

Minutes of a Meeting of the Industrial Commission of North Dakota

Held on May 28, 2024 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 1:05 p.m.

Ms. Karen Tyler took roll call, and Governor Burgum and Attorney General Wrigley were present.

Governor Burgum invited the room to stand and join the Commission in saying the Pledge of Allegiance.

OFFICE OF THE INDUSTRIAL COMMISSION

Ms. Karen Tyler presented for consideration of approval the April 30, 2024 Industrial Commission meeting minutes.

It was moved by Attorney General Wrigley and seconded by Governor Burgum that the Industrial Commission approve the April 30, 2024 meeting minutes.

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

Ms. Tyler presented for consideration of approval an updated professional services contract for the Pipeline Authority.

It was moved by Attorney General Wrigley and seconded by Governor Burgum that the Industrial Commission approve the updated and standardized contract format for the Pipeline Authority Executive Director contract and that the updated contract be executed and replace that currently in effect.

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

Ms. Tyler presented for consideration of approval an updated professional services contract for the Transmission Authority.

It was moved by Attorney General Wrigley and Governor Burgum that the Industrial Commission approve the updated and standardized contract format for the Transmission Authority Executive Director contract and that the updated contract be executed and replace that currently in effect.

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

*Commissioner Goehring joined the meeting at 1:15 p.m.

Mr. Reice Haase presented for consideration of approval a contract template for administrative management and technical support for Industrial Commission research and development programs.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the updated and standardized contract format for the Lignite Research, Development and Marketing Program consulting services and authorizes the Office of the Industrial Commission to execute the contract for consulting services.

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 the Fiscal Year 2024 3rd Quarter Results. Profits for the 3rd quarter of the year were \$5,187,825 compared to \$4,809,663 last year. Operating activity for the nine months ending March resulted in a profit of \$15,027,952 compared to \$11,315,019 last year, an increase of 32%. Sales for the 3rd quarter were \$123,236,967 compared to \$128,057,893 last year. Operating costs for the 3rd quarter were \$12,657,095 compared to \$12,329,601 last year. Profits for the 3rd quarter were \$5,187,825 compared to \$4,809,663 last year.

Ms. Karen Tyler and Ms. Cathy Dub presented for consideration of approval a recommendation to contract for consulting services.

The memo reads as follows:

“In August of 2023, a complaint by a former ND Mill employee was received by the Office of the Industrial Commission. Over the following months the Mill’s Chief Financial Officer, Cathy Dub, worked to address the matters set forth in the complaint, and I held numerous meetings with Ms. Dub and also with representatives of the Attorney General’s office.

The Mill has compiled a comprehensive response that covers each item in the complaint. However, due to the passage of time before the complaint was made, records retention policy, and employee turnover, Mill management was unable to review records pertaining to or corroborate numerous of the assertions made.

While the process of addressing this complaint has been thorough, and while all items that could be researched and reviewed have been addressed, awareness has been raised for myself and for the Mill management that the Mill may benefit from an independent review of current human resource, information technology, and governance policies. The primary goals of the review would be to ensure the Mill is operating with industry best practices, remains competitive and innovative, and continues to attract and retain the talent needed to operate profitably for the state.

Therefore, I am recommending the Industrial Commission consider the approval of the Mill’s request to contract for the services of an independent consultant to provide a performance review and deliver recommendations related to the North Dakota Mill and Elevator Association’s human resource, information technology, and governance policies and current management practices related thereto.”

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the Mill’s request to contract for the services of an independent

consultant to provide a performance review and deliver recommendations related to the North Dakota Mill and Elevator Association’s human resource, information technology, and governance policies and current management practices related thereto.

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

Under other business, Governor Burgum asked for an update on the Midds project. Mr. Taylor said they are hoping to be complete with the Midds Storage Facility and be ready for tours by October 2024. All the current capital projects are on schedule and on budget for this year.

NORTH DAKOTA PUBLIC FINANCE AGENCY

Ms. DeAnn Ament presented for consideration of approval the following State Revolving Fund loan application:

- i. City of Minot – Drinking Water - \$3,704,000

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the \$3,704,000 Drinking Water State Revolving Fund loan to the City of Minot.

