BOTTINEAU COUNTY WATER RESOURCE DISTRICT
MINUTES OF THE MEETING HELD ON OCTOBER 19, 2026
BOTTINEAU COUNTY COURTHOUSE

1. ATTENDANCE

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

IN ATTENDANCE: Jennifer Malloy, Administrator/Engineer
Kale Van Bruggen, Secretary/Counsel (via video conference)
Stacy Lorenz, Chad Strand Agency, P.C. – left at 9:40 a.m.
Ric Johnson – left at 9:10 a.m.
Mac Kersten – left at 9:28 a.m.
Chuck Neubauer, Starion Bank – left at 9:34 a.m.

APOLOGIES: Jared Abernathey, Manager
Paxton Engelhard, Manager

2. COMMENCEMENT The meeting was called to order at 9:04 a.m.

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

4. OPEN MIC

4.1 Ric Johnson – Starbuck Assessment Drain Ric Johnson appeared requesting a status update on the Starbuck Assessment Drain project. Engineer Jennifer Malloy, P.E. (Apex Engineering) reported that Apex Engineering would be scheduling informal meetings with area landowners. Malloy estimated those would take place near the end of October.

Ric Johnson left the meeting at 9:10 a.m.

4.2 Mac Kersten – LaPorte Coulee Assessment Drain Mac Kersten appeared before the Board to discuss the LaPorte Coulee Assessment Drain project and the District's requested easement across the Kersten property.

Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reviewed the procedural status of the project. Van Bruggen explained that once an assessment project has been presented to affected landowners, submitted to a vote, and established following a favorable vote, the Board has limited authority to materially depart from the project that was presented and approved. He explained that a substantial change after the vote could result in the District constructing a project different from the one the affected landowners voted to establish.

Kersten stated that, in his view, the project does not provide a benefit to anyone, that an assessment district should not be used to acquire an easement, and that he had understood the project would provide a permanent solution to the existing erosion problem at the spillway. Kersten also expressed concern that the project cost estimates may be too low, that the proposed spillway improvements may not provide a lasting solution, and that the downstream work would create additional disturbance without providing a corresponding benefit. Kersten

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further stated that he believes the project is inadequate and underfunded while providing the District with a permanent easement over the property.

Van Bruggen responded that the Board is not in a position at this stage to substitute its own judgment regarding which properties benefit from the established assessment project. He explained that the statutory process provides affected landowners the opportunity to determine whether to establish the project through the assessment vote, and noted that the vote on the LaPorte Coulee Assessment Drain was overwhelmingly in favor of establishment.

Chair Clifford Issendorf stated that the Board must also consider the consequences of taking no action, including the possibility that the existing dam or spillway could continue to deteriorate or fail.

The Board and Kersten discussed the project, the proposed easement, the spillway concerns, and the parties' differing views regarding the benefits and adequacy of the project. No agreement was reached regarding the easement.

Mac Kersten left the meeting at 9:28 a.m.

4.3 Chuck Neubauer, Starion Bank – Chuck Neubauer appeared on behalf of Starion Bank as a resource for Board questions on the proposed Resolution and Warrant for renewing the Revolving Line of Credit. With no objections, the Board Chair revised the agenda order to address the 2026 Revolving Line of Credit with Mr. Neubauer present.

5. APPROVAL OF FINANCIAL REPORT/APPROPRIATIONS

5.1 2026 Revolving Line of Credit District legal counsel Kale Van Bruggen presented the proposed Financing Resolution and Temporary Improvement Warrant, Series 2026, for renewal of the District's $500,000 revolving line of credit with Starion Bank. Van Bruggen explained that the financing would refund the District's existing 2024 warrant and continue providing interim financing for eligible improvement projects while awaiting special assessment collections or permanent financing. He reviewed the principal financing terms, including a maximum borrowing amount of $500,000, an interest rate of 7.50% on outstanding principal, a $500 origination fee, and a maturity date of October 1, 2028. The revolving line of credit allows the District to make multiple advances and repayments as funds are needed for improvement projects identified in the Financing Resolution.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the Financing Resolution authorizing issuance of the Bottineau County Water Resource District's $500,000 Temporary Improvement Warrant, Series 2026 and the Warrant in the form presented shall be approved, and the Board Chair and Secretary shall be authorized to execute and deliver the Resolution, Warrant, and related closing documents on behalf of the District to Starion Bank.

