

Minutes of a Meeting of the Industrial Commission of North Dakota

Held on December 18, 2023 beginning at 1:00 p.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 1:04 p.m.

OFFICE OF THE INDUSTRIAL COMMISSION

Ms. Karen Tyler presented for consideration of approval the November 28, 2023 Industrial Commission meeting minutes.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the November 28, 2023 Industrial Commission meeting minutes as presented.

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

NORTH DAKOTA HOUSING FINANCE AGENCY

Ms. Mindy Piatz with Brady Martz presented a Report on the 2023 Housing Finance Agency and Housing Incentive Fund Financial Audits. Both audits received an unmodified, clean opinion. Per Brady Martz opinion, the financial statements for the Housing Finance Agency presented fairly, all material respects, the respective financial position of the business-type activities of the North Dakota Housing Finance Agency, as of June 30, 2023 and 2022, and the respective changes in financial position, cash flows thereof and statement of appropriations for the years then ended in accordance with accounting principles generally accepted in the United States.

Per Brady Martz opinion, the financial statements for the Housing Incentive Fund presented fairly, in all material respects, the financial position of the North Dakota Housing Incentive Fund, a special revenue fund of the State of North Dakota, as of June 30, 2023 and 2022, and the changes in its financial position for the years then ended in accordance with accounting principles generally accepted in the United States.

Ms. Kayla Axtman presented a Report on the 2023F Bond Issue Sale Results. Since the beginning of 2023, the Federal Reserve has raised interest rates four times, bringing the fed funds rate to 5.25% - 5.50%. During the same period, the Agency has moved the tax exempt 30-year mortgage rate ten times and is still below the current market rate for a 30-year conventional loan. The average 30-year FHA mortgage rate is 6.51%, and the average 30-year conventional mortgage rate is 7.11%. For the past two

months, the Agency has been averaging just over \$6.5 million a week in First Home (tax exempt) 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.

Ms. Axtman presented for consideration of approval the 2024 General Authorizing Resolution.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve and adopt the Housing Finance Agency Housing Finance Program Bonds Home Mortgage Finance Program 2024 Annual Series Resolution for the issuance of a maximum principal amount of long-term bonds of \$450,000,000 and a maximum principal amount of short-term bonds of \$100,000,000, excluding issuances for the purpose of refunding outstanding bonds.

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

The 2024 Annual Series Resolution is available upon request from the Housing Finance Agency or the Office of the Industrial Commission.

Ms. Axtman presented for consideration of approval the Ginnie Mae Signature Authorization Form 11702 Resolution.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the recommended officers for the Resolution of Board of Directors and Certificate of Authorized Signatures for the US Dept of Housing and Urban Development Government National Mortgage Association

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

The Ginnie Mae Signature Authorization Form is available upon request from the Housing Finance Agency or the Office of the Industrial Commission.

NORTH DAKOTA OIL AND GAS RESEARCH COUNCIL

Mr. Reice Haase gave a presentation of the Oil and Gas Research Council Project Management and Financial Report. The Oil and Gas Research Fund currently has a Cash Balance of \$21,991,407.65. The committed amount is \$20,372,045.48 and the uncommitted balance is \$1,619,362.17. Additionally, the legislature appropriated \$3,000,000 from the Strategic Investments and Improvements Fund (SIIF) to be used for the iPipe project. There have been 115 cumulative projects that have gone through the Research Fund and 25 of those projects are currently active. The Commission has granted \$90 million since the fund's inception, and the project value to the state is \$524.5 million.

Mr. Haase presented for consideration of approval the following Grant Round 59 award:

- i. **G-059-B: "IPIPE 3.0"** – EERC; Principal Investigator: Darren Schmidt, PE; Project Duration: 2 years; Total Project Cost: \$6,000,000; Request for: \$3,000,000. This project is focused on innovation of leak detection and prevention technology in pipelines.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the recommendation of the Oil and Gas Research Council, approves \$3,000,000 in funding from the Oil and Gas Research Fund, and authorizing the Office of the Industrial Commission to enter into a contract for the following Oil and Gas Research project:

G-059-B: “iPipe 3.0” – EERC; Project Duration : 2 years; Total Project Cost: \$6,000,000; Oil and Gas Research Funding: \$3,000,000

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 following Contract Amendment:

- i. **G-055-110: “Well Site Thief Hatch Methane Detectors”** – Blue Rock Solutions; Principal Investigator: Tory Vareberg, PE; Extend project duration by 6 months to July 1, 2024; Request for \$170,000 in additional funding (from \$266,000 to \$436,000).

