHEREAS, the Commission adopted the Housing Finance Program General Bond Resolution of 1994, on July 21, 1994, as amended (the “**General Resolution**”) under which Wilmington Trust, National Association, Minneapolis, Minnesota, was appointed successor trustee (the “**Trustee**”), which General Resolution was accepted by the Trustee, and which General Resolution is hereby ratified and confirmed; and

WHEREAS, the General Resolution authorizes the issuance and sale of the captioned 2022 Series A Bonds (the “2022 Series A Bonds”), 2022 Series B Bonds (the “2022 Series B Bonds” and, together with the 2022 Series A Bonds, the “Fixed Rate Bonds”) and 2022 Series C Bonds, (the “2022 Series C Bonds” and, together with the 2022 Series A Bonds and the 2022 Series B Bonds, the “**Bonds**”) pursuant to the Act, the application of the proceeds of which will provide funding for the captioned Home Mortgage Finance Program, including the North Dakota Roots Program (the “**Program**”), contemplated by the Act in furtherance of the Program for the providing of decent, safe, and sanitary housing for persons and families of low or moderate income; and

WHEREAS, the Commission acting as the Agency, pursuant to that 2022 General Authorization Resolution adopted by the Commission on February 22, 2022 (the “**General Authorization Resolution**”), regarding the authorization of and the negotiation and sale of the Bonds, appointed as its agents the Executive Director, the Director of Homeownership Programs, and the Chief Financial Officer of the Agency (the “**Authorized Officers**”) for the purpose of negotiation of the terms of sale of the Bonds, subject to the limitations set out in the General Authorization Resolution, and to sign such agreements as are required for the issuance of the Bonds on behalf of the Commission after such terms of sale had been negotiated and to sign such certificates and other documents as are necessary and customary to complete the sale of the Bonds and to enter into agreements for their sale by the Agency and purchase by the Underwriters (as hereinafter defined, and which are so designated by an Authorized Officer); and

WHEREAS, the Agency wishes to authorize the issuance of not to exceed \$185,000,000 in aggregate principal amount of the Bonds upon the terms stated herein and in the 2022 Series A/B Bond Resolution and 2022 Series C Bond Resolution (each as defined below); and

WHEREAS, the Authorized Officers intend to formally negotiate the initial interest rates on, and sale of, the Fixed Rate Bonds on or about March 30, 2022 within the limitations set out in the General Authorization Resolution (as hereby supplemented and amended) as to, final maturities and maximum interest rates; and

WHEREAS, the Authorized Officers intend to formally negotiate the initial interest rate on, and sale of, the 2022 Series C Bonds on or about April 27, 2022 within the limitations set out in the General Authorization Resolution (as hereby supplemented and amended) as to, final maturity and maximum interest rate, with a variable interest rate, subject to tender by bondholders; and

WHEREAS, the Agency expects to enter into a Standby Bond Purchase Agreement (the “Standby Bond Purchase Agreement”) with Royal Bank of Canada, to provide liquidity for any 2022 Series C Bond tenders; and

WHEREAS, the Agency negotiated and executed an ISDA Master Agreement dated as of July 30, 2009, between Royal Bank of Canada and the Agency (the “ISDA Master Agreement”), and pursuant thereto intends to enter into a Confirmation in conjunction with the sale of the 2022 Series C Bonds to effectively result in a fixed interest rate on the 2022 Series C Bonds; and

WHEREAS, in furtherance of the above stated objectives, the Commission, the Agency and RBC Capital Markets, LLC, Piper Sandler & Co., Raymond James & Associates, Inc. and Wells Fargo Bank, National Association, as the purchasers of the Fixed Rate Bonds (the “**Underwriters**”) have caused to be prepared and presented to the Commission the proposed forms of the following documents (unless otherwise indicated) (collectively, the “Fixed Rate **Closing Financing Documents**”):

- A. 2022 Series A/B Bond Resolution, in substantially final form, attached hereto as Attachment A;
- B. 2022 Series A/B Purchase Contract by and between the Commission and the Underwriters, attached hereto as Attachment B; and
- C. Preliminary Official Statement, with respect to the Bonds attached hereto as Attachment C.

