

Minutes of a Meeting of the Industrial Commission of North Dakota

Held on October 4, 2023 beginning at 9:00 a.m.

Governor's Conference Room – State Capitol

Present: Governor Doug Burgum, Chairman

Attorney General Drew H. Wrigley

Agriculture Commissioner Doug Goehring

Also Present: This meeting was open through Microsoft Teams so not all attendees are known.

Agency representatives joined various portions of the meeting.

Governor Burgum called the meeting of the Industrial Commission to order at approximately 1:05 pm.

OFFICE OF THE INDUSTRIAL COMMISSION

Ms. Karen Tyler presented for consideration of approval the September 7, 2023 Industrial Commission meeting minutes.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the September 7, 2023 Industrial Commission meeting minutes.

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

Ms. Tyler gave a presentation on the Budget Section of the Outdoor Heritage Fund. It reads as follows:

Mr. Chairman and members of the Budget Section, my name is Karen Tyler and I am the North Dakota Securities Commissioner and the Interim Executive Director for the North Dakota Industrial Commission. Thank you for the opportunity to present a report on the Outdoor Heritage Fund (OHF) pursuant to the requirements of NDCC 54-17.8 - 07. The Outdoor Heritage fund was created by the legislature in 2013. It is overseen by the Industrial Commission, with the assistance of the OHF Advisory Board.

A list of the current makeup of the 12-member Board, plus 4 ex-officio technical advisers, is at the bottom of this first page of testimony. Management and administration of the OHF grant program is handled by Deputy Executive Director Reice Haase, and Grant Program Specialist Brenna Jessen. Their contact information is provided on the last page of my written report.

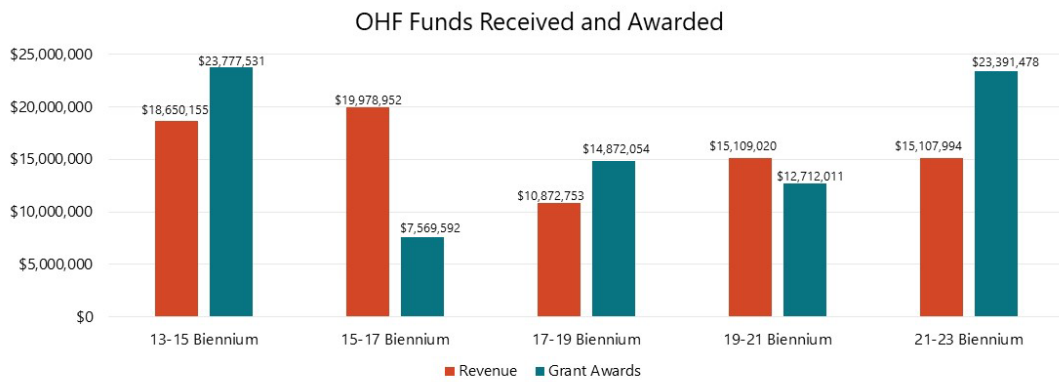
Since its inception in 2013, the Fund has received \$79,718,874 in income, which includes legislative appropriations and interest income. During the 2021-2023 biennium, income included \$15 million in deposits from the Oil and Gas Gross Production Tax formula and \$107,994 in interest. The legislature again appropriated \$15 million from the Oil and Gas Gross Production Tax formula for the 23-25 biennium.

Twenty-two (22) grant rounds have been completed since 2013 with a total of \$81,687,666 awarded to 224 projects located across the state. The reason the amount awarded exceeds the total revenue received by the program is that some projects come in under budget and therefore return a portion of

their commitment which can then be reallocated and awarded to new projects. Returned commitments since inception totaled \$3,532,206 at the end of the 2021-2023 biennium. At the time of this report, \$1,128,091 is available in the fund for future commitments, and as previously mentioned an additional \$15 million is anticipated to be received in the 2023-2025 biennium based on the legislature’s appropriation for the program. I have included a chart that reflects the amount deposited into the Fund per biennium and the amount that was awarded:

OHF FUNDS RECEIVED AND AWARDED

- The Industrial Commission has awarded funding for 224 projects for a total of \$81,687,666
- Since its inception, the fund has received a total of \$79,718,874 in income
 - \$3,532,206 of commitments have been returned to date



The Outdoor Heritage Fund was established to provide grants to state agencies, tribal governments, political subdivisions, and nonprofit organizations to enhance conservation practices through four specific directives that are set forth in statute. I will briefly review each directive and provide you with an example of a previously funded project under that directive.

Directive A: Providing access to private and public lands for sportspersons, including projects that create fish and wildlife habitat and provide access for sportspersons.

- *GR 20: Sheyenne River State Forest Access Improvement Project, North Dakota Forest Service* – This project will develop and improve trails and establish an informational trailhead area with restrooms, trail archways, and an informational kiosk within the Sheyenne River State Forest. OHF provided \$45,000 of a \$62,000 project. (\$8,173 paid \$36,836 left)

Directive B: Improving, maintaining, and restoring water quality, soil conditions, plant diversity, animal systems, and by supporting other practices of stewardship to enhance farming and ranching.