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the recommendation of the Oil and Gas Research Council, approves \$170,000 in additional funding from the Oil and Gas Research Fund, and authorizing the Office of the Industrial Commission to enter into a contract amendment for Contract G-055-110.

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 updates to the Oil and Gas Research Program Policy: Addition to Clean Natural Gas Capture and Emissions Reduction program.

The memo reads as follows:

“During the 2023 Legislative Session, SB 2089 created the Clean Natural Gas Capture and Emissions Reduction Program, replacing a tax incentive program with a grant program to be managed by the Industrial Commission in consultation with the Oil and Gas Research Council. The legislature appropriated \$3 million for the purpose and increased the cap on the Oil and Gas Research Fund to cover the cost.

The bill grants the Industrial Commission “all the powers necessary and appropriate to effectuate the provisions of this section”, including “in matters of policy affecting the administration of the clean natural gas capture and emissions reduction program”.

I recommend the adoption of the following policies to implement the program:

- Projects must meet eligibility criteria set forth in NDCC 54-17.6-06.1
- Entities interested in the incentive shall submit an application to the Oil and Gas Research Council, which shall review and make recommendations to the Commission for funding
- Incentive funding is released to the approved applicants only after the submittal of reports and documentation of expenses
- Reports must include, at a minimum:
 - A summary of the work performed, including photos of installed equipment
 - Locations of installed equipment
 - Rates and volume of gas captured

- Incentive funding must be matched according to Oil and Gas Research Council Policy 3.02
- Only actual project costs incurred between December 18th, 2023 and June 30th, 2025 are eligible for 2023-2025 biennium funding

Additionally, I recommend updates to the Oil and Gas Research Council Policies to reflect the Office of the Industrial Commission's shift toward digital applications and reports." (Full attachments are available on the website).

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the recommendation of the Oil and Gas Research Council and approves changes to the Oil and Gas Research Program policy as included in Attachment 9 to the December 18th, 2023 Industrial Commission Meeting Materials.

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

DEPARTMENT OF MINERAL RESOURCES

Mr. Ed Murphy and Mr. Clint Boyd presented the Geological Survey Quarterly Report. (The full report is available on the website).

Wilson M. Laird Core and Sample Library

During the third 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 12,800 feet of core. A total of 6,154 feet of core was photographed generating 9,108 standard photographs for the subscription site.

UND Geology and Geological Engineering Graduate Students

University of North Dakota Geology and Geological Engineering Department Chair Sven Egenhoff currently has three graduate students studying core samples in the core library as part of their Master's or PhD degree programs. This is the largest number of graduate students studying core in that department since 2015. Mr. Egenhoff is working on expanding those numbers and has two more graduate students scheduled to start next semester.

Public Fossil Digs Wrap-up

The 2023 Public Fossil Digs experienced another year of increasing public interest and successful fieldwork. Due to a lot of moisture early in the season, the numbers were a little lower than hoped for and the Medora dig site did not make a lot of progress. At the Bismarck dig site, dozens of dinosaur bones were uncovered including a couple Tyrannosaurus Rex teeth. At the Dickinson fossil mammal site participants found newly exposed fossils, including a nearly complete skeleton of 32-million-year-old frog. At the Pembina Gorge site, they completed the large field jacket that contains a full skeleton of an eight-foot-long specimen of the fish "Ichthyodectes". A pair of foot bones from the large, flightless, diving bird "Hesperornis" was also uncovered. Looking ahead to 2024, there are plans to continue work at these four dig sites, providing a total of 520 dig spots. There are currently 2,297 people signed up for the 2024 dig notification announcements email list, which continues to grow every year.