WHEREAS, in furtherance of the above stated objectives, the Commission, the Agency and RBC Capital Markets, LLC, as the purchaser of all of the 2022 Series C Bonds (“RBCCM”), have caused to be prepared and presented to the Commission the proposed forms of the following documents (unless otherwise indicated) (collectively, the “2022 Series C **Closing Financing Documents**” and, together with the Fixed Rate Closing Financing Documents, the “Closing Financing Documents”):

- A. 2022 Series C Bond Resolution, in substantially final form, attached hereto as Attachment D;
- B. 2022 Series C Purchase Contract, attached hereto as Attachment E, by and between the Commission and RBCCM;
- C. Remarketing Agreement, attached hereto as Attachment F, by and among the Commission, RBCCM and Wilmington Trust, National Association, as tender agent;
- D. Confirmation to ISDA Master Agreement, attached hereto as Attachment G; and
- E. Standby Bond Purchase Agreement, attached hereto as Attachment H.

WHEREAS, in the judgment of the Commission, it is advisable that the Agency by its Executive Director, its Director of Homeownership Programs, or its Chief Financial Officer (each an “Authorized Officer”), jointly or severally, be authorized, and are hereby so authorized, to do all things necessary to establish the final rates and terms of the Bonds and to complete the transaction described herein, and in the Closing Financing Documents.

NOW BE IT HEREWITH RESOLVED:

1. The Agency is hereby authorized to issue, execute, sell and deliver the Bonds, in substance as provided in the 2022 Series A/B Resolution and the 2022 Series C Resolution and in the final forms of the Closing Financing Documents as approved by an Authorized Officer, provided that the Bonds meet the following conditions:
  - A. The Bonds: (i) shall be sold, issued, executed and delivered at such time as an Authorized Officer shall determine, in one or more series, in an aggregate principal amount not to exceed the amount set forth in the preambles to this Resolution; (ii) shall be subject to redemption prior to maturity, at prices and otherwise as determined by an Authorized Officer to be in the best interests of the Agency; (iii) shall have long term ratings no lower than the long term rating on the bonds outstanding under the General Resolution immediately prior to the issuance of the Bonds; and (iv) shall mature not later than January 1, 2055.
  - B. The Fixed Rate Bonds shall bear interest at fixed rates determined by an Authorized Officer, provided, however that such rates shall not exceed 7.0% per annum. The 2022 Series C Bonds shall bear interest at a variable rate that shall not initially exceed 7.0%.



- C. Unless otherwise determined by an Authorized Officer, the 2022 Series A Bonds shall be issued as bonds the interest on which is exempt from federal income taxation and the 2022 Series B Bonds and 2022 Series C Bonds shall be issued as bonds the interest on which is not exempt from federal income taxation.
  - D. The Bonds shall not constitute debt of the State or any political subdivision thereof. Neither the faith and credit nor the taxing powers of the State or any political subdivision thereof may be pledged to the payment of the principal of or interest on the Bonds.
  - E. The Bonds shall be special limited obligation revenue bonds of the State payable solely from the revenues and assets pledged therefore under the General Resolution and the 2022 Series A/B Bond Resolution and the 2022 Series C Bond Resolution.
2. The forms and substance of the Closing Financing Documents and any other documents that an Authorized Officer deems necessary or desirable to effect the issuance of the Bonds (including any continuing disclosure agreement, tax certificate or forms, interest rate swap agreements) are hereby approved, which such changes, variations, omissions, and insertions as an Authorized Officer shall approve. The execution of the applicable Closing Financing Documents by such Authorized Officer shall constitute conclusive evidence of such approval.
3. The Preliminary Official Statement, in substantially the form submitted to this meeting, with such changes, omissions, insertions and revisions as an Authorized Officer shall deem advisable, is hereby authorized, and the furnishing of the information in the Preliminary Official Statement and in a final Official Statement for the Bonds, and the use of such Preliminary Official Statement and final Official Statement by the Underwriters and RBCCM in connection with the offering of the Bonds to the public, are hereby approved. Any Authorized Officer is hereby authorized to execute and deliver to the Underwriters the final Official Statement for the Bonds in substantially the form of the Preliminary Official Statement submitted to this meeting, with such changes therein as are approved by such Authorized Officer. The execution of one or more copies of the final Official Statement by an Authorized Officer shall constitute conclusive evidence of such approval.
4. All prior acts of the officers, agents and employees of the Commission and the Agency which are in conformity with the purpose and intent of the General Resolution, the General Authorization Resolution, this Supplemental General Authorization Resolution and the Closing Financing Documents in furtherance of the sale of the Bonds shall be and the same hereby are in all respects approved, ratified and confirmed, and the officers, agents and employees of the Commission and the Agency are hereby authorized, empowered and directed to take any actions required to effect the transactions contemplated therein and to finalize the terms of and execute any instruments and take any actions required to effect the issuance of the Bonds, and to apply the monies received by the Commission from the bond proceeds in such manner as is necessary to give effect to the Program.