- *GR 20: Grazing Resiliency in the Bakken, ND Natural Resources Trust* – This project is developing water supply systems, implementing fencing for rotational grazing systems, and using cover crops to provide drought resiliency and environmental enhancements for tens of thousands of acres in western North Dakota. OHF provided \$1,970,000 of a \$3,280,000 project.

(\$145,394 paid \$1.8 mill left)

Directive C: Developing, enhancing, conserving, and restoring wildlife and fish habitats on private and public lands.

- *GR 20: Southwest ND Pheasant Initiative, Hettinger Research Extension Center* – This project cooperates with landowners to create, enhance, and restore habitat for pheasants through the establishment of new grassland plantings, food plots, and enhancement of existing grassland acres. OHF provided \$74,297 of a \$99,280 project. (no payments made)

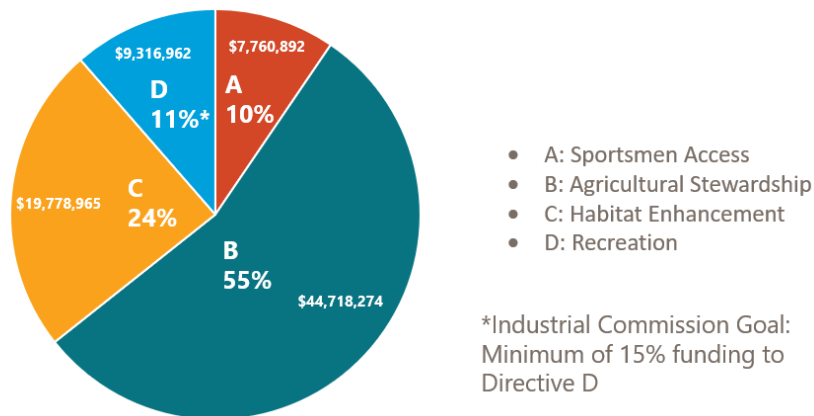
Directive D: Conserving natural areas and creating other areas for recreation through the establishment and development of parks and other recreation areas.

- *GR 19: Playground Equipment Replacement, City of Coleharbor* – This project improved the city park with new commercial grade playground equipment, renovated picnic shelters, permanent garbage receptacles, benches, and picnic tables. OHF provided \$10,000 of a \$59,842 project.

(project complete all funds paid)

The chart below illustrates the amount of funding that has been awarded for each directive to date. An application may meet more than one directive. The applicant is asked to elect the primary directive for each project.

OHF FUNDING BY DIRECTIVE

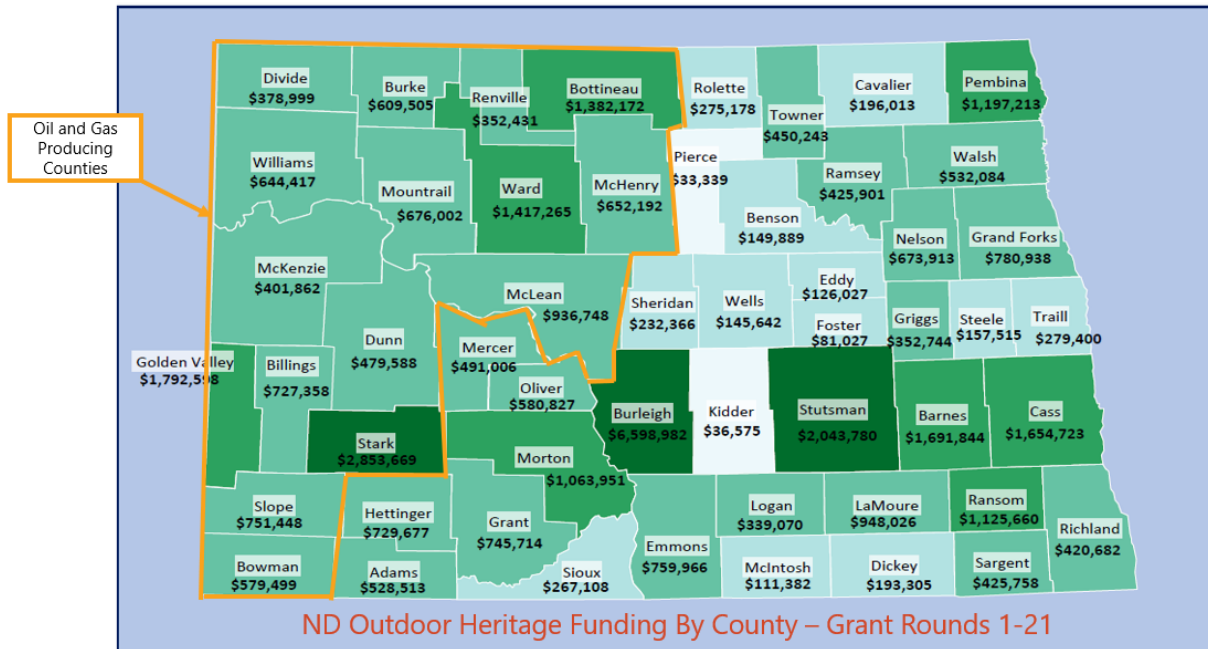


The percentage and amount of funds awarded for each directive is as follows:

- A: 10% - \$7,760, 892
- B: 55% - \$44,718,274
- C: 24% - \$19,778,965
- D: 11% - \$9,316,962

The following map shows the amount of funds awarded by county for location specific projects:

STATEWIDE BENEFITS FROM OIL AND GAS REVENUES



There are typically 4 grant rounds held each biennium. The application deadline for Grant Round 23, the current grant round, was September 8th, and we received 11 applications totaling \$4.5 million in requests representing \$26.1 million in total project value. These applications are currently under review, and the Advisory Board will meet October 26 and pass their funding recommendations on to the Industrial Commission for final action.

The OHF program is a reimbursement-based program, and each grant recipient must provide regular status reports that accompany reimbursement requests. These reports are posted on the OHF website at <http://www.nd.gov/ndic/outdoor-infopage.htm> and available to the public. The website also provides information about the Advisory Board, the application process, and a list of awards.

Mr. Haase gave a presentation of the Industrial Commission Project Management Report regarding grant programs.

- Lignite Research:
 - 254 cumulative projects
 - 28 active projects
 - \$134.8 million granted
 - \$2.7 billion project value
- Oil and Gas Research:
 - 115 cumulative projects
 - 25 active projects
 - \$90 million granted
 - \$524.5 million project value
- Renewable Energy:

- 69 cumulative projects
- 18 active projects
- \$23.5 million granted
- 154.7 million project value
- Outdoor Heritage Fund:
 - 224 cumulative projects
 - 88 active projects
 - \$81.6 million granted
 - \$210.7 million project value
- Clean Sustainable Energy Authority:
 - 14 cumulative projects
 - 10 active projects
 - \$52.7 million granted
 - \$473 million loaned
 - \$5 billion project value

Under other business, Mr. Haase gave a brief update on any impact on the Industrial Commission of the Supreme Court decision regarding SB 2015.

DEPARTMENT OF MINERAL RESOURCES

Mr. Ed Murphy gave a presentation of the Geological Survey Quarterly Report.

Wilson M. Laird Core and Sample Library

During the second quarter of 2023, geologists and engineers from the Department of Mineral Resources and EERC as well as the University of North Dakota students and professors studied 13,622 feet of core. In June, another 2,871 feet of core was shipped to Bismarck to be studied in the AAPG core workshop. The quarterly total, 16,493 feet, is the most core they have moved in one quarter over the last five years. Additionally, they photographed 7,022 feet of core generating 10,864 standard photographs for the subscription site.

AAPG Conference in Bismarck

The annual meeting of the Rocky Mountain Section of the American Association of Petroleum Geologists (RMS-AAPG) was held in Bismarck on June 4-6. It had been 35 years since the meeting was last held in North Dakota.

Critical Minerals Report

On July 11, they released their eighth critical minerals report in the last six years, Report of Investigation No. 134, "Critical Mineral Enrichment in Lignites Beneath the Rhame Bed (Paleocene) of the Slope Formation in the Williston Basin of North Dakota." The 267-page report contains 768 sample analyses from 165 geologic sections from the upper part of the Slope Formation and the basal part of the overlying Bullion Creek Formation.

The full report is available on the website.

Dr. Lynn Helms presented for consideration of approval of the following cases:

- i. **Order 31794 for Case 29227 consolidated with Case 29226** regarding a complaint filed by Hess Bakken Investments II, LLC against Vitesse Energy, LLC and Vitesse Oil, LLC regarding post-production charges.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 31794 issued in Case No. 29227 consolidated with Case No. 29226 determining that all produced water costs are under the Commission's jurisdiction, that oil and gas costs prior to the first custody transfer are related the drilling and operation of a well on a spacing unit and are under the Commission's jurisdiction, and that oil and gas costs after the point of first custody are post-production costs and are under District Court jurisdiction.

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

- ii. **Order 32806 for Case 30122** regarding an application of DCC West Project LLC for the geologic storage of carbon dioxide from the Milton R. Young Station in Oliver County, ND

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32806 issued in Case No. 30122 approving the application of DCC West Project LLC requesting consideration for the geologic storage of carbon dioxide in the Broom Creek Formation from the Milton R. Young Station and other sources in the storage facility located in Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 29, 30, 31, and 32, Township 141 North, Range 84 West, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, and 36, Township 141 North, Range 85 West, Sections 19, 20, 21, 28, 29, 30, 31, 32, 33, and 34, Township 142 North, Range 84 West, and Sections 24, 25, 33, 34, 35, and 36, Township 142 North, Range 85 West, Oliver County, North Dakota pursuant to North Dakota Administrative Code Chapter 43-05-01, and/or such further relief.

