

**BOTTINEAU COUNTY WATER RESOURCE DISTRICT
MINUTES OF THE MEETING HELD ON SEPTEMBER 16, 2024
BOTTINEAU COUNTY COURTHOUSE**

1. ATTENDANCES

PRESENT: Clifford Issendorf, Chair
Wayne Drangsholt, Treasurer – via video conference
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 9:09 a.m.
Harvey Hoff – arrived at 9:30 a.m.; left at 9:41 a.m.
Richard Williams – arrived at 9:57 a.m.; left at 10:14 a.m.
Roger Wahus – arrived at 9:57 a.m.; left at 10:14 a.m.

APOLOGIES: Wally Brandjord, Vice Chair
Mark Glinz, Manager

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, the Chair declared the agenda approved as presented.

4. APPROVAL OF FINANCIAL REPORT/APPROPRIATIONS

4.1 Financial Report & Proposed Appropriations Stacy Lorenz (Chad Strand, P.C.) presented the financial report for September 2024 and proposed appropriations. The report and proposed appropriations were reviewed and discussed by the Board.

Moved Manager Opdahl/Seconded Manager Drangsholt

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

Carried.

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

5. CONFIRMATION OF MINUTES

Moved Manager Drangsholt/Seconded Manager Opdahl

That the minutes of the regular Board meeting held on August 19, 2024, be approved as presented.

Carried.

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 Kane Tacoma Drain Jennifer Malloy, P.E. (Apex Engineering) reported that she has talked to the contractor and the clean out and repair work, including culvert replacements, is on the schedule to take place this fall.

- 6.2 Tacoma Bitz Drain** Chair Issendorf reported that there is a tenant farming land adjacent to the Tacoma Bitz Drain in the NW ¼ Section 16-160-79 that is allowing spray to be applied to the inside slopes of the assessment drain which is killing the grass and causing sedimentation and erosion into the drain. The erosion and sedimentation are obstructing and impeding the free flow of water.

Moved Manager Drangsholt /Seconded Manager Opdahl

That Chair Issendorf shall be authorized to approve a notice for publication in the Bottineau Courant, to be drafted by Rinke Noonan Law Firm, requesting landowners, tenants, and spray applicators take notice to avoid spray impacts to grass inside slopes of assessment drains, and notifying landowners of the cost to remove obstructions under N.D. Century Code 61-16.1-51.

Carried.

- 6.3 LaPorte Coulee Drain** Engineer Jennifer Malloy (Apex Engineering) reported that Apex Engineering is continuing to work on preparation of a preliminary assessment list, which will be a roster of affected landowners showing the probable share by percentage assessment of the total costs to be assessed against each parcel of land benefited by the proposed LaPorte Coulee Drain and the approximate assessment in terms of money apportioned for each of the affected landowners in the proposed assessment district. Malloy anticipates that the proposed list will be available at the end of the week.

Harvey Hoff arrived at the meeting.

- 6.4 Russell Drain** Jennifer Malloy, P.E. (Apex Engineering) attended the Department of Water Resource's pre-State Water Commission meeting to request an extension on the cost-share agreement in order to complete construction. The request was for an extension to the end of the year and will be on the Commission's October 10, 2024, meeting agenda.
- 6.5 North Landa Drain** Jennifer Malloy, P.E. (Apex Engineering) reported that preparation of the preliminary engineering report has used up a majority of the cash bond, so Apex Engineering has slowed work on completing the report until additional bond funds come in. Malloy reminded managers to continue reviewing the preliminary construction plans presented last month and bring comments, questions, or concerns to Malloy. Malloy requested that a local informational meeting be held with affected landowners before the preliminary engineer's report is approved.
- 6.6 South Landa Drain** Harvey Hoff appeared before the Board to comment on the assessment pre-payment letter he received for a quarter of land owned by him and his wife in the NW ¼ Section 32-163-78 in the South Landa Assessment Drain district. Mr. Hoff noted that since the drain construction is not complete, he is wondering if he should pay for the project. Jennifer Malloy, P.E. (Apex Engineering) reported she discussed Mr. Hoff's concern with him on the phone. Malloy reported that she talked to the contractor on Friday and the contractor is not going to be out to continue work for another three weeks. One of the delays is that the contractor is waiting for the SRT line to be moved by SRT, which was approved in July. Malloy provided the contact number for SRT to Mr. Hoff and Mr. Hoff is going to follow up with SRT directly as well.