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

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

Ms. DeAnn Ament, PFA Executive Director, presented the following State Revolving (SRF) loan applications for consideration.

The first loan application is for the Clean Water SRF Program for the Metro Flood Diversion Authority. The purpose of the project is an in-town flood protection system that will include the replacement or improvement/modifications to sixteen storm lift stations throughout the city of Fargo which are required components of the comprehensive flood protection for the FM metro area. The total cost of the project is \$51,634,000. The Authority will issue \$51,634,000 revenue bonds payable with city and county sales tax. The requested term is 30 years. The net average annual payment for the revenue bonds will be \$2,159,248. The reserve requirement will be \$2,283,750 and the 110% coverage requirement will be \$2,375,173. Ms. Ament indicated that the Public Finance Authority Advisory Board recommended approval of the loan.

**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, the Metro Flood Diversion Authority (the "Political Subdivision") has requested a loan in the amount of \$51,634,000 from the Program to construct flood protection systems along the river and drains through the metro area to safely pass a flood of 37 feet, project includes the replacement or improvement / modification of sixteen storm lift stations; 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 the second Clean Water SRF loan application for the City of Strasburg. The purpose of the loan is to construct three lagoon cells for wastewater treatment and add 3,600 linear feet of force main and modify the lift stations. The amount of the SRF funding would be \$1,326,000 out of a total project of \$4,271,000. The City will issue revenue bonds payable with sewer user fees. The requested term is for 30 years. The net average annual payment for the revenue bonds will be \$56,124. The reserve requirement will be \$59,950 and the 110% coverage requirement will be \$61,737. Ms. Ament stated that the Public Finance Authority Advisory Committee recommended approval of the loan.

**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, the City of Strasburg (the "Political Subdivision") has requested a loan in the amount of \$1,326,000 from the Program to construct three lagoon cells for wastewater treatment and add 3.600 linear feet of force main and modify the lift 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 Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Ament presented the third State Revolving loan application which is a Drinking Water SRF loan for the McLean Sheridan Rural Water District. She stated that the District needs additional storage for peak demands while the City of McClusky's storage tank has reached the end of its useful life. A new tank would be used to provide adequate storage and ensure adequate water is available to both systems. The District provides water services to 1,024 rural connections in Sheridan and McLean Counties and provides bulk water to the cities of Coleharbor, Turtle Lake, McClusky, Pick City, and Mercer. The amount of the loan is \$1,015,000 out of a total project cost of \$3,786,000.

