

**BOTTINEAU COUNTY WATER RESOURCE DISTRICT
MINUTES OF THE MEETING HELD ON AUGUST 18, 2025
BOTTINEAU COUNTY COURTHOUSE**

1. ATTENDANCES

PRESENT: Clifford Issendorf, Chair
Mitch Opdahl, Vice Chair
Wayne Drangsholt, Treasurer (via video conference)
Paxton Engelhard, Manager

IN ATTENDANCE: Jennifer Malloy, Administrator/Engineer (via video conference)
Kale Van Bruggen, Secretary/Counsel (via video conference)
Stacy Lorenz, Chad Strand Agency, P.C. – left at 9:06 a.m.

APOLOGIES: Jared Abernathey, 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 objections, corrections, or further additions, Chair Issendorf 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 August 2025 and proposed appropriations. The report and proposed appropriations were made available to the Board and the public in advance of the meeting and were reviewed and discussed by the Board.

Moved Manager Drangsholt/Seconded Manager Opdahl

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 at 9:06 a.m.

5. CONFIRMATION OF MINUTES

The Board reviewed the draft minutes from July 21, 2025. Manager Drangsholt noted that in Paragraph 1, under attendance, the minutes should reflect he was present in person, not by video conference.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the minutes of the regular Board meeting held on July 21, 2025, be approved with one correction: Under Paragraph 1 Attendances: reflect that Wayne Drangsholt, Treasurer was present in person, not by video conference.

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 Baumann Drain** Manager Opdahl reported that Farmers Choice is talking to its drone manufacturer to see if a narrower spray option can be accommodated. The contractor will follow up with Manager Opdahl.
- 6.2 Haas Coulee Drain** Engineer Jennifer Malloy (Apex Engineering) reported that she informed Richard Williams that Haas Coulee was mowed and trees that were in the drain were removed, which will improve the movement of water in the drain. She also informed Mr. Williams that the District continues to look for a contractor that is available to spray the drain. Mr. Williams responded and requested that the drain be mowed in its entirety, including side slopes and drain bottom. Malloy reported that the cost of doing so doesn't justify the maintenance need or the flow performance the drain would receive in return. Consensus of the Board was to monitor to see how the recent mowing performs and continue to look for a contractor for spraying cattails.

Engineer Jennifer Malloy (Apex Engineering) reported that Apex Engineering contacted the ND Department of Transportation (NDDOT) to request information from the NDDOT on the proposed improvement to the Haas Coulee Assessment Drain U.S. 83 crossing between the Northeast Quarter (NE¼) of Section 35, Township 162 North, Range 81 West (Bentinck Township) and the Southeast Quarter (SE¼) of Section 26, Bentinck Township. Apex Engineering is recommending installing a 24" diameter centerline culvert through U.S. 83 parallel to, but lower than, the existing box culvert. The existing box culvert was installed at the natural elevation, and the District is proposing to improve drainage between the two U.S. 83 crossings within the Haas Coulee Assessment Drain. No channel work outside of the crossing improvement is being proposed.

In response to the pre-project coordination, NDDOT indicated that it believes the original culvert inverts on U.S. 83 were properly set to align with the natural drainage patterns, and is resisting the plans of the Bottineau County Water Resource District to reconstruct the existing Haas Coulee Assessment Drain. NDDOT stated that installing a new culvert at a lower invert elevation would alter the natural drainage here and only shift concerns farther north; that this could potentially drain a wetland (which NDDOT acknowledges is outside of its permitting authority); raise liability concerns by redirecting water onto downstream properties, especially given the flat channel grade; add maintenance burdens for NDDOT; and increase ditch maintenance due to another additional wetland encroachment within NDDOT's right-of-way. NDDOT did not state that it was concerned the reconstruction and improvement would injure U.S. 83.

Apex Engineering informed NDDOT that its concerns over wetland drainage and downstream impacts could be addressed, including through the DWR permitting process. In response, NDDOT stated that it will not allow the installation of additional lower-elevation culvert through U.S. 83 due to its concerns that altering the natural drainage in the Haas Coulee will: (1) create additional wetlands in NDDOT ROW, which could require mitigation in the future; (2) create additional flow challenges with mowing and maintaining the NDDOT ditch; (3) add infrastructure to be managed that also increases maintenance responsibilities; and (4) create risk of downstream impacts due to modified flow conditions in a very flat drainage profile.

