

**BOTTINEAU COUNTY WATER RESOURCE DISTRICT
MINUTES OF THE MEETING HELD ON APRIL 15, 2024
BOTTINEAU COUNTY COURTHOUSE**

1. ATTENDANCES

PRESENT: Clifford Issendorf, Chair
Wayne Drangsholt, Treasurer
Wally Brandjord, Vice Chair
Mark Glinz, Manager
Mitch Opdahl, Manager

IN ATTENDANCE: Jennifer Malloy, Administrator/Engineer
Kale Van Bruggen, Secretary/Counsel – via video conference
Stacy Lorenz, Chad Strand Agency, P.C. –left at 9:14 a.m.
See attached sign-in sheet.

2. COMMENCEMENT The meeting was called to order at 9:00 a.m.

3. SETTING OF THE AGENDA Chair Issendorf called for corrections or additions to the agenda. Hearing no corrections or additions to the agenda, the Chair declared the agenda adopted as presented.

4. APPROVAL OF FINANCIAL REPORT/APPROPRIATIONS

4.1 Financial Report & Proposed Appropriations Stacy Lorenz presented the financial report for April 2024 and proposed appropriations. The report and proposed appropriations were reviewed and discussed by the Board.

Moved Manager Drangsholt/Seconded Manager Glinz

That the financial reports be taken and confirmed as presented and that the monthly bills due be paid as presented.

Carried.

5. NEW BUSINESS

5.1 1st Quarter 2024 Quarterly Drain Summary Engineer Jennifer Malloy (Apex Engineering) reviewed the Financial Activity by Drain/Assessment District report for the 1st Quarter of 2024.

5.2 2025 Estimated Budget Engineer Jennifer Malloy (Apex Engineering) reviewed the Bottineau County Water Resource District proposed 2025 Budget prepared by Stacy Lorenz (Chad Strand Agency, P.C.). Lorenz noted that the entire cost of the State Audit is part of the proposed 2025 Estimated Budget; however, this cost has been shared with assessment drain funds in the past. The proposed 2025 Estimated Budget will be approved at the Board's regularly scheduled May meeting.

6. ASSESSMENT DRAINS Discussion was held on the status of all the District's existing assessment drains and proposed assessment drain projects. Special discussion was held on the following items:

6.1 LaPorte Coulee Drain Chair Issendorf submitted a Petition for Establishment of the LaPorte Coulee Drain and reviewed the Petition with the Board. A cash bond was submitted by Jerry Kersten (\$2,000); Kelly Thorenson (\$5,000); Dale Thorensen (\$3,000); Tom Issendorf (\$6,000); Clifford Issendorf (\$5,000); Royce Gessner (\$1,500); Todd Hunsakor & Kelly Thorensen (\$3,000); and Harlan Balda (\$3,000).

Stacy Lorenz (Chad Strand, P.C.) left the meeting.

7. CONFIRMATION OF MINUTES

Moved Manager Drangsholt/Seconded Manager Opdahl

That the minutes of the regular Board meeting held on March 18, 2024, be approved as presented.
Carried.

6. ASSESSMENT DRAINS (CONT.)

6.2 Haas Coulee Drain Phase V & Stead Drain Phase II Engineer Jennifer Malloy (Apex Engineering) reported that the surveys for Haas Coulee Drain Phase V & Stead Drain Phase II will be done this week. Attorney Van Bruggen (Rinke Noonan, Ltd.) reported that Haas Coulee Drain Phase V and Stead Drain Phase II were part of the preliminary engineer report alignment for those drains, but not included in initial construction. Acquisition of easements will be needed for the cleaning out and repairing and extending of the drains.

Moved Manager Drangsholt/Seconded Manager Opdahl

That Rinke Noonan, Ltd. draft and request easements from landowners as necessary for acquisition of right-of-way for construction and future maintenance of the Haas Coulee Drain Phase V and Stead Drain Phase II.

Carried.

