

**BOTTINEAU COUNTY WATER RESOURCE DISTRICT  
MINUTES OF THE MEETING HELD ON AUGUST 19, 2024  
BOTTINEAU COUNTY COURTHOUSE**

**1. ATTENDANCES**

**PRESENT:** Clifford Issendorf, Chair  
Wayne Drangsholt, Treasurer  
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 9:25 a.m.  
Dan Bullinger – arrived at 10:09 a.m.; left at 10:40 a.m.; arrived (via telephone conference) at 11:00 a.m.; left at 11:08 a.m.  
Dean Milbrath – arrived at 10:09 a.m.; left at 10:40 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 July and August 2024 and proposed appropriations. The report and proposed appropriations 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.

**5. OLD BUSINESS**

**5.1 2nd Quarter 2024 Quarterly Financial Summary by Drain** Administrator Jennifer Malloy, P.E. (Apex Engineering) and Stacy Lorenz (Chad Strand, P.C.) presented, and the Board discussed, a report on the current financial status of each assessment drain for the 2<sup>nd</sup> quarter of 2024 (January 1 through June 30, 2024).

Moved Manager Drangsholt/Seconded Manager Opdahl

That effective August 19, 2024, the Bottineau County Water Resource District shall value assessment drains at \$100,000 per mile on its assessment drain financial summary reports.

Carried.

Stacy Lorenz (Chad Strand, P.C.) left the meeting at 9:25 a.m.

**6. CONFIRMATION OF MINUTES**

Moved Manager Opdahl/Seconded Manager Drangsholt

That the minutes of the regular Board meeting held on June 17, 2024, be approved as presented.  
Carried.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the minutes of the special Board meeting held on July 26, 2024, 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 Stead Drain Phase II** Engineer Jennifer Malloy (Apex Engineering) presented preliminary construction plans for Stead Drain Phase II. Subject to the granting of easements needed for construction, Apex Engineering hopes to construct Stead Drain Phase II this fall.

Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) and the Board discussed the history of the Stead Assessment Drain and the easement acquisition. The Board reported that construction of the Stead Drain preceded establishment of the Haas Coulee Assessment Drain and that the Soil Conservation Service of Westhope was involved in original construction.

Moved Manager Drangsholt /Seconded Manager Opdahl

That the preliminary construction plans for Stead Drain Phase II be approved and that Apex Engineering shall solicit quotes on behalf of the Bottineau County Water Resource District from Farden Construction and Mikkelson for construction of Stead Drain Phase II.

Carried.

Moved Manager Drangsholt /Seconded Manager Opdahl

That the following Easements for construction and future maintenance of Stead Assessment Drain Phase II shall be approved and that Rinke Noonan Law Firm, counsel for the Bottineau County Water Resource District, shall be authorized to send the Easements to the following grantors for review: Easement 01 – E1/2 & SE1/4SW1/4 Sec. 21-162-81 (Daniel Halstead; Kathy Mathwich, Trustee of the Kathy Mathwich Revocable Living Trust dated July 3, 2024); Easement 04 – S1/2NW1/4 Sec. 20-162-81 (Daryl & Christine Peterson); and Easement 05 – SE1/4 Sec. 18 & NE1/4 Sec. 19-162-81 (Duane & LaDonna Feland).

Carried.

**7.1.2 Haas Coulee Phase V** Engineer Jennifer Malloy (Apex Engineering) reported that preliminary construction plans are in the works for construction of Haas Coulee Phase V and will be presented to the Board at a future Board meeting.

**7.2 LaPorte Coulee Drain** Engineer Jennifer Malloy (Apex Engineering) presented, and the Board discussed, 30-percent preliminary construction plans, a preliminary map of the assessment district, and a preliminary cost estimate for the proposed LaPorte Coulee Drain. Apex Engineering will prepare 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.