The Board discussed how the existing culvert elevations on U.S. 83 are preventing water from flowing in Haas Coulee assessment drain, which is generating cattail growth and impeding the free flow of water within the drain. The Board directed Apex Engineering and Rinke Noonan Law

Firm to coordinate on the guidance from the NDDOT, and to prepare recommendations regarding the necessity of the crossing improvement for the Board to review at its September meeting.

- 6.2.1 Stead Drain Phase II** The Board discussed the status of easement acquisitions for Stead Drain Phase II construction. Manager Drangsholt reported that Petersons do not intend to send back easements requested for Stead Drain Phase II. Manager Opdahl reported that Felands had informed him they intended to provide the easement. The Board discussed whether to proceed with further easement acquisition proceedings. Engineer Jennifer Malloy (Apex Engineering) will revise the construction plans for final approval at the September meeting. Manager Opdahl will inform Felands that the District needs its easement in time for the final construction plans to be approved at the September Board meeting. After discussion, consensus of the Board was to modify the proposed Phase II construction to end at the north property line of the Southwest Quarter (SW¼) of Section 20-162-81. If Petersons or Felands, or their successors, request the project be completed across their property, the Board will consider the request at that time. The Board directed “Easement Acquisition, Easement 04 (S½NW¼ Sec. 20-162-81 – Peterson) and Easement 05 (NE¼ Sec. 19 & SE¼ Sec. 18-162-81 – Feland)” be removed from the agenda, unless an easement is delivered in time for the September meeting Board packet.
- 6.3 Kane Tacoma Drain** Engineer Jennifer Malloy (Apex Engineering) reported that Mikkelsen Aggregates will be on site in late September or early October to finish their work.
- 6.4 LaPorte Coulee Drain** Engineer Jennifer Malloy (Apex Engineering) reviewed the 90% preliminary construction plans for the LaPorte Coulee Assessment Drain project with the Board. Malloy reported that the final construction plans will be ready for approval in September. After approval, the District can put the construction plans up for bids. Also, at that time, the proposed easements will be finalized and sent to affected landowners.
- 6.5 Russell Drain** Engineer Jennifer Malloy (Apex Engineering) obtained the final pay application which the Board approved with the Financial Appropriations. Malloy will submit the last cost-share request to the ND Department of Water Resources. This will close out of the McHenry County Lateral project.
- 6.6 North Landa Drain** Manager Engelhard continues to discuss the petitioners’ bond needs with locally affected landowners.
- 6.7 South Landa Drain** Engineer Jennifer Malloy (Apex Engineering) reported that Apex Engineering has as-built records almost complete, and Apex Engineering will work with the DWR to close out the project in the next month.
- 6.8 Stone Creek Drain**
- 6.8.1 Lateral B** Engineer Jennifer Malloy (Apex Engineering) reported that Apex Engineering has as-built records almost complete, and Apex Engineering will work with the DWR to close out the project in the next month.
- 6.9 Stone Creek Drain Lateral (Elysian)** Engineer Jennifer Malloy (Apex Engineering) reported that Farden Construction provided a quote for clean out of Sections 1 & 2-160-77. Malloy requested a quote from Mikkelsen Aggregates. The Board directed Malloy to also request quotes from other contractors with which Apex Engineering has experience on assessment drain services.
- 6.10 White Spur Drain** Engineer Jennifer Malloy (Apex Engineering) reviewed the 90% preliminary construction plans for the White Spur Drain reroute project with the Board. Normal flows will continue to be directed to the U.S. Fish & Wildlife Service protected easement areas, with high flows directed to the reroute alignment. Malloy reported that the final construction plans will be ready for approval in September. After that, Apex Engineering could solicit quotes for the

construction. Also, at that time, the proposed easements will be finalized and sent to affected landowners.

7. OLD BUSINESS

7.1 2025 Operation and Maintenance Assessments Engineer Jennifer Malloy (Apex Engineering) reviewed the draft 2025 Operation and Maintenance Assessments report dated August 2025. The Board discussed the proposed operation and maintenance assessment levy per assessment drain and operation and maintenance assessment drain account, based on the current account balance, the anticipated operation and maintenance needs for 2026, and for certain drains, the need to cover debt service for the account.