**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 McLean Sheridan Rural Water District (the "Political Subdivision") has requested a loan in the amount of \$1,015,000 from the Program to construct storage tank to allow for adequate storage and supply for both the City of McClusky and the McLean Sheridan RWD; 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.**

Ms. Ament presented a memorandum regarding PFA Advisory Committee State Revolving Fund loan approvals for the following entities:

1. Center - Clean Water SRF increase of \$333,00 for a total of \$880,000)
2. Center - Drinking Water SRF increase of \$48,000 for a total of \$150,000
3. Elgin – Clean Water SRF loan in the amount of \$340,000 and a Drinking Water loan in the amount of \$340,000 towards a \$1,361,000 project
4. Jamestown Drinking Water increase of \$58,300 for a total of \$1,402,300

### **Oil and Gas Research Program**

Ms. Karlene Fine, Industrial Commission Executive Director, provided a financial report. She noted that as of January 31, 2022 the cash balance in the fund is \$28,553,530. She noted that based on the anticipated revenues during the 2021-2023 biennium there is \$2,980,000 in the budget available for Petroleum Engineering Oil and Gas Research awards, \$1,303,429 for Oil and Gas Education Project awards and \$5,378,523 for Oil and Gas Research project awards.

Ms. Fine presented her recommendation for a transfer from the Oil and Gas Research Fund to the Pipeline Authority Fund. In her memorandum she stated:

*North Dakota Century Code 54-17.7-11 states the following:*

*Pipeline authority administrative fund - Continuing appropriation. There is created a pipeline authority administrative fund.*

*1. Revenue to the fund must include:*

- a. Moneys received from the state's oil and gas research council administrative budget.*
- b. Moneys received from any federal agency for the purpose of this section.*
- c. Moneys donated to the pipeline authority for the purposes of this section.*
- d. Moneys received from the state's oil and gas impact fund.*
- e. Such other moneys as may be deposited in the fund for use in carrying out the purposes of the authority.*

*2. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated on a continuing basis and must be used and disbursed solely for the purpose of defraying the administrative costs incurred by the pipeline authority.*

*3. Utilizing funds from the oil and gas research fund, the industrial commission shall contract for or hire staffing necessary to effectively administer the pipeline authority*

*I presented the proposed budget for the 2021-2023 biennium to the Oil and Gas Research Council noting that I was recommending that \$600,000 be transferred to the Pipeline Authority for the current biennium. This transfer will provide funding for the Pipeline Authority staff and for potential studies that may be needed during the current biennium. Any unused funds are carried over to the subsequent biennium.*

*It is my recommendation that the Industrial Commission authorize the transfer of \$600,000 at this time.*

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the Industrial Commission Executive Director/Secretary and authorize the transfer of \$600,000 of 2021-2023 biennium revenues from the Oil and Gas Research Fund to the Pipeline Authority Administrative Fund. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Brent Brannan, Oil and Gas Research Program Director, presented the Oil and Gas Research Council recommendations regarding the Grant Round 55 applications and a funding request.

He noted that the first application was titled “Development of Formulations for the Removal of Scale from Oil and Gas Wells in the Williston Basin: and had been submitted by the University of North Dakota’s Department of Chemical Engineering; Principal Investigator: Ali Alshami; Project Duration: 2 years; Total Project Cost \$1,603,163; Request for: \$451,427. He stated that the overall objective of this project is to advance the development of a novel oilfield antiscalant formulations specifically tailored to the predominant scalants found in the Williston Basin formation. The PI has successfully developed and tested three new formulations that have shown superior scale inhibition results compared to currently available commercial formulations.

The proposed project will result in a novel formulations development to inhibit and remove calcium carbonate, halite, and pyrite scale. The project’s outcomes will greatly enhance oil recovery, prolong reservoir life, reduce operation cost, and substantially minimize environmental complications caused by discharged formation water laden with significant amounts of salts and chemicals.

A UND research team comprised of UND Associate Professor Ali S. Alshami (lead-PI), Professor Vamegh Rasouli, Asset. Prof. Minou Rabiei, and Ph.D. students from the Chemical and Petroleum Engineering Departments at the University of North Dakota will participate in the project. Industrial partners Creedence Energy Services, Hess Corporation, and Continental Resources will support the project by providing samples and laboratory and field-testing capabilities.