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, the City of Minot (the “Political Subdivision”) has requested a loan in the amount of \$3,704,000 from the Program to replace cast iron pipe with PVC pipe; 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: May 28, 2024

Ms. Ament gave a presentation of the State Revolving Fund loans approved by the Public Finance Authority Advisory Board:

- i. Drake – Clean Water - \$149,000
- ii. Medina – Drinking Water - \$1,250,000
- iii. Northeast Regional Water District – Drinking Water - \$1,768,000

NORTH DAKOTA HOUSING FINANCE AGENCY

Mr. Brandon Dettlaff presented for consideration of approval changes to the FirstHome Income Limits.

The memo reads as follows:

“The Department of Housing and Urban Development (HUD) published new median income numbers on April 3, 2024. These numbers are used to establish the Annual Income limits for FirstHome, FirstHome Start, FirstHome DCA, and HomeAccess programs.

The new statewide median income for North Dakota increased \$3,500 (3.49%) to \$103,900 for 2024. This compares to the national median income increase of \$1,600 (1.66%) to \$97,800.

Mortgage Revenue Bond (MRB) regulations allow the use of the greater of county or state median income and those regulations and NDHFA policy limit household incomes as follows:

- FirstHome – 100% of median income – one and two member households by county (MRB regulation)
- FirstHome – 115% of median income – three or more member households by county (MRB regulation)
- DCA limits – 80% of median income by family size and county (NDHFA policy)

The proposed 2023 limits range from \$103,900 to \$128,110 depending on family size and county.

The NDHFA Advisory Board recommends the Industrial Commission approve, in the form of Program Directive No. 122 per Exhibit 1, new Annual Income limits effective for loan reservations under FirstHome (Standard/Start/HomeAccess) programs dated on or after June 1, 2024.

The Advisory Board further recommends changes to the DCA Program limits per Exhibit 2 effective for loan reservations dated on or after June 1, 2024.”

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the NDHFA Advisory Board and approve, in the form of Program Directive No. 122, new Annual Income limits effective for loan reservations under the FirstHome/Standard/Start/HomeAccess programs dated on or after June 1, 2024 as follows:

Maximum Annual Income

FirstHome/Start/HomeAccess

County	Family Size	Family Size
	Less than 3	3 or more
Mercer/Williams	\$111,400	\$128,110
Burleigh/Morton/Oliver/McKenzie/Stark	\$108,300	\$124,545
Cass	\$105,900	\$121,785
Ward	\$105,200	\$120,980
Grand Forks	\$104,300	\$119,945
All Other Counties	\$103,900	\$119,485

And further that the Industrial Commission accept the recommendation of the NDHFA Advisory Board and approve changes to the DCA Program limits per Exhibit 2 effective for loan reservations dated on or after June 1, 2024 as follows:

DCA INCOME LIMITS
06/01/2024

COUNTY	FAMILY SIZE*							
	1	2	3	4	5	6	7	8
Mercer/Williams	62,400	71,300	80,200	89,100	96,250	103,400	110,500	117,650
Burleigh/Morton/Oliver/McKenzie/Stark	60,700	69,350	78,000	86,650	93,600	100,550	107,450	114,400
Cass	59,300	67,800	76,250	84,700	91,500	98,300	105,050	111,850
Grand Forks/Ward	58,450	66,800	75,150	83,450	90,150	96,850	103,500	110,200
All Others	56,850	65,000	73,100	81,200	87,700	94,200	100,700	107,200

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

Ms. Kayla Axtman gave a report on the pricing and sale of the 2024 Series AB Bond Issue, and an update on the current interest rate environment impact on single-family homeownership programs. 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 9 times and continues to be well below the current market rate for a 30-year conventional loan. The average 30-year FHA mortgage rate is 6.61% and the average 30-year conventional mortgage is 7.11% right now. For the past two months, the Agency is averaging just over \$10.4 million a week in FirstHome (tax exempt) reservations and approximately \$1.4 million in Roots (taxable) reservations. Currently, the

average total payment (principal, interest, taxes and insurance) for a FirstHome borrower is \$1,191 and for a Roots borrower is \$1,932.