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

- i. **Order 32814 in Case 30204** regarding an application of Hess Bakken Investments II, LLC for an overlapping 3,200-acre spacing unit in McKenzie County, ND.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order 32814 issued in Case 30204 denying an application of Hess Bakken Investments II, LLC for an order amending the applicable orders for the Ellsworth-Bakken Pool to establish an overlapping 3200-acre spacing unit described as the E/2 of Sections 10 and 15 and All of Sections 11, 12, 13 and 14, T.149N., R.100W., McKenzie County, ND, and authorize one horizontal well to be drilled on 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.

- ii. **Order 32874 in Case 30264** regarding North Dakota Industrial Commission, Complaint, v. Freedom Energy Operating LLC.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order 32874 issued in Case 30264 imposing civil penalties of \$42,127 and recovering costs of investigation of \$34.47 from Freedom Energy Operating LLC.

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

- iii. **Order 32946 in Case 30334** regarding an application of Foundation Energy Managements II, LLC for an order allowing the 20002 FV-P Agate "B" #1 well (File No. 15047) on a 640-acre spacing unit in the Bicentennial-Birdbear Pool described as Section 34, T.144N., R.103W., Golden Valley County, ND, to be recompleted with the curve build section open hole through the Bakken Pool as an exception to Commission Order Nos. 29703 and 32389;
and
- iv. **Order 32947 in Case 30335** regarding an application of Foundation Energy Management, LLC for an order allowing 9210 JV-P Barkland #2H well (File No. 15762) on a 640-acre spacing unit in the Beaver Creed-Birdbear Pool described as the E/2 of Section 36, T143N., R.103W. and the E/2 of Section 1, T.142N., R.103W., Golden Valley County, ND, to be recompleted with the curve build section open hole through the Bakken Pool as an exception to Commission Order Nos. 29703 and 32390.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order 32946 issued in Case 30334 denying an application of Foundation Energy Management, LLC for an order allowing the 20002 FV-P Agate "B" #1 well (File No. 15047) on a 640-acre spacing unit in the Bicentennial-Birdbear Pool described as Section 34, T.144N., R.103W., Golden Valley County, ND, to be recompleted with the curve build section open hole through the Bakken Pool as an exception to Commission Order Nos. 29703 and 32389, or granting such other relief as may be appropriate, and the Industrial Commission approves Order 32947 issued in Case 30335 denying an application of Foundation Energy Management, LLC for an order allowing the 9210 JV-P Barkland #2H well (File No. 15762) on a 640-acre spacing unit in the Beaver Creek-

Birdbear Pool described as the E/2 of Section 36, T143N., R.103W. and the E/2 of Section 1, T.142N., R.103W., Golden Valley County, ND, to be recompleted with the curve build section open hole through the Bakken Pool as an exception to Commission Order Nos. 29703 and 32390, 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.

- v. **Order 32948 in Case 30336** regarding an application of Phoenix Operating LLC for a 1,920-acre spacing unit in Williams County, ND, and to authorize 5 horizontal wells to be drilled on such unit.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order 32948 issued in Case 30336 denying an application of Phoenix Operating LLC for an order amending the applicable orders for the Green Lake-Bakken Pool to establish a 1920-acre spacing unit described as Section 3, 10 and 15 T.159N., R.100W., Williams County, ND, and to authorize 5 horizontal wells 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.

Dr. Helms presented for consideration of approval the 2024 Oil and Gas Division Hearing Schedule.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves the 2024 Department of Mineral Resources Oil and Gas Hearings Schedule as follows:

Hearing Date Docket	Closing Date
January 17, 2024 January 18, 2024	December 14, 2023
February 21, 2024 February 22, 2024	January 18, 2024
March 20, 2024 March 21, 2024	February 22, 2024
April 24, 2024 April 25, 2024	March 21, 2024
May 29, 2024 May 30, 2024	April 25, 2024
June 19, 2024 June 20, 2024	May 16, 2024