He noted that the three independent technical reviews had recommended funding and the Council had recommended funding in the amount of \$451,427 on a vote of 6 to 1. There was one conflict of interest.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the Oil and Gas Research Council’s recommendation to fund the grant application “Development of Formulations for the Removal of Scale from Oil and Gas Wells in the Williston Basin” and authorizes the Industrial Commission Executive Director/Secretary to execute a contract with the University of North Dakota (Department of Chemical Engineering) in an amount not to exceed \$451,427. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Brannan stated that the second grant application was for the “UND’s Department of Petroleum Engineering Oil and Gas Research” submitted by the University of North Dakota Petroleum Engineering Program; Principal Investigator: Vamegh Rasouli; Project Duration: 2 years; Total Project Cost: \$6,613,930; Request for: \$2,980,000

He indicated that this funding request is for the period March 1, 2023- March 1, 2025. The funding would support the following:

- Tuition and graduate teaching and research assistance (GTA/GRA) for a total of 30 Ph.D. students.
- One month of faculty summer salary for a total of seven faculty in Department of Petroleum Engineering.
- Support of DRACOLA with the idea to make it fully automated and add data acquisition and collection capabilities. The applicant is expecting to start various operations in 2022 including drilling, fracking and completion design and several other oil and gas related operations at real field scales in this lab and collect some initial and necessary data. The applicant believes it is important to make the rig fully automated to the current industry standard and add full capabilities for collecting as much data as possible in order to learn and improve the design and operations. The goal is to make this lab a big data hub in drilling and fracking worldwide. The budget requested is for the supplies, maintenance, material, and programming supports towards this upgrade. The main part of the work will be completed in 2023 and with additional work during the following two years.

Mr. Brannan noted that the independent technical reviewers’ recommendation was 2 to fund and 1 for funding to be considered. The Council vote was 4 to fund and 3 not to fund.

Mr. Helms discussed the successes of this program and the importance of having a petroleum engineering program to provide the workforce for North Dakota and the entire oil industry.

**It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission accepts the Oil and Gas Research Council’s recommendation to fund the grant application “UND’s Department of Petroleum Engineering Oil and Gas Research” and authorizes the Industrial Commission Executive Director/Secretary to execute a contract with the University of North Dakota (Department of Petroleum Engineering) in an amount not to exceed \$2,980,000. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Brannan presented the “iPIPE 2.0 application submitted by the Energy & Environmental Research Center with Darren Schmidt as the Principal Investigator. The total project costs are \$1,450,00 and requested funding from the Oil and Gas Research Fund of \$400,000. He stated that iPIPE has vetted over 110 technologies, completed nine technology projects, and is achieving commercial impact. The initial membership of five has grown, and iPIPE has been recognized with two awards and over 100 media mentions. iPIPE 2.0 will build on the previous success, with seven members committed to the new program and a flood of emerging technologies waiting to compete in the next technology selection event. iPIPE 2.0 will further advance technologies that can detect integrity anywhere within a pipeline system and improve the accuracy, resolution, and frequency for monitoring pipelines from space with satellites that are streamlined for the industry. The duration of the proposed program is January 2022 through December 2023.

The goal of the program is to advance technologies that reduce the frequency and duration of pipeline releases. The objectives to achieve the program goal are as follows:

- Select at least two projects for demonstration from the technology-scouting efforts.

- Grow industry membership.
- Foster industry collaboration through monthly member meetings and an annual member forum.
- Advance technology to commercial application and demonstrate commercial deployment.

Mr. Brannan stated that the three independent technical reviewers had recommended fund and the Council vote was 6 to 1 to fund in the amount of \$400,000.

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the Oil and Gas Research Council’s recommendation to fund the grant application “iPIPE” and authorizes the Industrial Commission Executive Director/Secretary to execute a contract with the Energy and Environmental Research Center in an amount not to exceed \$400,000. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Brannan presented the grant application titled Advances In Impacts Recovery From Electrokinetic Soil Remediation submitted by Stealth Energy Group, LLC with NDSU, EOG, Oasis; Principal Investigator: Dustin Anderson, Dr. Thomas DeSutter, Dr. Bernhardt Saini-Eidukat, and Dr. Xinhua Jia; Project Duration: 2 years; Total Project Cost \$547,660.00; Request for: \$265,000.00.