- 7.3 Russell Drain** Engineer Jennifer Malloy (Apex Engineering) reported on a letter from the Department of Water Resources requesting a progress report since the term of the McHenry County Lateral to the Russell Drain project will exceed four years. This is a requirement of the State Water Commission's cost-share policy. Malloy visited with the Bottineau County Water Resource District representative on the State Water Commission and explained that the project is almost complete. A progress report may not be required. Malloy will follow up.
- 7.4 North Landa Drain** Engineer Jennifer Malloy (Apex Engineering) presented, and the Board discussed, the preliminary construction plans for the proposed North Landa Drain. Apex Engineering will coordinate with Chair Clifford Issendorf and Manager Wally Brandjord to set up an informational meeting.

The Board discussed the letter from its counsel at Rinke Noonan Law Firm to petitioners on June 7, 2024, stating that an additional \$23,000 was needed in cash bond funds for the project on top of the \$17,000. Since the letter went out, only \$5,000 in additional cash bond has come in. The letter and need for additional cash bond will be raised with petitioners and other affected landowners at the informational meeting.

- 7.5 South Landa Drain** Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported on the acquisition of easements for construction and future maintenance of the South Landa Assessment Drain.

The revised Easement 24 approved by the Board at its June 17, 2024, meeting was accepted and signed by grantors Chris & Lisa Morris. The easement is being recorded by Rinke Noonan, Ltd.

On behalf of the Bottineau County Water Resource District, Attorney Van Bruggen initiated informal negotiations under N.D.C.C. § 61-16.1-09(2)(b)(a) by sending a letter and draft easement to grantors of Easement 19 (Tennysons et al.). Grantor Deborah Fiala signed and returned the draft easement. Easement 19 grantors Leonard & Deborah Tennyson and Derek Tennyson did not respond. Further correspondence was sent to the remaining grantors via certified mail, but Tennysons refused to sign for those certified letters. The Bottineau County Water Resource District ordered an appraisal of the easement value from Point Value Appraisals and reviewed and approved the appraisal. A letter offering grantors the appraised value as just compensation for the easement was sent but Tennysons refused to sign for the certified letter. The offer letters were sent to the Ward County Sheriff's Office for personal service on May 20, 2024. Leonard & Deborah Tennyson were successfully served, but the Sheriff's Office was not able to serve Derek Tennyson and eventually, returned the offer letter to Rinke Noonan, Ltd. as undeliverable. Attorney Nick Delaney (Rinke Noonan, Ltd.) recommends the Bottineau County Water Resource District proceed with eminent domain since it is not able to establish with the Bottineau County Board of Commissioners that it has been able to comply with the requirements of N.D.C.C. § 61-16.1-09(2)(b) for quick take eminent domain. The Board discussed counsel's recommendation to acquire Easement 19 through eminent domain.

Moved Manager Drangsholt/Seconded Manager Opdahl

That Rinke Noonan, Ltd. shall be authorized to file and proceed with an eminent domain action under N.D. Century Code Chapter 32-15 to acquire and secure by eminent domain

the rights, titles, interests, estates, and easements necessary or proper to carry out the construction and future inspection and maintenance of the South Landa Assessment Drain on Easement 19 in the NW1/4 Sec. 4-162-78 and the W1/2SE1/4 Sec. 33-163-78.

Carried.

The Board reviewed the Valuation Report dated August 3, 2024, for Easement 26 (Martinsons).

Moved Manager Drangsholt/Seconded Manager Opdahl

That the Valuation Report dated August 3, 2024, for Easement 26 (Martinsons) be ratified and approved as just compensation for the South Landa Drain right-of-way across 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.

Carried.

Based on the Board's motion at the June 17, 2024, meeting, Attorney Nick Delaney sent a final written offer to Timothy & Janette Martinson offering just compensation equal to the appraisal value for Easement 26 in exchange for an easement and an agreement to indemnify and hold harmless the District against any claims by other owners of the Easement 26 property. The offer gave Martinsons until August 15, 2024, to accept the offer. If the offer is not accepted by that date, Rinke Noonan, Ltd. will proceed with preparing and serving the summons and complaint under N.D. Century Code Chapter 32-15 as approved by the Board at the June 17, 2024, meeting.

No further developments on Easement 28 (Jodi Quiner et al.) or the Burlington Northern, Inc. RR crossings.