6.3 Brander Drain Engineer Jennifer Malloy (Apex Engineering) reported on a request for maintenance work on Brander Drain. The Board discussed maintenance needs along the alignment of the proposed Lateral A, but this is not on the assessment drain right-of-way.

6.4 Kane Tacoma Drain Chair Issendorf reported on a letter dated April 11, 2024 by Jonathan Kersten to the Board. The letter addresses the history of culverts on the Kane Tacoma Drain alignment between the NE¼ and SE¼ of Section 33-161-79. Kersten's letter reports that the culverts were installed as part of the original drain construction to slow water flow; in the 1980s there were waterman gates installed to provide flood irrigation in the spring and flow control in the wet years to prevent erosion downstream. Kersten's letter states that the culverts were dug and reset around 1999 and are starting to fail, with the culverts having shifted, opening joints up, and creating the water to wash away and leak excessively. Kersten's letter states that the crossing is used by Welstad's to drive machinery to cross to fields. Kersten's letter requests a response on who is responsible to repair the drainage system. The Board discussed the need to repair the crossing. The crossing is on the as-constructed plans for the assessment drain and is part of the assessment drain infrastructure.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the 48-inch culverts on the crossing between the NE ¼ and SE ¼ of Section 33-161-79 shall be repaired and that Apex Engineering shall be authorized to contract for the repair.

Carried.

6.5 LaPorte Coulee Drain The Board reviewed the Petition for the LaPorte Coulee Drain Project and instructed Attorney Kale Van Bruggen to prepare a resolution declaring constructing and maintaining the proposed project as necessary, identifying the nature and purpose of the proposed project, and designating a registered engineer to assist the board.

Moved Manager Opdahl/Seconded Manager Drangsholt

That Professional Engineer Jennifer Malloy and Apex Engineering shall be appointed to prepare profiles, plans, specifications, and total estimated costs of the proposed LaPorte Coulee Drain project.

Carried.

- 6.6 Scandia-Scotia Drain** Engineer Jennifer Malloy (Apex Engineering) reported on the investigation into alternatives to improve flow across the NE ¼ of Section 19-163-79 and reviewed the survey from summer of 2023. The elevation is very flat from the east side of Section 19-163-78 to the middle of Section 11-163-79. The grade increases from the middle of Section 11 to the northwest. One proposal is to address positive grade between Sections 19 & 20-163-78 and Sections 10 & 11-163-79. Confirmation in writing would be needed from the U.S. Fish & Wildlife Service regarding compliance with waterfowl production area easements in the SE ¼ of Section 11-163-79. Another proposal is to use a lift pump. This may require amendments to the surface drain permit and a permit from the Army Corps. Another option is for landowners to work cooperatively to permit and construct private improvements. The Board discussed all three options.

Moved Manager Glinz/Seconded Manager Opdahl

That Apex Engineering prepare the plans and specifications and Rinke Noonan, Ltd. draft and request easements from landowners as necessary for acquisition of right-of-way for construction and future maintenance of the established Scandia Scotia Drain in the NW ¼ of Section 11-163-79.

Carried.

- 6.7 North Landa Drain** Attorney Van Bruggen (Rinke Noonan, Ltd.) reported that a draft petition for the proposed North Landa Drain was prepared and sent to Chairman Issendorf and Manager Brandjord. Manager Brandjord is circulating the draft petition with owners of property to be drained by the proposed assessment drain. Engineer Jennifer Malloy (Apex Engineering) reported that the Board will discuss this proposed drain further with landowners at 11:00 a.m.

Carried.

- 6.8 South Landa Drain** Engineer Jennifer Malloy (Apex Engineering) reported on the status of Farden Construction reinitiating construction on the South Landa Drain project. Manager Opdahl reported that landowners are requesting gravel on the approaches constructed with excess spoil materials and that there are requests for additional locations. The Project currently includes covering the cost to haul the material for previously identified approaches. Engineer Malloy will request an estimate from Farden for the gravel and bringing it to the Board as a change order, unless the cost is less than \$25,000, in which case Chair Issendorf and a second Manager can approve the change order.