Mr. Brannan stated the objective of this project is to enhance the recovery of mobilized ions such as sodium and chloride during electrokinetic (EK) remediation, through groundwater recovery well design. A secondary objective is the use of sub-irrigation to decrease remediation duration and to potentially expand locations where this remediation technology may be applied. A third objective is to make the learnings about this technology available to interested operators, landowners, and consultants using NDSU Extension, and operator roundtables. This objective is expected to encourage the use of this technology to responsibly remediate brine impacted soil.

Based on laboratory and field studies, removal of chloride and free sodium to near background concentrations is possible. The applicant expects increasing the well size with a sand pack development will enhance ion recovery. These recovery improvements coupled with irrigation should decrease remediation time from decades long to years or even months making this a cost-effective remediation tool. If successful, use of irrigation could greatly broaden the opportunities for application of the EK technology to soils in non-wetland environments such as croplands, rangelands, and native areas.

He stated that the three independent technical reviewers had 2 recommend funding and 1 recommended consider funding. The Council vote was 7 to 0 to fund.

**It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission accepts the Oil and Gas Research Council’s recommendation to fund the grant application “Advances In Impacts Recovery from Electrokinetic Soil Remediation” and authorizes the Industrial Commission Executive Director/Secretary to execute a contract with Stealth Energy Group, LLC in an amount not to exceed \$265,000. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Brannan presented the final recommendation from the Oil and Gas Research Council which was an incremental budget approval for the Plains CO<sub>2</sub> Reduction (PCOR) Partnership – Submitted by the Energy and Environmental Research Center (EERC); Requested Incremental Funding of \$500,000 of the previously approved \$2,000,000 award based on additional scope and receipt of matching funds; Revised Total Project Costs: \$18,752,874.



He stated that the EERC – through its Plains CO<sub>2</sub> Reduction (PCOR) Partnership – is requesting the third increment of \$500,000 from the Oil and Gas Research Council of the \$2,000,000 award previously approved by the OGRC/Commission. When the initial \$500,000 award of the \$2,000,000 application was approved, the EERC was directed to come back to the OGRC/Commission as additional match funding and scope of work became available from the Department of Energy. The goal of this project is to accelerate and facilitate the buildout of CCUS infrastructure in North Dakota and neighboring states. The PCOR Partnership includes members of North Dakota’s oil and gas industry. The expanded and new tasks under this additional funding include:

- *Objectives* are modified to add “and promote infrastructure development”;
- *Scope of Work* is updated to summarize added scope related to promotion of the development of infrastructure and large projects with the PCOR Partnership Initiative region;
- *Subtask 2.3.1* – Enabling Sustainable Monitoring for Carbon Capture, Utilization and Storage (CCUS) will be added. Monitoring techniques with the potential to improve the sustainability of monitoring commercial CCUS projects will be field-tested at an operating geologic CO<sub>2</sub> storage site in the PCOR Partnership Initiative region. A summary report discussing the findings of the subtask will be presented in a new deliverable;
- *Task 4.0* – Overview text will be expanded to include summary information about Subtask 4.2 revisions;
- *Subtask 4.2* is renamed *Promotion of Infrastructure and Scale-Up for Large Projects*, and activities will be added. CO<sub>2</sub> purity specifications ensuring compatibility with pipeline material specifications and geologic storage (direct or associated) will be investigated and, where possible, recommendations will be developed. In addition, reclaimer waste disposal options and strategies for CO<sub>2</sub> reinjection in enhanced oil recovery projects will be identified. This subtask will be looking for large-scale project opportunities in the region, which will serve as a stepping-stone toward large-scale infrastructure development;
- *Subtask 5.4* is renamed *Pathways to CCUS Commercial Scaling and Deployment*, and clarification will be added. The series of road maps will be changed to an evolving road map and will be provided as a new deliverable. Scale-up challenges will be included as well as opportunities, knowledge gaps, and challenges for scaling and deployment of commercial CCUS within the PCOR Partnership Initiative region identified through PCOR Partnership Initiative membership engagement.