RENEWABLE ENERGY PROGRAM

Mr. Charles Gorecki and Mr. Reice Haase presented for consideration of approval the following Grant Round 53 Recommended Award:

- i. **R-053-B – Regional Electric Vehicle Infrastructure Resiliency (REVIR) Plan**; Submitted by EERC; Total Project Costs: \$1,875,000; Award Amount: \$375,000

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the recommendation of the Renewable Energy Council, approves the following Renewable Energy Program project, and authorizes the Office of the Industrial Commission to enter into a contract for the following project:

R-053-B – Regional Electric Vehicle Infrastructure Resiliency (REVIR) Plan; Submitted by EERC; Total Project Costs: \$1,875,000; Award Amount: \$375,000

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

LIGNITE RESEARCH, DEVELOPMENT AND MARKETING PROGRAM

Mr. Reice Haase gave a presentation of the Lignite Research Program Project Management and Financial Report. The Lignite Research fund has 255 cumulative projects with 20 of those being active. The fund has \$26,945,449.87 in committed funds and \$5,295,800.49 in funds available for projects.

Mr. Mike Holmes gave a presentation of the Lignite Research and Development Report. The current Lignite Research Program's active projects are focused on Carbon Management (19%), Rare Earth Elements and Critical Minerals (23%), Emerging Markets (50%), and Miscellaneous (8%).

Mr. Holmes presented for consideration of approval the following Grant Round 104 Recommended Awards:

- i. **LRC-104A:** Continued Funding for Regional Lignite Public Affairs Program
- ii. **LRC-104B:** Phase I Bridge Study for CCS at Coal Creek Station
- iii. **LRC-104C:** Lignite Conversion Reactor Optimization for Commercial Carbon Pitch Manufacturing

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the recommendation of the Lignite Research Council, approves the following Lignite Research Development and Marketing Program projects, and authorizes the Office of the Industrial Commission to enter into contracts for the following projects:

LRC-104A - Continued Funding for Regional Lignite Public Affairs Program; Submitted by Lignite Energy Council; Total Project Costs: \$3,600,000; Award Amount: \$1,800,000

LRC-104B - Phase I Bridge Study for CCS at Coal Creek Station; Submitted by Rainbow Energy Center; Total Project Costs: \$2,188,833; Award Amount: \$1,094,416

LRC-104C - Lignite Conversion Reactor Optimization for Commercial Carbon Pitch Manufacturing; Submitted by AmeriCarbon Products, LLC; Total Project Costs: \$1,488,809; Award Amount: \$743,809

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

Mr. Claire Vigesaa presented for consideration of approval the Transmission Authority's request for \$582,795: IJJA Grid Resiliency FY 2024 Match.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accepts the recommendation of the Lignite Research Council and authorizes \$582,795 from the Lignite Research Fund to be used as the state match for the North Dakota Transmission Authority's application for Fiscal Year 2024 funding for Grid Resilience Grants 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.

Under other business, Mr. Vigesaa gave an update on the Final Carbon Rule Modeling Study stating that the EPA reduced demand forecasts when it should have been increased. The Commission members stated that the issues related to electricity demand growth and generation capacity shortage must be urgently and continuously communicated to the public to build understanding of the real and growing potential of future blackouts.

BANK OF NORTH DAKOTA

Mr. Darrell Lingle with Eide Bailly gave a presentation of the North Dakota Guaranteed Student Loan Program Audit. In Eide Bailly's opinion, the accompanying financial statements, present fairly, in all material respects, the respective financial position of the business-type activities of the Program, as of December 31, 2023 and 2022, and the respective changes in its financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Mr. Lingle with Eide Bailly gave a presentation of the Independent Auditor's Report and Fiscal Statement for Bank of North Dakota for Year Ending December 31, 2023 (FASB). In Eide Bailly's opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Bank of North Dakota as of December 31, 2023 and 2022, and the results of its operations and its cash flows for years then ended, in accordance with financial reporting provisions as promulgated by FASB described in Note 1.

Mr. Todd Steinwand presented the 2023 BND Annual Report for the Commission members review.

Mr. Steinwand presented the Commission members with the following Non-confidential BND Advisory Board meeting minutes for their review:

- i. March 20, 2024 Nonconfidential Finance and Credit Committee Minutes
- ii. March 21, 2024 Nonconfidential Advisory Board Minutes

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring 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.