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

- iii. **Order 32807 for Case 30123** regarding amalgamation of storage reservoir pore space to be operated by DCC West Project LLC in Oliver County, ND.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32807 issued in Case No. 30123 approving the amalgamation of the storage reservoir pore space, in which the Commission may require that the pore space owned by nonconsenting owners be included in the geologic storage, as required to operate the DCC West Project LLC storage facility located in Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 29, 30, 31, and 32, Township 141 North, Range 84 West, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, and 36, Township 141 North, Range 85 West, Sections 19, 20, 21, 28, 29, 30, 31, 32, 33, and 34, Township 142 North, Range 84 West, and Sections 24, 25, 33, 34, 35, and 36, Township 142 North, Range 85 West, Oliver County, North Dakota, in the Broom Creek Formation, pursuant to North Dakota Century Code Section 38-22-10, and/or such further relief.

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

- iv. **Order 32808 for Case 30124** regarding the determination of the amount of financial responsibility for the geological storage of carbon dioxide to be operated by DCC West Project LLC in Oliver County.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32808 issued in Case No. 30124 approving the amalgamation of the storage reservoir pore space, in which the Commission may require that the pore space owned by nonconsenting owners be included in the geologic storage, as required to operate the DCC West Project LLC storage facility located in Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 29, 30, 31, and 32, Township 141 North, Range 84 West, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, and 36, Township 141 North, Range 85 West, Sections 19, 20, 21, 28, 29, 30, 31, 32, 33, and 34, Township 142 North, Range 84 West, and Sections 24, 25, 33, 34, 35, and 36, Township 142 North, Range 85 West, Oliver County, North Dakota, in the Broom Creek Formation, pursuant to North Dakota Century Code Section 38-22-10, and/or such further relief.

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

- v. **Order 32817 for Case 30207** regarding an application for Oasis Petroleum North America LLC to establish two 1,600-acre spacing units in McKenzie County, ND.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32817 issued in Case No. 30207 denying an application of Oasis Petroleum North America LLC for an order amending the applicable orders for the Elk-Bakken Pool, McKenzie County, ND, to establish two overlapping laydown 1600-acre spacing units described as the E/2 of Section 14, All of Section 13, T.152N., R.102W., and All of Section 18, T.152N., R.101W.; and the E/2 of Section 23, All of Section 24, T.152N., R.102W., and All of Section 19, T.152N., R.101W., and authorize four horizontal wells to be drilled on each such unit, or granting such other relief as may be appropriate.

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

- vi. **Order 32823 for Case 30213** regarding the confiscation of equipment and oil at State 1-16 well, NESE Section 16, T.141N., R.100W., Whiskey Joe Field, Billings County, ND.
- vii. **Order 32824 for Case 30214** regarding the confiscation of equipment and oil at the WJ BN 1-15 well, NENE Section 15, T.141N., R.100W., Whiskey Joe Field, Billings County, ND.
- viii. **Order 32825 for Case 30215** regarding the confiscation of equipment and oil at the US 3-22 well, SENW Section 22, T.141N., R.100W., Whiskey Joe Field, Billings County, ND.
- ix. **Order 32826 for Case 30216** regarding the confiscation of equipment and oil at the BN 2-27 well, SWNE Section 27, T.141N., R.100W., Whiskey Joe Field, Billings County, ND.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32823 issued in Case No. 30213 approving the confiscation of all production-related equipment and salable oil at the State 1-16 well (File No. 7120), NESE Section 16, T.141N., R.100W., Whiskey Joe Field, Billings County, ND, operated by Norton Frickey, or any working interest owner, pursuant to NDCC §§ 38-08-04 and 38-08-04.9; and Order No. 32824 issued in Case No.

30214 approving the confiscation of all production-related equipment and salable oil at the WJ BN 1-15 well (File No. 7145), NENE Section 15, T.141N., R.100W., Whiskey Joe Field, Billings County, ND, operated by Norton Frickey, or any working interest owner, pursuant to NDCC §§ 38-08-04 and 38-08-04.9; and Order No. 32825 issued in Case No. 30215 approving the confiscation of all production-related equipment and salable oil at the US 3-22 well (File No. 7459), SENW Section 22, T.141N., R.100W., Whiskey Joe Field, Billings County, ND, operated by Norton Frickey, or any working interest owner, pursuant to NDCC §§ 38-08-04 and 38-08-04.9; and Order No. 32826 issued in Case No. 30216 approving the confiscation of all production-related equipment and salable oil at the BN 2-27 well (File No. 8214), SWNE Section 27, T.141N., R.100W., Whiskey Joe Field, Billings County, ND, operated by Norton Frickey, or any working interest owner, pursuant to NDCC §§ 38-08-04 and 38-08-04.9.