July 24, 2024 July 25, 2024	June 20, 2024
August 28, 2024 August 29, 2024	July 25, 2024
September 25, 2024 September 26, 2024	August 22, 2024
October 30, 2024 October 31, 2024	September 26, 2024
November 20, 2024 November 21, 2024	October 17, 2024
December 18, 2024 December 19, 2024	November 14, 2024
January 22, 2025 January 23, 2025	December 19, 2024

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

NORTH DAKOTA TRANSMISSION AUTHORITY

Mr. Claire Vigesaa gave a presentation of the Electric Transmission Capacity Study Update. The NDTA engaged Power System Engineering, Inc (PSE) to help provide some insight into the current and expected future capacity of the transmission system in North Dakota. In the first phase of the assessment, PSE has performed Generator Interconnection Queue and Transmission Expansion Plan Reviews in order to shed some light on the upcoming generation additions and transmission system upgrades. Observations and conclusions drawn from these reviews will help shape the transmission analysis to be performed in Phase 2 of the study,

Any new generation planned to interconnect to the transmission system in North Dakota will be studied under the MISO, SPP, or MPC Generation Interconnection (GI) processes. These processes are conceptually similar but differ in key details. They were all initially based on the FERC pro-forma tariff but have evolved over time to meet the needs of each organization as they respond to an unprecedented level of new generation interconnection requests. All three utilize group studies to process interconnection requests received as of a certain date. These studies are all coordinated between these groups in order to establish a “queue priority” for each study group. This is used to allocate network capacity and identify cost responsibility for network upgrades.

As of November 21, 2023, there were 107 projects representing a maximum of 20,083.8 MW in ND generation in the MISO, SPP, and MPC GI queues. Of these, 38 projects are in service, 9 projects are

under construction or proceeding towards construction, and 60 projects are under study in the respective GI process. (The full report is available on the website).

Mr. Vigesaa presented for consideration of approval the BIL 40101(d) Grid Resilience sub-awards:

- i. **IIJA-A-C: “Converting Overhead Crossings to Underground Across Federal and State Highways”** – Capital Electric Cooperative; Project Duration: 14 months; Total Project Cost: \$505,890; Recommended Funding: \$321,930. The objective of this project is to convert 49 highway overhead crossings to underground cable.
- ii. **IIJA-01-D: “Next-Generation Grid Resiliency”** – Otter Tail Power Company; Projection Duration: 2 years; Total Project Cost: \$11,177,647; Recommended Funding: \$4,432,088. The objective of this project is to provide increased awareness of grid conditions and enable new and more efficient processes, allowing to reduce the magnitude and duration of grid outages caused by major disruptive storm and non-storm events.
- iii. **IIJA-01-L: “Electronic SCADA Recloser Installation”** – Northern Plains Electric Cooperative; Project Duration: 10 months; Total Project Cost: \$879,000; Recommended Funded: \$586,000. The objective of this project is to implement adaptive protection technologies with the installation of 19 sets of remote operated SCADA ready electronic reclosers and panels in existing distribution substations. These will allow dispatchers to remotely control and isolate faults prior to the crews being on scene. This project will upgrade 6 substations.
- iv. **IIJA-01-G: “Capacitor Banks, Communications, SCADA Control”** – McKenzie Electric Cooperative; Project Duration: 2 years; Total Project Cost: \$8,100,000; Recommended Funding: \$2,843,075. The objective of this project is to install four (4) 115 KV capacitor banks and communication line upgrades along with commissioning SCADA control to the entire substation fleet.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the recommendation of the Transmission Authority Executive Director, approves \$8,183,093 in funding for BIL 40101(d) Grid Resilience sub-awards, contingent upon U.S. Department of Energy approval, and authorizes the Office of the Industrial Commission to enter into contracts for the following projects:

IIJA-01-C: “Converting Overhead Crossings to Underground Across Federal and State Highways” – Capital Electric Cooperative; Project Duration: 14 months; Total Project Cost: \$505,890; Recommended Funding: \$321,930