Dan Bullinger & Dean Milbrath joined the meeting at 10:09 a.m.

## **7.6 Stone Creek Lateral (Elysian)**

**7.6.1 Gardena Lateral** Dan Bullinger & Dean Milbrath appeared before the Board and requested from Apex Engineering an estimate of costs to survey the proposed Gardena Lateral improvements. Engineer Jennifer Malloy (Apex Engineering) will provide a cost estimate later this week. Malloy estimated the surveyors could do their work within a couple weeks of the quote being approved. Malloy reviewed a map of culvert elevations along the proposed Gardena Lateral improvements.

## **5. OLD BUSINESS (CONT.)**

**5.2 Oak Creek Water Resource District Boundary Correction** Engineer Jennifer Malloy (Apex Engineering) reviewed maps showing a proposed change to the jurisdictional boundary between the Bottineau County Water Resource District and the Oak Creek Water Resource District. The proposed change would transfer jurisdiction over lands that drain into Stone Creek Assessment Drain and White Spur Assessment Drain from the Oak Creek Water Resource District to the Bottineau County Water Resource District. Dan Bullinger expressed support for the proposed change, but acknowledged that it needs to be reviewed by the other Oak Creek Water Resource District Board managers. Dan Bullinger will present this to the Oak Creek Water Resource District Board and will discuss attending a future Bottineau County Water Resource District meeting.

Dan Bullinger & Dean Milbrath left the meeting at 10:40 a.m.

**7. ASSESSMENT DRAINS (CONT.)**

**7.7 Stone Creek Drain**

**7.7.1 Lateral B Drain** Engineer Jennifer Malloy (Apex Engineering) reported that Farden Construction should complete construction before the end of the year.

**7.8 Serguis Drain** Engineer Jennifer Malloy (Apex Engineering) reported that Farden Construction is pursuing an NDDOT project in the area of the proposed Serguis Drain where clay and spoils from the Serguis Drain could be used for construction of the NDDOT project. The Board noted that until there is a cash bond to support a petition for the assessment drain project, proceedings on the Serguis Drain will not move forward.

**5. OLD BUSINESS**

**5.3 2024 Operation and Maintenance Assessments** Administrator Jennifer Malloy (Apex Engineering) reviewed the proposed 2024 operation and maintenance assessments by assessment drain with the Board for discussion. The 2024 proposed operation & maintenance assessments are as follows:

Assessment District	2023 O&M	O&M Balance (3/8/24)	2024 Proposed O&M
Baumann Extension	\$0.50	(\$21,765.49)	\$1.00
Brander	\$4.00	(\$129,024.45)	\$4.00
Brandt	\$4.00	\$7,763.84	\$4.00
Gessner	\$0.00	\$40,948.29	\$0.00
Haas Coulee	\$0.00	(\$66,194.22)	\$1.00
Kane Tacoma	\$1.00	\$908.66	\$2.00
Moen	\$2.25	\$11,686.50	\$2.25
Overgaard	\$0.00	(\$2,196.94)	\$0.50
Russell	\$0.00	\$0.00	\$0.00
Scandia Scotia	\$2.25	\$83,664.52	\$2.25
Stone Creek	\$0.00	\$77,742.06	\$0.00
Stone Creek Lateral	\$0.00	\$106,751.72	\$0.00
Tacoma Bitz	\$1.00	\$889.86	\$1.00
White Spur	\$1.00	\$49,921.75	\$1.00
Willow	\$2.00	(\$35,059.69)	\$2.00

Moved Manager Drangsholt/Seconded Manager Opdahl

That the proposed operation & maintenance levies for 2024 be approved and shall be certified to the Bottineau County Auditor by Administrator Jennifer Malloy, P.E. on behalf of the Bottineau County Water Resource District.

Carried.

**5.4 Willow Creek Watershed** Engineer Jennifer Malloy (Apex Engineering) presented maps showing the Willow Creek watershed.

Dan Bullinger re-joined the meeting by telephone conference at 11:00 a.m.