Carried.

Chuck Neubauer left the meeting at 9:34 a.m.

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5.2 Financial Report & Proposed Appropriations Stacy Lorenz (Chad Strand Agency, P.C.) presented the financial report for October 2026 and proposed appropriations. The report and proposed appropriations were made available to the Board and

Moved Manager Opdahl/Seconded Manager Drangsholt
That the October 2026 financial report be approved as presented and that the bills presented for approval be authorized for payment.
Carried.

Lorenz reported that Bottineau County has obtained new auditors and that she will be meeting with the new auditors to review the District's methodology for valuing assessment drains.

Stacy Lorenz (Chad Strand, P.C.) left the meeting at 9:40 a.m.

6. CONFIRMATION OF MINUTES The Board reviewed the draft minutes from the September 21, 2026, regularly scheduled Board meeting.

Moved Manager Opdahl/Seconded Manager Drangsholt
That the minutes of the regular Board meeting held on September 21, 2026, be approved as presented.
Carried.

7. 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:

7.1 Haas Coulee Drain

7.1.1 Haas Coulee Improvement (2026-1) Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported that Apex Engineering, on behalf of the District, submitted a surface drain permit application to the North Dakota Department of Water Resources (DWR) under N.D.C.C. § 61-32-03 for the proposed Improvement Project at U.S. Highway 83/N.D. Highway 5 crossing. DWR assigned the matter Surface Drain Permit Application No. 7040 – Haas Coulee Modification. Van Bruggen reported that on September 30, 2026, DWR issued a Solicitation of Views (SOV) and technical memorandum stating the proposed drainage may be drainage of statewide or interdistrict significance. DWR identified two considerations supporting further review: the proposed work involves modification and deepening of a watercourse, and it affects public infrastructure. DWR requested comments or other information regarding the application to be submitted by October 30, 2026.

The Board reviewed a draft comment letter prepared on behalf of the District requesting that DWR determine the proposed work is not drainage of statewide or interdistrict significance and requesting the DWR refer the application to the District for local consideration under N.D.C.C. § 61-32-03.

Van Bruggen and Malloy summarized the principal points in the proposed response, including that the project is a limited modification of the existing Haas Coulee Assessment Drain at the U.S. Highway 83/ND Highway 5 crossing; does not create a new outlet, nor add contributing drainage area, nor reroute drainage, nor create a new drainage pathway; and is intended to improve hydraulic continuity and reduce localized

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upstream backwater at the existing crossing. Van Bruggen and Malloy also noted that the project includes installation of an additional 24-inch culvert and limited channel deepening adjacent to the crossing, and that the hydraulic analysis indicates no material increase in downstream discharge or velocity.

The Board discussed DWR's stated reasons for further review, including that the project involves modification of a watercourse and affects public infrastructure at the highway crossing. The Board agreed that consistent with its past practices on surface drain permits, the District should submit comments addressing those factors and explaining why, based on the limited scope and modeled effects of the project, the application should not be classified as drainage of statewide or interdistrict significance.

Moved Manager Opdahl/Seconded Manager Drangsholt

> That the proposed comment letter regarding Surface Drain Permit Application No. 7040 be approved as presented; that Chair Issendorf be directed to sign the comment letter on behalf of the District; and that the District Engineer be authorized to submit the letter and any supporting materials to the North Dakota Department of Water Resources on behalf of the District.

Carried.

Van Bruggen and Malloy also updated the Board regarding continued coordination with the North Dakota Department of Transportation (NDDOT) concerning the proposed crossing improvement at Structure No. 83-248.343.

Van Bruggen reported that he and Malloy participated in a follow-up meeting with NDDOT legal counsel and engineering staff on October 1, 2026. Van Bruggen reported that at that meeting, NDDOT indicated a willingness to consider allowing the District to install, own, and maintain the proposed 24-inch culvert within the NDDOT right-of-way pursuant to a written memorandum of agreement and applicable NDDOT permit requirements. The assessment district would remain responsible for cost, ownership, and maintenance of the additional culvert, and NDDOT would review the final engineering plans and construction requirements before the work proceeds. This is a resolution tailored to the circumstances at the Haas Coulee crossing.