IIJA-01-D: “Next-Generation Grid Resiliency” – Otter Tail Power Company; Project Duration: 2 years; Total Project Cost: \$11,177,647; Recommended Funding: \$4,432,088

IIJA-01-L: “Electronic SCADA Recloser Installation” – Northern Plains Electric Cooperative; Project Duration: 10 months; Total Project Cost: \$879,000; Recommended Funding: \$586,000

IIJA-01-G: “Capacitor Banks, Communications, SCADA Control” – McKenzie Electric Cooperative; Project Duration: 2 years; Total Project Cost: \$8,100,000; Recommended Funding: \$2,843,075

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 a Concept Paper for Grid Resilience and Innovation Partnerships (GRIP) Funding. The request is for the North Dakota Industrial Commission to support the POWER project by allowing the Transmission Authority (NTA) to serve as the primary applicant to DOE.

The North Dakota Association of Rural Electric Cooperatives (NDAREC) hosted a Project Development Workshop in May 2023 to solicit input from NDAREC members about the types of projects they'd like to submit for federal funding from Bipartisan Infrastructure Law (BIL) programs. The Providing Opportunity with Energy Redundancy (POWER) project emerged from that convening. Now, NDAREC has contracted with Converge Strategies to put together a full application for GRIP funding for the project. DOE requires a state government office to serve as the primary applicant – the NDTA.

GRIP concept papers are due to DOE on January 12, 2024. Converge Strategies, in partnership with NDTA and NDAREC will write and submit the concept paper. If encouraged to move on to full application, full applications are due April 17, 2024. If selected to move to negotiations, NDTA will likely be noted in summer of 2024, and the anticipated start of the project would be winter 2024 or early 2025.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission authorizes the Office of the Industrial Commission and the Transmission Authority to submit a concept paper for an application under the U.S. Department of Energy's Grid Resilience and Innovative Partnerships (GRIP) program, and directs both the Office of the Industrial Commission and the Transmission Authority to oversee the North Dakota Association of Rural Electric Cooperatives' development of the concept paper and application materials.

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

NORTH DAKOTA PUBLIC FINANCE AUTHORITY

Ms. DeAnn Ament presented for consideration of approval the following loan applications:

- i. Central Plains Water District – Drinking Water - \$9,714,000. The purpose of this project is for filtration system upgrades at the Maddock water treatment plant and a new transmission line from the plant to Reservoir 2. The requested loan term is 20 years and the District will issue revenue bonds payable with water user fees. The average annual payment for the revenue bonds will be \$78,159.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the \$9,714,000 loan request from the Drinking Water State Revolving Loan Fund to Central Plains Water District.

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

A RESOLUTION WAS MADE

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, Central Plains Water District (the "Political Subdivision") has requested a loan in the amount of \$9,714,000 from the Program for filtration system upgrades at the Maddock water treatment plant and a new transmission line from the plant to Reservoir 2; 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.

Adopted: December 18, 2023

- ii. South Central Regional Water District – Drinking Water - \$2,497,000. The purpose of this project is to connect the City of Ashley to South Central Regional Water District. The requested loan term is 30 years and the District will issue revenue bonds payable with water user fees. The average annual payment for the revenue bonds will be \$105,749.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the \$2,497,000 loan request from the Drinking Water State Revolving Loan Fund to South Central Regional Water District.

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

A RESOLUTION WAS MADE

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, South Central Regional Water District (the "Political Subdivision") has requested a loan in the amount of \$2,497,000 from the Program to connect the City of Ashley to South Central Regional Water District; 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.

Adopted: December 18, 2023

Ms. Ament presented a memo of the State Revolving Fund loans approved by the Advisory Committee:

- i. Buffalo – Clean Water - \$1,330,000. The purpose of this project is to replace the 1964 four-inch asbestos concrete sanitary force main with a six-inch PVC pipe which will alleviate the excessive stress on the lift station pumps. The requested loan term is 30 years and the City will issue improvement bonds payable with special assessments. The average annual payment for the improvement bonds will be \$55,663.