Additional members of the public arrived at the meeting to discuss the proposed North Landa Drain. See the sign-in sheet attached to these minutes.

Engineer Malloy reported that she received a request from Randy Rosendahl to revise the alignment of the South Lateral. Malloy noted that this proposal was discussed and shared with landowners during the engineering design, but no response was received. Farden Construction estimated these revisions would be an additional \$108,000 in construction. The Board discussed the request and consensus of the Board was not to investigate the request further. The final plans and specifications have been approved.

DRAFT/UNOFFICIAL MEETING MINUTES

Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported on the status of South Landa Drain easement acquisitions. The Board authorized Rinke Noonan, Ltd. to begin formal negotiations with the grantors on Easement 26 (Martinson et al.) at the October 16, 2023, meeting. After that meeting, one of the grantors, Tim Martinson, continued informal negotiations with counsel for the District and requested revisions to the easement to clarify the ability to fence and pasture cattle within the easement area. The Board approved those changes, and the revisions were offered to Mr. Martinson. Mr. Martinson stopped communicating with counsel for the District at that point. An appraisal has been ordered from Chris Chase at Point Value Appraisal for Easement 26. Once the appraisal is received, it will be shared with the Board and reviewed in executive session.

The Board authorized sending the grantors on Easement 19 (Tennyson et al.) the appraisal from Point Value Appraisal and a written offer for just compensation at the March 19, 2024, meeting.

Counsel representing the grantors on Easement 24 (Morris) indicated her clients would sign the easement, but the easement has not been delivered.

- 6.9 North Landa Drain** Attorney Van Bruggen (Rinke Noonan, Ltd.) reported that a draft petition for the proposed North Landa Drain was prepared and sent to Chairman Issendorf and Manager Brandjord. Manager Brandjord is circulating the draft petition with owners of property to be drained by the proposed assessment drain. Engineer Jennifer Malloy (Apex Engineering) reported that the Board will discuss this proposed drain further with landowners at 11:00 a.m.

7. OLD BUSINESS

- 7.1 Oak Creek Water Resource District Boundary Correction** No updates.

- 7.2 2025 Water Development Plan** Engineer Jennifer Malloy (Apex Engineering) revisited her report at the March 18, 2024, meeting on the request by the Department of Water Resources and State Water Commission to identify potential water development projects, the timing of their implementation, and estimated costs for the 2025-2027 Water Development Plan. Submissions are due by the end of April 2024. The Board discussed potential projects and Malloy will submit them to the DWR.

- 7.3 2024 Operation and Maintenance** Engineer Jennifer Malloy (Apex Engineering) revisited her report at the March 18, 2024, meeting on the draft 2024 Operation and Maintenance Schedule. The Schedule shows the O&M fund balances by each assessment drain as of March 8, 2024, the maximum levy amount for each account, the 2024 anticipated operation and maintenance, and the estimated construction amount for 2024 anticipated operation and maintenance. The Board discussed the 2024 anticipated operation and maintenance needs for each assessment drain. Operation & maintenance levies will be reviewed at the June & July meeting and approved at the July meeting. The Board had previously directed Malloy to solicit quotes from the contractor used for 2023 spraying to perform 2024 spraying on assessment drains. Malloy will add Brander Drain to the Schedule.

5. NEW BUSINESS (CONT.)

- 5.3 New Pledge Agreement – Starion Bank & Bank of North Dakota** Engineer Jennifer Malloy (Apex Engineering) reviewed correspondence received from Michele Franco and Richard Geloff at Starion Bank regarding its transition from Wells Fargo to the Bank of North Dakota for public fund/sovereign nation pledging. Starion is requesting a new pledge agreement and acknowledgment of Starion moving the Districts securities to the Bank of North Dakota.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the Starion Bank Consent Letter dated April 16, 2024 and related Agreement for Safekeeping of Pledged Securities between Bottineau County Water Resource District (Pledgee), Starion Bank (Pledgor), and the Bank of North Dakota (Custodian) be approved and that Chair Issendorf or Administrator Malloy be authorized to sign the Consent Letter and Agreement on behalf of the District.