7.2 ND DWR Proposed Admin. Code Amendments Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported on his preliminary review of the proposed general department updates and regulatory process updates by the ND Department of Water Resources. Comments are due September 12, 2025. The NDWRDA is preparing comments this week for the upcoming public hearings in Fargo and Bismarck, and to submit by the September 12 deadline. The Board discussed concerns with the proposed administrative changes, including elimination of county-processes that keep county-to-county practices in alignment; clarity needed regarding the information required for applications and complaints; clarification needed to the “working day” timeline, the elimination of county-level timelines, and concerns over extended timelines proposed in the rules; concern over the information gathering processes that occur after the county water resource district reviews and makes a decision, and other concerns. The timeline to process and prepare comments on the proposed administrative code changes is short. The comments were released after the July District Board meeting and are due before the September District Board meeting. Van Bruggen offered to share draft comments with the Board via email. Managers requesting a special meeting to discuss edits to the comments can make the request to Chair Issendorf.

Moved Manager Opdahl/Seconded Manager Engelhard

That Chair Issendorf, the District’s legal counsel from Rinke Noonan Law Firm, and Jennifer Malloy (Apex Engineering) be authorized to submit comments to the ND Department of Water Resources on its proposed administrative code changes on behalf of the Bottineau County Water Resource District and its constituents.

Carried.

8. NEW BUSINESS

8.1 2026 Annual Budget PLEASE TAKE NOTICE – The Bottineau County Water Resource District will hold a public hearing on its proposed 2026 Budget during the regularly scheduled meeting on September 15, 2025, at 9:00 a.m. or thereafter as the agenda allows, in the Commissioners Room of the Bottineau County Courthouse, 314 5th Street W., Bottineau, North Dakota. After the public hearing, the Board will make any final revisions to the proposed 2026 Budget and then certify the proposed budget to the County Auditor. The proposed 2026 Budget is subject to review and final approval by the Bottineau County Board of Commissioners.

8.2 Leroy Rude – Hellick Lake Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported on his investigation into the Bottineau County Water Resource District minutes requested from 2007 by Leroy Rude, and on the jurisdiction of the District to set or enforce a no wake zone on Hellick Lake as requested by Leroy Rude at the District’s July 21, 2025 meeting.

Van Bruggen reported that in 2006, the Loon Lake Association sent a petition to the ND Game & Fish Department requesting that it enact a slow idle speed regulation on Loon Lake to govern

all motorized watercraft. The following year, a petition by Loon Lake landowners and Hellick Lake landowners was sent to the District acting the District Board to set a no wake zone or idle speed regulation. At its May 21, 2007 meeting, the District Board adopted a motion to accept the petitions and refer them to the District attorney, Joe Cichy, for a recommendation. The Hellick Lake petition was signed by two landowners: Leroy Rude and Marleen Soland, and dated May 15, 2007.

Leroy Rude appeared at the June 18, 2007, meeting to express concerns regarding idle speed on Hellick Lake. The minutes reflect the Board would follow up with its attorney, Joe Cichy. On June 22, 2007, Cichy advised the Board it had authority to regulate the activity on Hellick Lake if the regulation was deemed by the Board to be necessary to accomplish its general statutory powers. Cichy cited ND Century Code §§ 61-16.1-09(8) and 61-16.1-09(9). Cichy advised that the ND Game & Fish Department's authority was limited to control of lakes that are navigable in fact, and that Hellick Lake was not, in Cichy's opinion, navigable in fact.

The July 16, 2007, minutes note that District received a letter from its attorney stating that the District has authority to impose an idle speed only requirement for Loon Lake and Hellick Lake. The minutes from the meeting state the motion as follows:

Bill Artz made a motion to restrict water craft to idle speed only on Loon Lake and Hellick Lake. Dave Ronning from Loon Lake and Leroy Rude from Hellick Lake must also be notified that they will be liable to monitor and post signs to this effect. Dean Milbrath seconded the motion. Motion carried.