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 confidential 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 regarding that item listed on the agenda. Only Commission members, their staff, Commission staff, and Commission attorneys 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 session that the discussions must be limited to the announced purposes which is anticipated to last approximately 45 minutes.

The executive session began at 3:30 pm.

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

BANK OF NORTH DAKOTA EXECUTIVE SESSION

Industrial Commission Members Present

Governor Doug Burgum

Attorney General Drew H. Wrigley

Agriculture Commissioner Doug Goehring

BND Members Present

Todd Steinwand, BND

Kirby Evanger, BND

Rob Pfennig, BND

Craig Hanson, BND

Kaylen Hausauer, BND

Others in attendance

John Reiten Governor's Office

Ryan Norrell Governor's Office

Zach Greenberg Governor's Office

Jace Beehler	Governor's Office
Dutch Bialke	Ag Department
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

ATTORNEY CONSULTATION

Industrial Commission Members Present

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

Winthrop and Weinstine Attorney's
Brent Lawrence
Tom Boyd

Others in attendance

John Reiten	Governor's Office
Ryan Norrell	Governor's Office
Zach Greenberg	Governor's Office
Jace Beehler	Governor's Office
Phil Axt	Attorney General's Office
Dutch Bialke	Ag Department
Lynn Helms	Department of Mineral Resources
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

The executive session ended at 5:10 p.m. and the Commission reconvened in open session.

During the Bank of North Dakota executive session, the Commission discussed Bank of North Dakota confidential items.

During the Attorney Consultation executive session, the Commission consulted with its attorneys regarding the Minnesota Renewable Energy Standard and the Newly Created Carbon Free Standard under Minnesota Statute Chapter 216B.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Commission approve its comment letter regarding the Minnesota Renewable Energy Standard, contingent upon the addition of references to the Transmission Authority's studies on EPA proposed rules and authorizes the Office of the Industrial Commission to submit its comment letter to the Minnesota Public Utilities Commission.

LEGAL UPDATE

- A. Litigation Update
 - i. NDIC v. DOI Quarterly Federal Lease Sales
 - ii. Northern Oil and Gas v. Continental Resources, NDIC et al

- B. Federal Regulatory Update
 - i. EPA Methane Waste Emission Charge
 - ii. BLM Venting and Flaring
 - iii. Dakota Prairie Grasslands Travel Management Plan
 - iv. DAPL Draft Environmental Impact Statement
 - v. Federal Executive Order 14008

DEPARTMENT OF MINERAL RESOURCES

Governor Burgum requested that the presentation of the Geological Survey Quarterly Report be moved to next month's Industrial Commission meeting due to time constraints.

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

- i. **Order No. 33319 issued in Case No. 30669** regarding an application of Hess Bakken Investments II, LLC to establish a 1,280-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 No. 33319 issued in Case No. 30669 granting an application of Hess Bakken Investments II, LLC for an order amending the applicable orders for the Blue Buttes-Bakken Pool to establish an overlapping laydown 1280-acre spacing unit described as Section 12, T.150N., R.96W. and Section 7, T.150N., R.95W., 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 No. 33464 issued in Case No. 30804** regarding an application of Hess Bakken Investments II, LLC to establish an overlapping 3,840-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 No. 33464 issued in Case No. 30804 granting an application of Hess Bakken Investments II, LLC for an order amending the applicable orders for the Blue Buttes-Bakken Pool to establish an overlapping 3840-acre spacing unit described as Sections 25 and 36, T.151N., R.96W., Sections 30 and 31, T.151N., R.95W., Section 1, T.150N., R.96W., and Section 6, T.150N., R.95W., 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.

- iii. **Order No. 33469 issued in Case No. 30809** regarding the confiscation of equipment and salable oil at the Erickson 1-27H well in Divide County, ND

- iv. **Order No. 33470 issued in Case No. 30810** regarding the confiscation of equipment and salable oil at the Landstrom 1-33H well in Divide County, ND
- v. **Order No. 33471 issued in Case No. 30811** regarding the confiscation of equipment and salable oil at the Burner 1-34H well in Divide County, ND
- vi. **Order No. 33472 issued in Case No. 30812** regarding the confiscation of equipment and salable oil at the 29-144-102 Burlington Northern 1 well in Billings County, ND