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

- x. Order 32860 for Case 30250 regarding the termination of the Northeast Foothills-Madison Unit in Burke County, ND.**

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32860 issued in Case No. 30250 approving the termination of the Northeast Foothills-Madison Unit, Burke County, ND, operated by Scout Energy Management LLC.

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

- xi. Order 32620 for Case 30011 regarding the termination of the Bauman Drain-Madison Unit in Bottineau County, ND.**

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32620 issued in Case No. 30011 approving the termination of the Bauman Drain-Madison Unit, Bottineau County, ND, operated by Cobra Oil and Gas Corporation, and/or such further relief.

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

- xii. Order 32877 for Case 30267 regarding an application of Marathon Oil Co. for an exception to NDAC 43-02-03-28 and authorization to locate heater treaters closer than 125 feet to process vessels.**

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32877 issued in Case No. 30267 approving the application of Marathon Oil Co. for an order authorizing treaters to be located closer than 125 feet to process vessels as an exception to the provisions of NDAC § 43-02-03-28 on well pads operated by Marathon Oil Co., or granting such other relief as may be appropriate.

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

- xiii. **Corrections to Order 31584 for Case 29030** related to an incorrect definition of a confining zone for a geologic storage facility.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves corrections to Order No. 31584 issued in Case No. 39030 to accurately define the confining zone for a geologic storage facility located in Sections 35 and 36, T.142N., R.84W., Sections 19, 20, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, T.142.N, R.83W., Sections 1, 2, 12 and 13, T.141N., R.84W., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20 and 21, T.141N., R.83W., Oliver County, ND.

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

- xiv. **Order 32875 for Case 30265** regarding an application of Phoenix Operating LLC for an overlapping 3,840-acres spacing unit in Williams and Divide Counties, ND.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order No. 32875 issued in Case No. 30265 approving the application of Phoenix Operating LLC for an order amending the applicable orders for the Burg, Green Lake and/or Smoky Butte-Bakken Pools to establish an overlapping 3840-acre spacing unit described as Sections 5 and 6, T.159N., R.99W., Williams County, ND and Section 1, T.159N., R.100W., Williams County, ND and Sections 31 and 32, T.160N., R.99W., Divide County, ND and Section 36, T.160N., R.100W., Divide County, ND and to authorize 1 horizontal well to be drilled on such unit and granting such other relief as may be appropriate.

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

- xv. **Case 29835** regarding an Industrial Commission complaint against WW Oilfield Services, LLC.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves the default Order in Case No. 29835 assessing a penalty of \$25,111 and recovery of investigation costs of \$33 against WW Oilfield Services, LLC in accordance with N.D.R.Civ.P. 4(c)(1)(D) and N.D.C.C. § 10-01.1-13(3) and (5).

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

There was an update on federal regulatory matters:

- i. BLM Resource Management Plan – We have responded to their request, has not been signed yet – MOU pending.
- ii. BLM Conservation and Landscape Rule – Comments and oppositions were submitted on July 5, 2023.
- iii. PHMSA Pipelines Safety – Comments and oppositions were submitted on August 16, 2023.
- iv. USFW Endangered Species Act Rules – We signed on with Alabama’s opposition letter on August 1, 2023.

There was an update on Oil and Gas related matters reasonably expected to require comments:

- i. BLM Venting and Flaring – anticipating to see this come up in October or November of this year.
- ii. Presidential Executive Order 14008 related to climate change – this order directs federal agencies to review their rules and regulations in the context of climate change, which is leading to a large number of rule changes

There was an Industrial Commission Legal Update

A. Litigation Update

- i. Northwest Landowners vs. NDIC – pore space litigation- December 12th deadline for the summary judgement motions
- ii. Northern Oil and Gas v NDIC – Trial is slated for Stanley, ND, May 7-9, 2024
- iii. Blue Appaloosa – Related to a judgement submitted against Blue Appaloosa for \$183,000
- iv. Liberty v. NDIC – Briefing is complete. Waiting on a decision from McKenzie County
- v. NDIC v. DOI Quarterly Federal Lease Sales – A response was filed for their status report. We will be back in Judge Trainor’s court later this month (October) to talk about how they are progressing

B. Federal Rulemaking

- i. BLM Leasing Rule – a request for an extension of comment period was denied and comments were filed on September 22, 2023.
- ii. DAPL DEIS – On September 8, 2023 the army corps of engineers released their draft environmental impact statement. Numerous stakeholders are engaged in providing new or updated comments during this comment period, including many state agencies. The comment period ends November 13, 2023 and there will be two public meetings on November 1st and November 2nd in downtown Bismarck.
- iii. CEQ NEPA Rules – the Biden Administration issued a rule seeking to change the need for procedure to a substantive rule. There was a letter signed by 17 Governors, largely in the Western states, the attorneys general, including Iowa’s AG office, and 22 other states with their respective Departments of Transportation adding comments. The State of ND itself also filed its own comments specific to concerns related to how the proposed rules would affect us.