Malloy summarized the engineering issues discussed with NDDOT. The proposed work remains limited to installation of a 24-inch culvert by jack-and-bore methods, with approximately 40 feet of channel grading upstream and 50 feet downstream to provide positive drainage through the crossing. NDDOT identified several technical items for further review, including the tie-in to the existing box culvert and channel, velocities and erosion protection, pipe material and cover, maintenance access and responsibilities, and avoidance of adverse impacts to the existing highway infrastructure. Malloy reported that Apex Engineering will complete an updated field survey, prepare approximately 90-percent design plans, and update the Engineer's Report to address the final construction details, including grading, tie-in details, erosion protection, traffic control, and maintenance considerations. Apex will also continue to work on the NDDOT permit and other required agency permits and provide the updated plans to NDDOT for technical review.

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Malloy reported that additional engineering and permitting work remains before the permit can be finalized, including completion of NDDOT's drainage-modification application requirements, the hydraulic report, final construction plans, and other agency permitting and approval requirements.

Van Bruggen reported that NDDOT legal counsel agreed to prepare a draft memorandum of agreement for the District's review in advance of the October 19 Board meeting, and that NDDOT legal counsel provided a draft permit on October 16, establishing a proposed project-specific framework under which the District could install an additional 24-inch pipe within the U.S. Highway 83 right-of-way.

Van Bruggen reviewed NDDOT's draft permit and his proposed revisions with the Board. The draft generally places responsibility on the District for construction, inspection, maintenance, repair, sediment removal, traffic control, and operation of the new permitted drainage facility. Van Bruggen explained that the proposed revisions are intended to more clearly define those responsibilities and distinguish the new permitted facility from NDDOT's existing highway and box-culvert infrastructure.

Van Bruggen reviewed proposed revisions concerning future inspection and maintenance activities within the NDDOT right-of-way, including provisions allowing routine visual inspections without separate NDDOT approval and allowing reasonable emergency work when necessary to protect the highway, drainage facility, or adjacent property.

Van Bruggen also reviewed proposed revisions concerning damage to the roadway, impacts to NDDOT property, and landowner complaints. The revisions would require notice and a reasonable opportunity for the District to investigate and address alleged impacts before the permitted facility could be required to be plugged or removed, except where emergency action is necessary to protect public safety or the highway. The revisions would also limit the District's responsibility for corrective action to conditions caused by the permitted drainage facility and for which the District is responsible.

Van Bruggen further reviewed proposed provisions establishing that the permit would remain in effect for so long as the permitted drainage facility remains in place, subject to the permit's termination provisions, and addressing future NDDOT highway reconstruction or other highway projects. The proposed future-project provision would require the parties to coordinate regarding any necessary modification, relocation, removal, or replacement of the permitted facility and would leave responsibility for those costs to applicable law and any future written agreement rather than allocating those future costs in the present permit.

Malloy and Van Bruggen also discussed the Risk Management Appendix incorporated into the draft permit. The Appendix provides that each governmental entity assumes its own liability, costs, expenses, and attorneys' fees, but also imposes insurance, indemnification, and additional-insured requirements on non-public contractors and subcontractors. Malloy will review those requirements from the engineering and bidding perspective to confirm that they can be incorporated into the project's bidding

and contract documents and are commercially available to the anticipated contractors and professional consultants.

The Board discussed the draft permit and proposed revisions. The Board agreed that the negotiated permitting approach should continue, but that the current draft permit should not yet be executed. The Board further agreed that legal counsel should provide the proposed revisions to NDDOT for further discussion and that Apex Engineering should continue the engineering, permitting, and technical coordination necessary for NDDOT's review. Final approval and execution of the permit will be brought back to the Board after the permit terms and final engineering requirements are resolved.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the proposed revisions to the NDDOT draft permit be approved substantially in the form presented; that the District's legal counsel be authorized to transmit and negotiate those revisions with NDDOT; and that Apex Engineering be authorized to continue preparation and submission of the engineering plans, hydraulic information, permit applications, and other materials required for NDDOT review.