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approves Order Nos. 33469, 33470, 33471, and 33472 issued in Case Nos. 30809, 30810, 30811, and 30812 respectively, authorizing the confiscation of all production-related equipment and salable oil at the Erickson 1-27h well (File No. 16087), Lot 1 Section 27, T.164N., R.97W., Crosby Field, Divide County, ND, Landstrom 1-33h well (File No. 16307), NENE Section 33, T.164N., R.97W., Crosby Field, Divide County, ND, Burner 1-34h well (File No. 16267), NENE Section 34, T.164N., R.97W., Crosby Field, Divide County, ND, and the 29-144-102 Burlington Northern 1 well (File No. 8234), NWNW Section 29, T.144N., R.102W., Morgan Draw Field, Billings County, ND, operated by Vast Operations, LLC, Dry Creek Disposal Company, Inc., 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.

Dr. Helms gave a report on Abandoned Well Plugging and Site Restoration Fund settled civil cases.

Ms. Tyler presented the Industrial Commission Resolution of Appreciation for Lynn Helms.

A RESOLUTION WAS MADE

Resolution of Appreciation

- Whereas,** Lynn Helms has admirably served the State of North Dakota since June 1998, both as the Director of the Oil and Gas Division and as the Director of the Department of Mineral Resources; and
- Whereas,** Lynn has been dedicated to the Department’s mission of encouraging and promoting the development, production, and utilization of oil and gas in the state in such a manner as will prevent waste, maximize economic recovery, and fully protect the correlative rights of all owners to the end that the landowners, the royalty owners, the producers, and the general public realize the greatest possible good from these vital natural resources; and
- Whereas,** During Lynn’s tenure with the Department, North Dakota’s average monthly oil production has grown from approximately 99,000 barrels per day in 1998 to over 1.2 million barrels per day in 2024; and
- Whereas,** Lynn’s work during this time fostered a stable regulatory environment within which the incredible growth of North Dakota’s oil and gas industry was made possible, which has resulted in the greatest possible good for all North Dakotans, revenues from which are used to fund public infrastructure like drinking water, schools, and roads; and

Whereas, Lynn played a key role in advancing many milestones on behalf of North Dakota, including primacy over the Environmental Protection Agency’s Class VI carbon dioxide injection program, historic tribal-state oil tax sharing agreements, demonstrating the safety of shipping Bakken crude oil by rail, providing the framework for the federal REGROW Act, and serving as a well-respected national leader in organizations like the Interstate Oil and Gas Compact Commission; and

Whereas, Lynn’s dedication to the Industrial Commission and to the State of North Dakota will leave a lasting legacy for all citizens of our state and is
deserving of recognition.

Now, therefore, the North Dakota Industrial Commission hereby expresses deep gratitude to Lynn Helms for his service to the citizens of North Dakota and wishes him the very best in his retirement.

Adopted this 28th day of May, 2024.

Ms. Tyler presented a Delegation Resolution for Geological Survey.

A RESOLUTION WAS MADE

Resolution of Delegation: Geological Survey

Whereas, The Industrial Commission ("Commission") has a range of responsibilities and broad authority under Title 38 of the North Dakota Century Code, titled "Mining and Gas and Oil Production" and Chapters 54-17.3 titled "Paleontological Resource Protection," 54-17 .4 titled "Geological Survey" and 23-20.2 titled "Disposal of Nuclear & Other Waste Material."; and

Whereas, the Commission has authority under North Dakota Century Code Chapters 38-08, "Control of Gas and Oil Resources;" 38-08.1, "Geophysical Exploration Requirements;" 38-12, "Regulation, Development, and Production of Subsurface Minerals;" 38-12.1, "Exploration Data;" 38-15, "Resolution of Conflicts in Subsurface Mineral Production;" 38-19, "Geothermal Resource Development Regulation;" 38-21, "Exploration Fund;" 38-22, "Carbon Dioxide Underground Storage;" and 38-25, "Underground Storage of Oil and Gas"; and

Whereas, The Commission has adopted administrative rules to implement Title 38, and Chapters 54-17.3, and 54-17.4, which provides for the Director of the Department of Mineral Resources to either “appoint the state geologist or carry out the duties of the state geologist along with the duties of director of mineral resources.”; and

Whereas, North Dakota Century Code Section 38-08-04.2 provides that the Commission “may delegate to the director of oil and gas all powers the commission has under this title and under rules enacted under this title.”; and

Whereas, Lynn Helms, Director of the Department of Mineral Resources has announced his intention to retire, effective June 30th, 2024.