Carried.

The Chair declared a 5-minute recess at 10:55 a.m.

6. ASSESSMENT DRAINS (CONT.)

6.10 North Landa Drain (cont.) The Board re-convened at 11:00 a.m. with landowners present to discuss the proposed North Landa Drain project. Chair Issendorf welcomed landowners to the informational meeting and introduced Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) as counsel for the Bottineau County Water Resource District and Engineer Jennifer Malloy (Apex Engineering) as the District's Administrator and Engineer. Engineer Malloy discussed the original petition for the Landa Drain that was later bifurcated into two separate projects. South Landa Drain was approved by the landowner vote and is currently under construction. Malloy shared a map of the proposed alignment and watershed for the proposed North Landa Assessment Drain. Malloy reported that with State Water Commission cost-share, the expected cost is approximately \$115/acre. Without State Water Commission cost-share, the expected cost is approximately \$190-200/acre. Malloy reported that the District would pursue cost-share and expected that cost-share would be available for the project.

The following comments were brought forward by landowners in attendance:

- **Watershed v. Assessment Area:** A question was raised as to whether there would be overlap between the North Landa Assessment District and either the South Landa Assessment District or Scandia Scotia Assessment District. Malloy pointed out that the map shows the watershed line and not any data on a proposed assessment area. If a parcel is within the watershed of the proposed North Landa Drain but is in the Scandia Scotia Assessment District or South Landa Assessment District, there would be no overlap unless that parcel was assessed at less than 100-percent into one of the other assessment districts, in which case no parcel would be assessed at a total greater than 100% benefit ratio.
- **Wildlife Easements:** A question was raised about restrictions from U.S. Fish & Wildlife Service waterfowl production area easements. Malloy identified the known U.S. Fish & Wildlife Service easements. One is in Section 17-163-79. The project would require coordination with the agency to ensure compliance with any easement restrictions. Some of these conversations were already started to arrive at a recommended alignment to discuss with landowners. Additional discussions would not take place unless there was a petition and bond indicating landowners were interested in moving forward with engineering profiles, plans, specifications, and total estimated costs.
- **NRCS Wetland Mitigation:** A question was raised about wetland conservation compliance under the Food Security Act of 1985. Van Bruggen reported that the District will work with landowners who wish to have USDA-NRCS wetland conservation compliance concerns addressed. Van Bruggen noted that addressing wetland conservation compliance concerns with NRCS requires landowner or operator cooperation because USDA data is protected by the Federal Privacy Act. Van Bruggen noted that current USDA policy states that landowners and operators will not become ineligible due to wetlands converted by the assessment

drain; however, planting an agricultural commodity on converted wetland acres constitutes a planting violation that will result in ineligibility for the crop year in which an agricultural commodity was planted. Van Bruggen noted that the District will work with cooperating USDA participants to determine if wetlands will be impacted and if so, to consider mitigation or compensation options.

- **Culverts:** A question was raised about cost-sharing culvert installation and maintenance costs. Malloy reported that for installation, cost-sharing is first applied from the State Water Commission. The applicable road authority pays 40 percent of the non-federal, non-state costs of installing and maintaining a culvert through a road and the assessment district pays 60 percent.
- **Alignment Modifications:** Landowners asked if it was possible to address modifications to the proposed alignment. Malloy stated that this was the time to make those requests and that there would be further opportunity before the landowner vote if a petition and bond for the project was filed. Alternative routes, laterals, and other issues were discussed.
- **Closing Comments:** Malloy provided her cell phone and office number to landowners in attendance in case there were additional questions after the meeting. Malloy noted that if landowners want to proceed, a petition and bond need to be filed with the District.

7. CLOSE OF MEETING Having completed all business on the noticed agenda, the Chair declared the meeting adjourned at 12:00 p.m.

Minutes approved by the Board on May 20, 2024.

Clifford Issendorf, Chair

Kale R. Van Bruggen, Secretary

BCWRD Monthly Meeting

4/15/24

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