Carried.

7.2 LaPorte Coulee Drain

7.2.1 Easement 01 (Kersten et al.) The Board discussed the meeting with Mac Kersten at the start of the meeting, and the need to update landowners affected by the LaPorte Coulee Assessment Drain about the additional costs to be incurred to complete the easement acquisition process for the project.

Moved Manager Opdahl/Seconded Manager Drangsholt

That the District's legal counsel and engineer coordinate to prepare notice to all affected landowners in the LaPorte Coulee Assessment District of a November 16, 2026 meeting to discuss the status of the Kersten easement negotiations, the estimated additional costs associated with formal acquisition of the necessary easement, and the alternatives of proceeding with acquisition and construction of the established project or discontinuing further efforts to construct the project; and further to direct the District's counsel and engineer to prepare updated project, easement-acquisition, appraisal, and legal cost information for presentation at that meeting.

Carried.

7.3 Stone Creek Lateral (Elysian) Chair Issendorf reported that the District received an inquiry from an Elysian Township Board Supervisor regarding responsibility for providing access from the township road to the NE¼ of Section 1-160-77 across the Stone Creek Lateral Assessment Drain. The Supervisor reported that the property is being offered for sale and is presently accessed in connection with neighboring property. A separate access from the township road may become necessary if the property is not purchased or subsequently farmed by an adjacent landowner.

Engineer Jennifer Malloy, P.E. (Apex Engineering) reported that the Elysian Assessment Drain is located within the township road right-of-way along the north side of the NE¼ and that the District previously acquired and established the necessary easements for the assessment drain. Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) advised that the responsibility for any future access should be evaluated by distinguishing between the crossing of the assessment drain and

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the private approach connecting the property to the township road. The District would have authority and responsibility with respect to protecting the assessment drain and determining the hydraulic and structural requirements for any crossing of the drain. The Township would have authority over the location and design of the connection to the township road. The private landowner would generally be responsible for the private road approach itself.

The consensus of the Board was that no immediate action is required of the District because, among other reasons, the need for a separate access is contingent on the future ownership and use of the property. If a separate access becomes necessary, the District would coordinate with Elysian Township and the affected landowner to identify an appropriate access location and determine the appropriate culvert design and elevation so as not to obstruct flow within the assessment drain.

7.4 White Spur Drain

7.4.1 White Spur Drain Reroute Attorney Kale Van Bruggen (Rinke Noonan Law Firm) reported that Easement 01 has been signed by Matthew & Heather Kersten and Rodney & Faye Kersten covering the White Spur Drain Reroute across the S½NE¼ of Section 14, Township 160 North, Range 77 West (Elysian Township) and has been sent for recording at the County Recorder's Office. Van Bruggen reported that with the acquisition and recording of Easement 01, all easements necessary for the White Spur Drain Reroute project have been acquired and recorded.

7.5 Starbuck Assessment Drain Engineer Jennifer Malloy, P.E. (Apex Engineering) reported that Apex Engineering is developing the cost estimate to share with landowners at informational meetings. Malloy and Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported on the North Dakota Century Code requirements that the contract to be awarded for the assessment drain construction project must be within 120% of the engineer's construction contract estimate; and that the final project costs should be less than the projected benefits to the affected parcels.

8. OLD BUSINESS

8.1 2027 Legislative Issues Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported that he is attending the Legislative Committee meeting of the North Dakota Water Resource District Association on October 23, and will report on that meeting to the Board at the November meeting.

8.2 Drain Mowing The Board discussed whether now would be a good time to burn cattails in the assessment drains after the early frost, if the cattails dry out.

Engineer Jennifer Malloy, P.E. (Apex Engineering) reported on the request from Richard Williams to mow a portion of the Haas Coulee Assessment Drain near his property. The Board directed Malloy to work with the contractor to proceed with the mowing, as needed, when conditions allow.