Mr. Brannan stated that the Council voted unanimously to fund. He noted that there were four conflicts of interest (Sund, Ness, Kopseng, Weis) as members of PCOR or the Petroleum Council.

3.

**It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission accepts the recommendation of the Oil and Gas Research Council and approves the scope of work for incremental funding of \$500,000 of the previously approved \$2,000,000 award (Contract G-050-096) for the PCOR Initiative to Accelerate CCUS Development – Submitted by the Energy and Environmental Research Center (EERC); Revised Total Project Costs: \$18,752,874; and noting that the remaining incremental funding of \$500,000 be contingent upon receipt of additional Department of Energy and industry funding at the initial match rate. 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 a request for an amendment to the Natural Gas Pipeline Grant Program Guidelines. He recommended that the application deadline for the Grand Forks County natural gas pipeline grant funding be extended to May 1, 2022.

**It was moved by Attorney General Wrigley and seconded by Governor Burgum that the Natural Gas Pipeline Guidelines be amended as follows to allow a May 1, 2022 application deadline for Grand Forks County natural gas pipeline grant funding:**

**NGP – 3.02 Application Deadlines.** Applications must be delivered to the Industrial Commission or postmarked on or before ~~May~~ March 1, 2022 for consideration of the \$10 million pool of funds established for Grand Forks County and on or before May 1, 2022 for consideration of the remaining \$140 million pool of funds.

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

Mr. Kringstad presented a Pipeline Authority Update and discussed the health of the Bakken noting the well performance and drilling economics in the Bakken and Three Forks formations. He provided a number of graphics on the drilling inventory that is available and the number of years it will take to drill that inventory. He stated that his work clearly points to the successful expansion of premium drilling locations throughout western North Dakota. (A copy of his update is available in the Commission files or on the Pipeline Authority website.)

Mr. Kringstad stated that his analysis, based on well performance datasets from the last two years compared to the same work performed in 2020, shows there is decades of remaining drilling inventory in the Bakken and Three Forks Petroleum System. There are an additional 3,000 square miles of acreage reclassified and could now be economically developed at prices as low as \$60 per barrel.

Mr. Kringstad also provided information on natural gas production and the future need for transmission of this production.

The Industrial Commission thanked Mr. Kringstad for the analysis he has been doing and stressed the importance of providing information to the industry and the public on the opportunities for developing these valuable natural resources.

## **DEPARTMENT OF MINERAL RESOURCES (DMR)**

Mr. Lynn Helms, DMR Director, presented orders for the Commission's consideration.

Mr. Helms stated that Case 29166 involves the termination of the Lakeside-Midale/Rival Unit in Burke County. It was a 640-acre unit that had been established to assist an operator in doing an intermittent flood operation with a single well. The operator is not going forward with using that technology and terminated the unit. The proper paperwork has been filed with the county and a hearing was held. Proposed Order 31733 will terminate that unit.

### **Case No. 29166, Order No. 31733**

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that Order No. 31733 issued in Case No. 29166 terminating the Lakeside-Midale/Rival Unit, Burke County, be**

**approved this 24th day of March, 2022. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms stated Case 29216 involves the Commission making a determination as to whether a project qualifies as a secondary recovery project and is entitled to the tax exemption. He noted this is a recent discovery in the Glenburn Field. Ballard Petroleum discovered the Chatfield-Madison Field, unitized it, and have implemented a waterflood. This is an opportunity for them to receive a five-year tax incentive for implementing this waterflood and achieving incremental oil. The Commission's role when an applicant reaches this point is to have the Oil and Gas Division staff determine what the production would have been without the waterflood and to hand that over to the Tax Department to grant the reduced extraction tax on the right number of barrels each month.