Now, therefore, the North Dakota Industrial Commission delegates to the State Geologist the authority to carry out, on the Commission's behalf and in its name, all of the Commission's Chapters 54-17.3, 54-17.4 and 23-20.2 statutory and administrative rule authority and responsibility. This delegation of authority does not, however, include the following:

1. Executing final orders for cases in which the person opposing the requested relief presents substantial or procedurally sound reasons for the opposition;
2. Executing final orders for cases in which the State Geologist contemplates granting relief that substantially differs from that requested;
3. Initiating and settling litigation in the courts;
4. Executing final orders imposing a fine for administrative cases in which the person who is the subject of an administrative complaint opposes the proposed penalty and the State Geologist cannot reach a negotiated settlement with such person;
5. Executing orders granting or denying a petition for reconsideration;
6. Executing final orders for cases dealing with the development or production of subsurface minerals.

Adopted this 28th day of May, 2024.

Ms. Tyler presented a Delegation Resolution for Oil and Gas Division.

A RESOLUTION WAS MADE

Resolution of Delegation: Oil and Gas Division

Whereas, The Industrial Commission ("Commission") has a range of responsibilities and broad authority under Title 38 of the North Dakota Century Code, titled "Mining and Gas and Oil Production" and Chapters 54-17.3 titled "Paleontological Resource Protection," 54-17 .4 titled "Geological Survey" and 23-20.2 titled "Disposal of Nuclear & Other Waste Material."; and

Whereas, the Commission has authority under North Dakota Century Code Chapters 38-08, "Control of Gas and Oil Resources;" 38-08.1, "Geophysical Exploration Requirements;" 38-12, "Regulation, Development, and Production of Subsurface Minerals;" 38-12.1, "Exploration Data;" 38-15, "Resolution of Conflicts in

Subsurface Mineral Production;" 38-19, "Geothermal Resource Development Regulation;" 38-21, "Exploration Fund;" 38-22, "Carbon Dioxide Underground Storage;" and 38-25, "Underground Storage of Oil and Gas"; and

Whereas, The Commission has adopted administrative rules to implement Title 38, and Chapters 54-17.3, and 54-17.4, which provides that “the industrial commission is authorized to appoint a director of mineral resources who shall serve at the pleasure of the commission. The director of mineral resources shall carry out the duties of the director of oil and gas along with the duties of director of mineral resources.”; and

Whereas, North Dakota Century Code Section 38-08-04.2 provides that the Commission “may delegate to the director of oil and gas all powers the commission has under this title and under rules enacted under this title.”; and

Whereas, Lynn Helms, Director of the Department of Mineral Resources has announced his intention to retire, effective June 30th, 2024.

Now, therefore, the North Dakota Industrial Commission delegates to the Director of Oil and Gas the authority to carry out, on the Commission's behalf and in its name, all of the

Commission's Title 38 statutory and administrative rule authority and responsibility. This delegation of authority does not, however, include the following:

1. Executing final orders for cases dealing with creating and terminating secondary and tertiary recovery units;
2. Executing final orders for cases in which the person opposing the requested relief presents substantial or procedurally sound reasons for the opposition;
3. Executing final orders for cases in which the Director contemplates granting relief that substantially differs from that requested;
4. Initiating and settling litigation in the courts;
5. Executing final orders imposing a fine for administrative cases in which the person who is the subject of an administrative complaint opposes the proposed penalty and the Director cannot reach a negotiated settlement with such person;
6. Executing orders granting or denying a petition for reconsideration;
7. Executing final orders for cases dealing with carbon dioxide storage facility permits and certificates of carbon dioxide project completion;

Adopted this 28th day of May, 2024.

Being no further business, Governor Burgum adjourned the meeting at 5:25 p.m. and invited everyone to the Pioneer Room following the meeting to celebrate Lynn Helms and his retirement.

North Dakota Industrial Commission



Brenna Jessen, Recording Secretary



Reice Haase, Deputy Executive Director



Karen Tyler, Interim Executive Director