Dan Bullinger reported to the Bottineau County Water Resource District Board on beaver dam and accumulated sediment obstructions to Willow Creek. Dan Bullinger is going to address the issue with Scott Smith, Chair of the Willow Creek Water Resource District.

Dan Bullinger left the meeting at 11:08 a.m.

## **8. NEW BUSINESS**

- 8.1 Revolving Line of Credit Renewal** Administrator Jennifer Malloy, P.E. (Apex Engineering) and Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported on a proposal from Starion Bank to renew the Bottineau County Water Resource District's revolving line of credit for the District's short-term operating needs. The proposal notes that Starion Bank's bond counsel will prepare the financing resolution and warrant for the District's counsel to review.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the Starion Bank proposal for renewing the Bottineau County Water Resource District's revolving line of credit dated July 17, 2024, with a maturity date of August 1, 2026 be approved, and that Chair Issendorf be authorized to sign the proposal on behalf of the Bottineau County Water Resource District.

Carried.

Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) presented the proposed Financing Resolution and Temporary Improvement Warrant for \$500,000, Series 2024, between the Bottineau County Water Resource District and Starion Bank prepared by bond counsel for Starion Bank. The Temporary Improvement Warrant refunds the District's \$500,000 Temporary Improvement Warrant, Series 2022 dated July 1, 2022, at an interest rate of 7.95% with interest payable August 1, 2025 and maturity date of August 1, 2026. The 2022 and 2024 series Temporary Improvement Warrants are structured as revolving lines of credit allowing for multiple advances and repayments as needed.

Moved Manager Drangsholt/Seconded Manager Opdahl

That the Financing Resolution dated August 19, 2024, for the Bottineau County Water Resource District \$500,000 Temporary Improvement Warrant, Series 2024, shall be approved and that the District Board Chair and Secretary shall be authorized to sign the Financing Resolution and Temporary Improvement Warrant, Series 2024, on behalf of the District.

Carried.

- 8.2 Missouri River Joint Water Board EAE Program Invitation Letter** Attorney Kale Van Bruggen (Rinke Noonan, Ltd.) reported that the Bottineau County Water Resource District was sent a letter dated July 30, 2024 by Wade Bachmeier, Chair of the Missouri River Joint Water Board, notifying the Bottineau County Water Resource District that the Missouri River Joint Water Board would be modifying its formative documents with the intent to have open membership to all county water boards in the Missouri River basin in North Dakota. The letter also invites the Bottineau County Water Resource District to participate in the Missouri River Joint Water Board's Educate, Advocate, and Engage (EAE) Program of public meetings that emphasize the importance of the Missouri River in North Dakota. Van Bruggen noted that Bottineau County is in the Souris River basin and does not drain into the Missouri River basin.

- 8.3 Glen Strom Clean-out Request** Engineer Jennifer Malloy (Apex Engineering) presented information received from Glen Strom regarding obstructions to flow in the northeast corner of

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Section 8-160-78 and inquiring as to what the Bottineau County Water Resource District could do to resolve the issue. The Board reviewed maps of the area and could not find evidence of a watercourse through the northeast corner of Section 8. This issue does not involve an assessment drain. Malloy will report back to Glen Strom that it does not appear the Bottineau County Water Resource District would have jurisdiction over his concerns.

**9. ITEMS FOR DISCUSSION & INFORMATION**

**9.1 Attorney Report** Kale Van Bruggen (Rinke Noonan, Ltd.) reported that the Water Topics Committee met on June 6, 2024 and heard a presentation by Attorney Jack Dwyer on behalf of the North Dakota Water Resource District Association regarding the background on Senate Bill 2372 (2023) and some of the ongoing challenges with water management across water resource district political boundaries. The Water Topics Committee will hold a meeting on September 12 and one topic of discussion will include matters addressed in the Sargent County Drain 11 North Dakota Supreme Court cases of *Banderet* from 2019 and *Beck* from 2023.

**10. CLOSE OF MEETING** Having completed all business on the noticed agenda, the Chair declared the meeting adjourned at 11:38 a.m.

Minutes approved by the Board on September 16, 2024.

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Clifford Issendorf, Chair

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Kale R. Van Bruggen, Secretary