**Case No 29216, Order No. 31784**

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that Order No. 31784 issued in Case No. 29216 affirming the Chatfield-Madison Unit is certified as a qualifying secondary recovery project and is entitled to the tax exemption provided in N.D.C.C. Section 57-51.1-03, providing the primary production decline curve developed pursuant to N.D.C.C. Section 57-51.1-03 and providing a copy of the projected monthly primary oil production in numerical form to the Tax Commissioner and the Unit Operator, and determining the date of first incremental oil production, be approved this 24th day of March, 2022. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms stated Case 29217 involves the establishment of an overlapping 1280-acre spacing unit and a request for a sidetrack lateral. This would involve a single vertical well with two laterals. This is in the Radcliffe and Nesson play near Trenton North Dakota where the geology is different between the two spacing units. He outlined what the operator had proposed and how that request differs from what the staff is recommending in proposed Order 31785. He stated the staff recommendation protects the correlative rights of the mineral owners—it allows for the overlapping 1280-acre spacing unit and denial of the request for the 640-acre spacing unit from that single vertical well. He noted that the proposed order provides guidance to the operator on how they could produce the oil from the existing well in the 640-acre spacing unit that allows for the proper allocation of the oil to the appropriate mineral owners.

**Case No. 29217, Order No. 31785**

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that Order No. 31785 issued in Case No. 29217 establishing an overlapping 1280-acre spacing unit comprised of Sections 22 and 23, Township 152 North, Range 104 West, and denying the request for a sidetrack lateral to be drilled in Section 23, be approved and effective this 24th day of March, 2022.**

Mr. Helms provided an update on outstanding litigation for the following cases:

- 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 – *currently in the discovery phase which is anticipated to go into the third quarter of 2022.*
- Case No. 05-2019-CV-00085 - Northwest Landowners Association vs. State of North Dakota, et al. - *arguments are taking place before the North Dakota Supreme Court today.*
- Case No. 04-2021-CV-00011 Gallatin Oil, LLC vs. ND Industrial Commission, Attorney General Stenhjem and Lime Rock Resources III-A, L.P. – *District Court affirmed the Commission's order – waiting to see if there will be an appeal of that decision.*
- Case No. 13-2021-CV-00036 - Blue Appaloosa vs. North Dakota Industrial Commission – *everything is done, it has been briefed, and there will be no oral arguments. Waiting on a Supreme Court decision.*

- State of North Dakota vs. U.S. Department of Interior, Bureau of Land Management, et al – *motions have been filed in Judge Traynor's court for a scheduling order to get back before the Judge in this manner because of the failure of the Department of Interior to proceed with the lease sales.*

Mr. Helms stated that one case been added to the list of outstanding litigation.

- Blue Steel Oil and Gas has appealed the Commission's order that was approved last month regarding risk penalties. It has been appealed to District Court.

Mr. Helms stated there is another issue that came up today which may result in the Commission intervening in a case. It involves a federal court case and a certified list of questions has been submitted to the North Dakota Supreme Court on how overlapping spacing units are handled by the North Dakota Industrial Commission.

### ADMINISTRATION

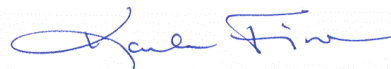
Ms. Karlene Fine, Industrial Commission Executive Director, presented the following request to the Commission:

*As you are aware there has been an unexpected shortage of Administrative Office staffing during the past few months along with additional workload (and deadlines) since the last legislative session. This has resulted in my being unable to take annual leave since November 1, 2021. I am requesting that, in accordance with Administrative Rule 4-07-12-10, the Industrial Commission authorize the Governor to submit a written request to Human Resources Management Services allowing a payment to me for 90 hours of unused annual leave in the amount of \$5,658.56.*

**It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission authorize the Governor to submit a written request to Human Resources Management Services allowing a payment to the Industrial Commission Executive Director for 90 hours of unused annual leave in the amount of \$5,658.56. On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.**

With no further Industrial Commission business, Governor Burgum adjourned the meeting at approximately 2:00 p.m.

North Dakota Industrial Commission



Karlene Fine, Executive Director and Secretary