STATE ENERGY RESEARCH CENTER

Mr. Haase presented for consideration of approval the authorization to contract with EERC for legislative-directed rare earth minerals study - \$1,500,000

House Bill 1014 directs the Industrial Commission to distribute the \$1,500,000 from the fund to the State Energy Research Center to conduct the study. Section 3 requires:

The study must include a review of in-state mineral accumulations including coal deposits, ore bodies, oil and gas reservoirs, produced water from oil and gas development activities, saltwater zones, and shale formations. While conducting the study, the state energy research center shall collaborate with the North Dakota geological survey and active mineral lessors and developers.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission authorize the Office of the Industrial Commission to enter into a contract with the Energy and Environmental Research Center, acting as the State Energy Research Center, to approve funding of \$1,500,000 from the state energy research fund for a study of rare earth minerals as directed by Section 14 of House Bill 1014 passed by the 68th Legislative Assembly, contingent upon receipt of a proposal to include total project costs not to exceed \$1,500,000, with \$500,000 provided to the North Dakota Geological Survey for subsurface coal investigations, project participants to include active mineral lessors and developers, quarterly reports, a project timetable within the 2023-2025 biennium, and a scope of work to include reviews of: ore bodies, oil and gas reservoirs, produced water from oil and gas development activities, saltwater zones, and shale formations.

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

Mr. Haase presented for consideration of approval the authorization to contract with EERC for legislative-directed underground energy storage research project - \$11,236,070.88

Section 15 of House Bill 1014 appropriated \$6,000,000 from SIIF to the State Energy Research Fund for the purpose of constructing a salt cavern as a component of an underground energy storage research project. Additionally, the legislature directed the Industrial Commission to distribute the \$6,000,000 as well as the remaining balance of ARPA funds from the de-committed Bakken Energy CSEA project to the State Energy Research Center to complete the project. The full amount equals \$11,236,070.88.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission authorize the Office of the Industrial Commission to enter into a contract with the Energy and Environmental Research Center, acting as the State Energy Research Center, to approve funding not to exceed \$11,236,070.88 for an underground energy storage research project as directed by Section 15 of House Bill 1014 passed by the 68th Legislative Assembly, contingent upon receipt of a proposal to include total project costs not to exceed \$11,236,070.88, project participants with demonstrated financial support from at least one nonstate entity, scope of work meeting the requirements of House Bill 1014, quarterly reports, and a project timetable within the 2023-2025 biennium.

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

BANK OF NORTH DAKOTA

Mr. Todd Steinwand, President and CEO of the Bank of North Dakota presented his retirement announcement to the Industrial Commission, indicating a retirement date sometime in the second quarter of 2024, and the intention to be available to assist with the transition of the new bank president. Lori Leingang shared a memo with the Commission summarizing the discussion between the bank Advisory Board and the Commission at the joint meeting held July 28, 2023, pertaining to the hiring of a new bank president.

Ms. Tyler presented for consideration of approval the recommendation of the appointment of a search committee for the position of Bank of North Dakota President and CEO.

The recommendation memo reads as follows:

“Mr. Todd Steinwand, BND President and CEO, has communicated to the Industrial Commission his plan to retire in the second quarter of 2024. The Industrial Commission members and the BND Advisory Board discussed the plan for this transition at the July 28, 2023, Industrial Commission meeting, and guidance was given to the Advisory Board on the search and hiring of the next executive for this role.

Pursuant to Commission guidance, and to the plan summary and timeline presented to the Commission by BND Chief Administrative Officer, Lori Leingang, at the October 4th, 2023 meeting, I recommend the following committee composition be put in place to carry out the executive search plan:

- **Each Industrial Commission member or their designee**
- **Two members of the BND Advisory Board appointed by the Advisory Board Chair**
- **BND Chief Administrative Officer, Lori Leingang**
- **Industrial Commission Interim Executive Director, Karen Tyler, Committee Chair “**

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the following committee composition be put in place to carry out the executive search plan:

- **Each Industrial Commission member or their designee**
- **Two members of the BND Advisory Board appointed by the Advisory Board Chair**
- **BND Chief Administrative Officer, Lori Leingang**
- **Industrial Commission Interim Executive Director, Karen Tyler, Committee Chair**

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

Mr. Steinwand presented the non-confidential meeting minutes for the following:

- i. Finance and Credit Committee June 14th and July 19th, 2023 meeting minutes
- ii. Advisory Board June 14th and July 27th meeting minutes
- iii. Audit and Risk Committee July 27th, 2023 meeting minutes

HOUSING FINANCE AGENCY

Ms. Jennifer Henderson gave a report on Emergency Solutions Grant and ND Homeless Grant awards.

During the 68th Legislative Assembly, the administrative authority for the federal Emergency Solutions Grant (ESG) and the state North Dakota Homeless Grant (NDHG) was transferred to North Dakota Housing Finance Agency (NDHFA) from the North Dakota Department of Commerce Division of Community Services. NDHFA accepted applications for funding on June 22, 2023, and by mid-August, all agencies that were selected for funding received a financial award.