The August 20, 2007, minutes note that Dave Ronning and Leroy Rude were present at the District Board meeting to discuss idle speed on Loon Lake and Hellick Lake. The minutes do not offer information on the discussion.

In September of that year (2007), the District started to receive opposition to the idle speed motion adopted at its July 16, 2007 meeting. Loon Lake Development Partnership sent the District a letter dated September 19, 2007, opposing the idle speed restriction which the District referred to its counsel. Cichy advised that in follow up communication with the ND Game & Fish Department, the Department informed him that it does have the authority to post idle speeds on lakes if requested from a governmental entity indicating there is local support. Cichy advised that in addition, he maintained his position that the District also has this authority. Cichy advised that there is no authority for the District to conduct a vote of landowners on the matter.

Further opposition letters to the idle speed restriction on Loon Lake were received by the District dated March 7, 2008 (from Turtle Mountain Real Estate); March 12, 2008 (from Loon Lake Development c/o Dorothy Martwick); March 17, 2008 (Gary Beckedah); April 11, 2008 (Gerry & Linda Gackle). A formal petition requesting to rescind the July 16, 2007 regulation was submitted on April 17, 2008 by Dorothy Martwick on behalf of multiple petitioner signers.

At its April 21, 2008 meeting, the District adopted a motion "to rescind the motion of idle speed only that was placed on Loon Lake at July 16, 2007 meeting." The motion was seconded and carried.

On July 10, 2008, Charles Dunlop sent the District a letter supporting the original idle speed ordinance, and requesting the District's records on the matter.

On July 15, 2008, Cichy advised the District that should it not wish to proceed with a regulation on Loon Lake, that the landowners around Loon Lake could establish a recreation service district pursuant to N.D.C.C. ch. 11-28.2., which gives the owners in and around Loon Lake the right to police themselves and to "provide for the improvement and control of the environmental quality of the recreation service district."

Van Bruggen noted that the April 21, 2008 motion rescinded the motion of idle speed only that was placed on Loon Lake, but the motion rescinded included an idle speed only regulation for both Loon Lake and Hellick Lake. It is unclear whether the motion intended to remove the entire 2007 motion to both lakes, or just its application to Loon Lake. Van Bruggen also noted that the original motion setting an idle speed regulation indicated it would be up to Hellick Lake to post signs and police enforcement. Representatives of the District Board that have served since 2007 confirmed that the District does not have a past practice of enforcing or policing the restriction on Hellick Lake. Van Bruggen noted that the procedures and authority to set up a recreation service district still exist today in N.D. Century Code ch. 11-28.2 and remain available to Leroy Rude and other landowner.

The Board discussed the history and the authority in Century Code. After discussion, the consensus of the Board was to inform local landowners of the opportunity to regulate motorized watercraft using the process in N.D. Century Code ch. 11-28.2, but the District is not going to be involved in enforcement on shallow lakes. Based on discussion, the Board directed Attorney Van Bruggen to provide the records to Mr. Leroy Rude, along with a summary of the Board discussion.

Opdahl/Engelhard – motion to approve letter.

Moved Manager Opdahl/Seconded Manager Engelhard

That Attorney Van Bruggen shall send Mr. Leroy Rude a letter providing a copy of the District records pertaining to Loon Lake & Hellick Lake idle speed zone regulation, and inform that the Board will not enforce the regulation, but that the landowners who desire to see a regulation enacted and enforced should be aware of N.D. Century Code ch. 11-28.2.

Carried.

9. OPEN MIC No members of the public were present for the open mic portion of the meeting.

10. ITEMS FOR DISCUSSION & INFORMATION

10.1 Staff Reports

10.1.1 Upcoming Events The ND Department of Water Resources will hold public hearings on the proposed administrative code changes on August 28 (Fargo) and September 2 (Bismarck). Comments are due September 12. The District will hold its regularly scheduled September Board meeting on September 15 and its regularly scheduled October Board meeting on October 20.

DRAFT/UNOFFICIAL MEETING MINUTES

11. CLOSE OF MEETING Having completed all business on the noticed and amended agenda, the Chair declared the meeting adjourned at 10:52 a.m.

Minutes approved by the Board on September 15, 2025.

Clifford Issendorf, Chair

Kale R. Van Bruggen, Secretary

Draft