Harvey Hoff left the meeting.

Engineer Jennifer Malloy (Apex Engineering) presented revised plan & profile sheets 10-12 & 18 for the South Landa Drain construction plans dated March 29, 2023, which depict the revised

easement area for Easement 26 (Martinsons) right-of-way across Lots 1 and 2, the SW1/4NE1/4, and the NW1/4SE1/4 of Section 3-162-79 and S1/2SE1/4 of Section 34-163-79. Sheets 10-12 & 18 are dated August 23, 2024 and show a revised easement area for Easement 26. During easement negotiations, the District instructed Apex Engineering to review the proposed easement area and determine if a narrower easement area could be acquired in order to accommodate the necessary right-of-way. Apex Engineering reduced the proposed right-of-way and the appraiser appraised the value of just compensation on the revised easement area.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the revised sheets 10-12 & 18 dated August 23, 2024 for the South Landa Drain construction plans be approved and that the proposed right-of-way for Easement 26 (Martinsons) of a one hundred foot wide (100') easement area with a three hundred foot wide (300') temporary construction area be approved.

Carried.

Attorney Van Bruggen (Rinke Noonan, Ltd.) reported that owners & encumbrances reports were received for Easement 19 in the NW1/4 Sec. 4-162-78 and the W1/2SE1/4 Sec. 33-163-78 and for Easement 26 (Martinsons) in Lots 1 and 2; SW1/4NE1/4; and NW1/4SE1/4 of Section 3-162-79, and S1/2SE1/4 of Section 34-163-79, Bottineau County, North Dakota. Rinke Noonan is working on getting the summons & complaints to the property owners this week.

Richard Williams & Roger Wahus arrived at the meeting.

- 6.7 Haas Coulee Drain** Richard Williams appeared and noted that cleaning out and repairing is needed on the Haas Coulee Drain in the SW $\frac{1}{4}$ of Section 25-162-81. Mr. Williams noted that the only maintenance since the assessment drain was constructed in this location has been one pass with a mower. Mr. Williams noted that he mows the cemetery north of the drain location here and he cannot get his mower across the Texas crossing. Jennifer Malloy, P.E. (Apex Engineering) reported that Mr. Williams had called her about these maintenance needs, that she encouraged him to attend the meeting, and thanked him for reporting where the maintenance needs on the drain were located. The Board directed Malloy to look for someone to do mowing work in this location this fall.

Richard Williams & Roger Wahus left the meeting.

- 6.8 Stone Creek Lateral (Elysian)** Jennifer Malloy, P.E. (Apex Engineering) discussed the clean out requested by Dan Bullinger on the Stone Creek Lateral in Sections 1 & 2-160-77 and presented a scope of survey work to the Board for discussion.

Moved Manager Opdahl/Seconded Manager Drangsholt

That Apex Engineering shall be authorized to complete a survey for clean out and repair work in Sections 1 & 2-160-77 of the Stone Creek Lateral (Elysian) and to solicit quotes from local contractors.

Carried.

- 6.8.1 Gardena Lateral** Jennifer Malloy, P.E. (Apex Engineering) reported that she provided a cost estimate to Dan Bullinger to survey the proposed Gardena Lateral Improvements after the last Board meeting and has not yet heard back. Chair Issendorf reported that the local landowners are waiting for harvest to be complete within the survey area.

7. OLD BUSINESS

7.1 Oak Creek Water Resource District Boundary Correction. No update.

8. NEW BUSINESS

8.1 Application to Install Subsurface Water Management System 2024-001 Administrator Jennifer Malloy, P.E. (Apex Engineering) reported that an application to install a subsurface water management system in the NE¼ of Section 36-161-75 was received by the Bottineau County Water Resource District from Larry Neubauer on September 5. Malloy assigned the application number 2024-001 and reviewed the materials to determine if it was complete. The application reports that the system will utilize a gravity outlet without control structure in the NE¼ of Section 36 into a natural waterway/watercourse. The total land area to be drained is 147 acres with a drainage co-efficient of 3/8" and 4 surface intakes. Ag Tech Drainage will construct the system. Malloy reviewed the application and determined the application was initially incomplete, but she followed up with the applicant to obtain missing information and then determined the application was complete. A certificate of completeness was sent by Malloy to the applicant on September 10, 2024.