8.3 Surface Drain Permit Application No. 7003 – Issendorf Attorney Kale Van Bruggen (Rinke Noonan Law Firm) reviewed correspondence and a record of decision dated September 22, 2026 from the Department of Water Resources regarding its review of Surface Drain Permit Application No. 7003. Van Bruggen reported that, following the District's submission of comments in response to DWR's Solicitation of Views, DWR issued its determination that the proposed drainage is not drainage of statewide or interdistrict significance and referred the application to the District for consideration under N.D.C.C. § 61-32-03.

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Van Bruggen noted that DWR's technical memorandum considered the comments received from the District, the North Dakota Department of Environmental Quality, and the U.S. Army Corps of Engineers and concluded there was no basis to classify the project as statewide or interdistrict drainage or to provide additional recommendations to the District. Van Bruggen further advised that the Corps indicated the proposed project may require separate Clean Water Act Section 404 authorization, which is independent of the District's surface-drain permit review.

Van Bruggen noted that he directed the District's Engineer, Jennifer Malloy, P.E. (Apex Engineering) to investigate the proposed drainage, including whether the quantity of water being drained will flood or otherwise adversely affect downstream lands and walk the Board through her analysis.

District Engineer Jennifer Malloy presented her technical analysis of Surface Drain Permit Application No. 7003. Malloy explained that the proposed work involves deepening and widening existing agricultural drains in Section 16, Township 160 North, Range 78 West, which ultimately discharge through tributaries to Stone Creek. Malloy reported that the project does not add additional watershed area or change the existing direction of drainage. Based on her engineering review, Malloy concluded that the proposed improvements would not result in a significant change in water volume compared with existing conditions and would not significantly change downstream flood duration or sustained flows.

Malloy further advised the Board that, in her engineering opinion, the proposed drainage will not flood or otherwise adversely affect downstream lands. Attorney Kale Van Bruggen advised that N.D.C.C. § 61-32-03 requires the Board to have an investigation supporting that determination before a surface-drain permit may be issued. The Board reviewed Malloy's technical analysis and discussed the proposed drainage and downstream conditions.

Moved Manager Opdahl/Seconded Manager Drangsholt

That the Bottineau County Water Resource District Board of Managers accepts District Engineer Jennifer Malloy's technical analysis as the investigation required by N.D.C.C. § 61-32-03 and finds, based upon that investigation and the application record, that the quantity of water proposed to be drained under Surface Drain Permit No. 7003 will not flood or adversely affect downstream lands; that Surface Drain Permit Application No. 7003 shall be approved for the work described in the application; and that the Chair is directed to execute the permit and related approval documents and the District's Administrator, Engineer, and legal counsel shall provide written notice of the Board's decision to the applicant, all parties of record, any person who has requested notice, and the North Dakota Department of Water Resources.

Carried. Chair Issendorf abstained.

9. NEW BUSINESS No New Business items were on the agenda**.**

10. ITEMS FOR DISCUSSION & INFORMATION

10.1 Staff Reports

10.1.1 Engineer/Administrator Engineer/Administrator Jennifer Malloy, P.E. (Apex Engineering) reported on the Annual Joint North Dakota Water Convention and

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Irrigation Workshop to be held in Bismarck on December 8-10. Managers that wish to attend can coordinate with Malloy on registration.

10.1.2 Attorney Report No report.

10.2 Upcoming Events

10.2.1 November Board Meeting The November Board Meeting will be held at 9:00 a.m. on November 16, 2026, in the Commissioners Room of the Bottineau County Courthouse.

10.2.2 December Board Meeting The December Board Meeting will be held at 9:00 a.m. on December 21, 2026, in the Commissioners Room of the Bottineau County Courthouse.

10.3 Managers' Updates

10.3.1 Souris River Joint Board Chair Clifford Issendorf reported on recent meetings, activities, and expenditures of the Souris River Joint Board.

11. CLOSE OF MEETING There being no further business, Chair Clifford Issendorf adjourned the meeting at 11:22 a.m.

Minutes approved by the Board on November 16, 2026.

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Clifford Issendorf, Chair

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Kale R. Van Bruggen, Secretary

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Name	Contact	10/19/26
Ric Johnson	701-263-7799	
Mac Kersten	701-720-8463	
Chuck Neubauer	701-480-9073	(Stanton Bank)