Emergency Solutions Grant

The Emergency Solutions Grant program is authorized by subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378). The program authorizes the Department of Housing and Urban Development (HUD) to make grants to States, units of general-purpose local government, and territories for the rehabilitation or conversion of buildings for use as emergency shelter for people

experiencing homelessness, for the payment of certain expenses related to operating emergency shelters, for essential services related to emergency shelters, street outreach to people experiencing homelessness, and for homelessness prevention and rapid re-housing assistance. HUD limits expenditures on emergency shelter, street outreach, and essential services related to emergency shelter to 60 percent of the grant award.

Emergency Solutions Grant activities are categorized by component. A HUD quick reference guide of eligible activities was provided to the Commission.

North Dakota received an allocation of \$486,494 and provided \$120,000 state emergency solutions grant match for a total allocation of \$606,494. HUD allows 7.5% (ND-\$36,487.05) of the federal allocation to be used for administration. A total of 24 applications were received requesting \$2,032,335 in funding. Nine agencies were selected and awarded a total of \$570,006.95. A list of the funded applications was provided.

North Dakota Homeless Grant (NDHG)

NDHFA was allocated a total of \$2.5 million for the biennium. A total of \$1.25 million was made available for the first year. NDHG is administered similar to the Emergency Solutions Grant with the same eligible activities and uses minus some of the federal administrative requirements. In an attempt to build homeless provider capacity, NDHFA does require all NDHG awardees to utilize coordinated entry and the homeless management information system (HMIS) reporting software.

For the application round a total of 23 applications were received, requesting \$2,825,388 in funding. NDHFA awarded 22 applications and funded \$1.25 million.

Ms. Kayla Axtman gave a report on 2023 Series DE Bond Issue pricing as follows:

HOME MORTGAGE FINANCE PROGRAM BONDS
NDHFA Bond Sale 2023DE

	Priced July 11, 2023		Priced January 10, 2023	
	Tax Exempt	Taxable	Tax Exempt	Taxable (swap)
	2023D	2023E	2023A	2023BC
Bonds Issued	125,000,000	75,000,000	125,000,000	40,000,000
Bond Premium	3,291,197	819,408	3,916,418	450,072
Debt Service Reserve	(3,750,000)	(2,250,000)	0	(1,200,000)
Total Proceeds	124,541,197	73,569,408	128,916,418	39,250,072
Bond Yield	4.26%	5.49%	4.224%	4.957%
Cost of Issuance & Underwriters Discount (Agency)	1,108,143	667,780	1,129,394	321,340
Average Loan Amount	204,184	288,829	194,230	302,093
Estimated Number of Loans	610	255	664	130
Interest Rates Offered (30 Year Fixed rates adjusted daily):				
Government (1.5 Points*)	5.900%	7.250%	5.500%	6.250%
Conventional (1.5 Points*)	6.150%	7.500%	5.750%	6.500%
(*1% Orig. Fee & 1/2 Point)				
Eligible Loans include: FHA Insured, Conventional Insured, USDA RD RHS Guaranteed, VA Guaranteed, Uninsured			Commentary: Since the beginning of 2023 the Federal Reserve has raised interest rates 4 times bringing the fed funds rate to 5.25% - 5.50%. During this same time the Agency has moved the tax exempt 30 year mortgage rate 8 times and still is well below the current market rate for a 30 year conventional loan. The average 30 year FHA mortgage rate is 7.08% and the average 30 year conventional mortgage right now is 7.62%. For the past two months the Agency is averaging just over \$9million a week in First Home (tax exempt) reservations and approximately \$5.5million in Roots (taxable) reservations. Currently, the average total payment (principal, interest, taxes and insurance) for a First Home borrower is \$1,191 and for a Roots borrower it is \$1,932.	
Home Sales Price Limits: (One Unit) All Counties 481,176 <i>Higher Limits applicable to 2 - 4 Unit Residences</i>				
Borrower Income Limits: 100,400 to 126,040 (Limits vary by county and household size)				
Underwriters Discount Components: \$/M Bonds				
Management Expense 0.75				
Take-Down 9.02				
TOTAL 10.56				
Miscellaneous : Annual (Basis Points on Loans Outstanding) 20				

NORTH DAKOTA TRANSMISSION AUTHORITY

Mr. Claire Vigesaa presented for consideration of approval the IJA Resilience Grant Award Process.

As part of the Bipartisan Infrastructure Law – Section 40101(d), the U.S. Department of Energy’s (DOE’s) Grid Development Office has allocated funds to the State of North Dakota, through the North Dakota Transmission Authority (NDTA). NDTA is seeking to fund grid modernization projects that result in a more resilient electrical grid and promote a clean and equitable energy economy in North Dakota. Special attention will be given to disadvantaged, vulnerable, and underserved communities, as designated by the Justice40 Initiative and other U.S. government directives. NDTA has identified the following objectives and associated metrics for evaluating proposed projects.