INDUSTRIAL COMMISSION LEGAL UPDATE

Litigation Update:

- i. Northwest Landowners v. NDIC – The schedule has been pushed back. The Court granted Farm Bureau’s motion to intervene. The replacement schedule is being worked on and will likely push everything back at minimum 30-60 days.
- ii. NDIC v. DOI Quarterly Federal Lease Sales – There is a status hearing on February 9, 2023 with Judge Traynor.

Federal Regulatory Update

- i. BLM Resource Management Plan – an MOU has been signed and cooperating agencies will move forward in January.
- ii. EPA Methane Rules – The final rule is exceedingly problematic for the state of ND. A response is underway in coordination with other impacted states. It is estimated that withing two years the state would lose approximately 2800 jobs and 57,000 barrels of oil per day with this ruling.
- iii. BLM Venting and Flaring – expecting that rule to roll out in Q1 2024.
- iv. DAPL DEIS – A comprehensive comment letter involving numerous state agencies has been submitted. A decision is expected in May of 2024.

BANK OF NORTH DAKOTA

Mr. Kelvin Hullet and Mr. Todd Steinwand presented a Report on BND DEAL Program Guideline Amendments. BND will no longer provide student loans to out of state students attending out of state universities. This policy change does not impact out of state students coming to ND for college, or ND residents going to universities out of state.

Mr. Steinwand presented the following Non-Confidential Meeting Minutes for the Commission member’s review:

- i. Finance and Credit Committee October 18, 2023 Meeting Minutes
- ii. Audit and Risk Committee October 19, 2023 Meeting Minutes
- iii. Advisory Board October 19, 2023 Meeting Minutes

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that that under the authority of North Dakota Century Code Sections 6-09-35, 44-04-18.4, 44-04-19.1, 44-04-19.2, the Industrial Commission enter into executive session for the purposes Bank of North Dakota confidential business and for attorney consultation.

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

The Commission is meeting in executive session regarding Bank of North Dakota business pursuant to N.D.C.C. 6-09-35 to consider those items listed on the agenda under Bank of North Dakota confidential business. Only Commission members, their staff, Commission staff, and BND staff will participate in that executive session.

After the Bank of North Dakota executive session, the Commission will meet in executive session for attorney consultation. Only Commission members, their staff, and Commission staff will participate in that executive session.

Any formal action taken by the Commission will occur after it reconvenes in open session.

Governor Burgum reminded the Commission members and those present in the executive sessions that the discussions must be limited to the announced purposes which is anticipated to last approximately 45 minutes.

The executive session began at approximately 4:12 p.m.

Meeting Closed to the Public for Executive Session Pursuant to NDCC 6-09-35, 44-04-18.4, 44-04-19.1 and 44-04-19.2.

BANK OF NORTH DAKOTA EXECUTIVE SESSION

Commission Members Present:

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

BND Staff Present:

Todd Steinwand, BND
Kelvin Hullet, BND
Craig Hanson BND

Others in Attendance

Ryan Norrell	Governor's Office
John Reiten	Governor's Office
Dutch Bialke	Ag Commissioner's Office
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

ATTORNEY CONSULTATION EXECUTIVE SESSION

Commission Members Present:

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

Attorneys Present:

Tom Boyd, Winthrop & Weinstine
Brent Lawrence, Winthrop & Weinstine

Others in Attendance

Ryan Norrell	Governor's Office
John Reiten	Governor's Office
Dutch Bialke	Ag Commissioner's Office

Karen Tyler Industrial Commission Office
Reice Haase Industrial Commission Office
Brenna Jessen Industrial Commission Office

The executive session ended at 4:59 p.m. and the Commission reconvened in open session.

During the Bank of North Dakota executive session, the Commission made a motion related to a loan application.

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

During the Attorney Consultation, the Commission gave guidance in regard to the Renewable Energy Standard and the newly created Carbon Free Standard under Minn. Stat. 216B.1691.

Being no further business, Governor Burgum adjourned the meeting of the Industrial Commission at 5:01 p.m.

North Dakota Industrial Commission



Brenna Jessen, Recording Secretary



Reice Haase, Deputy Executive Director



Karen Tyler, Interim Executive Director