Malloy reported that the system drains to three outlets which all discharge directly into what the application references as a natural waterway/watercourse. Malloy investigated off-site data of the outlet, including aerial photography, LiDAR data, land office notes, and U.S. geological survey quads, and reported that, in her opinion, the outlet meets the criteria in N.D. Administrative Code 89-15-01-02 to constitute a watercourse. The watercourse drains into Belmar Slough, which outlets into Miller Creek.

Malloy recommended the following conditions be attached to the permit:

1. Installation and maintenance of proper erosion controls at all outlets;
2. Re-establishment of disturbed areas to previous conditions;
3. The distance from rural water supply lines comply with any existing rural water supply line easements or, in the case of a blanket easement, a minimum distance of 25 feet from either side of the rural waterline; and
4. Permittee must obtain an amendment to the permit for alterations to outlet locations, new outlets, or improvements resulting in drainage of additional acres.

The Board reviewed the permit application and Malloy's recommendation.

Moved Manager Opdahl/Seconded Manager Drangsholt

That the Application to Install Subsurface Water Management System 2024-001 for 147 acres in the NE¼ of Section 36-161-75 by Larry Neubauer dated September 5, 2024, be approved subject to the following conditions:

1. Installation and maintenance of proper erosion controls at all outlets;
2. Re-establishment of disturbed areas to previous conditions;
3. The distance from rural water supply lines comply with any existing rural water supply line easements or, in the case of a blanket easement, a minimum distance of 25 feet from either side of the rural waterline; and
4. Permittee must obtain an amendment to the permit for alterations to outlet locations, new outlets, or improvements resulting in drainage of additional acres;

DRAFT/UNOFFICIAL MEETING MINUTES

That Chair Clifford Issendorf shall be authorized to sign Permit 2024-001 on behalf of the Bottineau County Water Resource District;

That the outlets discharge directly into a natural watercourse on the applicant's property and that there are no owners of property between the outlet and the nearest natural watercourse; and

That Apex Engineering shall issue a notice of decision to the applicant and forward notice of the approved permit and the downstream flow map to the Department of Water Resources.

Carried.

9. ITEMS FOR DISCUSSION & INFORMATION

9.1 Engineer/Administrator Report Jennifer Malloy, P.E. (Apex Engineering) reported that the ND Water Resource District Association is updating its records on how many years of service managers have contributed to their local water resource boards. Managers achieving certain years of service will be honored at the Joint Water Convention in December. Malloy will get the correct information to the Association.

Malloy reported that she received a letter from Kenneth Sivertson regarding a lake south of Ski Lodge. Malloy will review for inclusion in next month's agenda.

Malloy reported she would like to bring a demonstration to the Board at the October meeting agenda regarding assessment drain and local water management database with a quote for services.

9.2 Attorney Report Kale Van Bruggen (Rinke Noonan, Ltd.) reported that he listened to the Water Topics Committee met on September 12, 2024, and heard presentations from the Sargent County Water Resource Board and local landowners on matters addressed in the Sargent County Drain 11 North Dakota Supreme Court cases of *Banderet* from 2019 and *Beck* from 2023. Van Bruggen noted that the Committee adjourned without any bills on this issue.

10. CLOSE OF MEETING Having completed all business on the noticed agenda, the Chair declared the meeting adjourned at 10:58 a.m.

Minutes approved by the Board on October 21, 2024.

Clifford Issendorf, Chair

Kale R. Van Bruggen, Secretary

BCWRD Monthly Meeting

9/16/24

<u>Name</u>	<u>Contact</u>
Henry Holt	
Robert Wahus	701-500-2727
Richard C Williams	701-245-6133