Objective 1: Reduce the magnitude and duration of grid outages caused by major disruptive storm and non-storm events.

Metrics:

- Magnitude of interruptions to the critical customers (for storm and non-storm events, separately)
- Length of time for restoration/recovery after extended outages
- Number of personnel trained to manage the resilience project once it is finished

Objective 2: Reduce the frequency and impacts of grid outages caused by major disruptive storm and non-storm events.

Metrics:

- Frequency of interruptions to critical customers
- Qualitative assessment of the physical durability of the grid (how much the grid can withstand: both initial and frequent disruptions of 1 hour or more)
- Qualitative assessment of the grid operational flexibility (how adaptable the grid is in terms of damage)
- Restoration/recovery times after frequent outages of 1 hour or more

Objective 3: Implement grid modernization projects to develop energy solutions that provide lower-cost energy access to disadvantaged or underserved communities, and promote energy sufficiency and energy justice in these communities while providing clean energy in alignment with the Biden Administration's Justice40 Initiative. Renewable energy (RE) and distributed energy resources (DERs) that are installed and managed locally give disadvantaged communities the opportunity to meet the energy needs of their community, take control of their energy resources, and enjoy the long-term environmental and economic advantages of these resources. These initiatives not only offer a source of clean, local, renewable energy but also reduce energy costs, generating savings that can be reinvested into the community.

Metrics:

- The number and type of RE/DER installations under grid modernization initiatives
- The financial impact to households as a result of avoided outages
- The number of workforce development programs developed for the disadvantaged/underserved communities
- The number of energy businesses/jobs created for the disadvantaged/underserved communities from new RE/DER installations

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves the grant award process proposed by the North Dakota Transmission Authority for the issuance of subawards under Section 40101(d) of the Infrastructure Investment and Jobs Act.

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

NORTH DAKOTA PIPELINE AUTHORITY

Mr. Justin Kringstad presented for consideration of approval a letter of support for Northern Border Pipeline Company Bison XPress Project FERC application.

"RE: Northern Border Pipeline Company Bison XPress Project, Docket CP23-544

Dear Chairman Phillips:

The purpose of this letter is to express our support of the Northern Border Pipeline Company Bison XPress Project (Project). The Project will add much needed gas transmission capacity in the U.S. Williston Basin, support regional gas capture infrastructure expansions, and limit the requirement for gas flaring. The interests of shippers, royalty owners, gas processors, producers, and the State of North Dakota will be supported through the incremental transmission capacity provided by the Project.

Thanks to the Bakken and Three Forks formations in the Williston Basin, the State of North Dakota is currently the third largest producer of crude oil in the United States. Natural gas produced in association with crude oil has continued to grow at a faster rate than oil production through naturally occurring increases in the gas-oil ratio. North Dakota has been setting new production records nearly every month, with current natural gas production at more than 3.28 billion cubic feet per day.

In the U.S. Energy Information Administration (EIA) *Annual Energy Outlook 2023*, the “reference” case oil production forecast has the Northern Great Plains Region (i.e. U.S. Williston Basin) growing from 1.11 million BOPD in 2022 to more than 1.80 million BOPD in the year 2050. To facilitate the level of predicted oil production forecast by the EIA, while accounting for continued natural increases in gas-oil ratios, the region will need to significantly expand its natural gas transmission systems to maximize gas capture and minimize flaring.

The North Dakota Industrial Commission, acting as the North Dakota Pipeline Authority, respectfully recommends the timely and favorable consideration of the Northern Border Pipeline Company Bison XPress Project application. A timely approval will support critical energy expansion, enhance reliability, and aid in reducing emissions for our great state and nation.”

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves the letter of support, or a stronger letter, for Northern Border Pipeline Company’s application to the Federal Energy Regulatory Commission for its Bison XPress project.

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

NORTH DAKOTA MILL AND ELEVATOR

Mr. Vance Taylor presented for consideration of approval the Mill and Elevator 2024 Strategic Plan.

The 5 Key objectives of the Mill and Elevator’s Strategic Plan are as follows:


- i. Promote and Support North Dakota Agriculture, Commerce, and Industry
- ii. Identify and Respond to Emerging Issues in the Flour Milling Industry
- iii. Maximize Profit Potential
- iv. Grow our Customer Base
- v. Invest in and Protect our Employees

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the North Dakota Mill and Elevator 2024 Strategic Plan

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

With no further business, Governor Burgum adjourned the meeting at 12:28 p.m.

North Dakota Industrial Commission

A handwritten signature in cursive script, appearing to read "Brenna Jessen".

Brenna Jessen, Recording Secretary

A handwritten signature in blue ink, appearing to read "Reice Haase".

Reice Haase, Deputy Executive Director

A handwritten signature in black ink, appearing to read "Karen Tyler".

Karen Tyler, Interim Executive Director