

**Barnes County Water Resource District  
PO Box 306  
Valley City, ND 58072  
#845-8508**

**DRAFT MINUTES**

**Meeting Minutes**

June 9<sup>th</sup>, 2025 – 9:00 AM

MEMBERS PRESENT: Chairman – Jerry Hieb, Managers – Bruce Anderson, Scott Legge, Perry Schlagel, Brett Fehr.

OTHERS PRESENT: Sean Fredricks – Ohnstad Twichell; Mike Opat – Houston Engineering; Nathan Trosen – Moore Engineering; see attached list.

OTHERS ABSENT: Shawn Olauson – Barnes County Commissioner

Chairman Hieb called the meeting to order at 9:01 a.m.

Manager Anderson moved to approve the minutes from the May 12<sup>th</sup>, 2025, meeting. Manager Legge seconded the motion. Upon voice vote, the motion carried unanimously.

Manager Legge moved to approve the bills as presented. Manager Schlagel seconded the motion. Upon roll call vote, the motion carried unanimously.

**OLD BUSSINESS**

**VC Little Dam**

Mike discussed that the final step of paving has started and should be finished before the next meeting in July.

**NRCS-RCPP : Ten Mile Lake**

Mike stated he got in contact with a landowner and that we are waiting for them to come to the board if they have interest in a different project.

**Thordenskjold Drain**

Mike to have potential cost estimates to the board by the July or August meeting.

**Clausen Springs Dam**

Mike gave an update regarding the trash rack installation. Manager Anderson made a motion to have Secretary Cara send a letter to Trademark Tooling stating if the trash rack is not

installed before the July 14, 2025, meeting the board will procure a different contractor for this project and will not provide any payment in light of the significant delays. Manager Schlagel seconded this motion. Upon roll call vote, the motion carried unanimously. Mike informed the board they are waiting for scheduling of the boring for the safety evaluation. Discussion was held regarding the updating of the EAP. Manager Fehr made a motion to authorize Houston to update the EAP. Manager Legge seconded the motion. Upon roll call vote, the motion carried unanimously.

### **Sheyenne River Bank Stabilization Study**

Mike informed the board that the Sheyenne River Joint WRD Board meets on June 11<sup>th</sup>, 2025, and the stabilization study will be discussed. Manager Anderson to attend that meeting and give an update at the July 14<sup>th</sup> meeting.

### **Svea Drain**

Secretary Cara reached out to the landowners involved and invited them to the July 14<sup>th</sup>, 2025, meeting.

### **Cornell 80 Project**

Sean Fredricks explained that this project will require the Maple River WRD and the Barnes County WRD to form a joint board since the project will benefit properties in both districts. Sean further explained that, since he represents both water resource districts, the two WRDs would have to consent to his representation of both Boards for purposes of drafting a Joint Water Resource District Agreement. Sean provided a consent/conflict letter previously for the two WRDs to review. Manager Legge moved to approve the consent/conflict waiver letter to authorize Sean Fredricks and Ohnstad Twichell to represent both WRDs regarding creation of a joint water resource district. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously. Sean provided the Board with a draft Joint Water Resource District Agreement. He would like the Board, and the Maple River WRD, to review the draft agreement and the respective WRDs can discuss the draft at their July meetings.

### **Hobart Lake**

Bruce reported that the sulfate levels are acceptable and the control gate is open, with the water level at 1416.21 per a recent reading from the DWR's PRESENS gage.

### **Dam Inventory**

The Board previously authorized Mike and Houston to move forward with an inspection of Brown Dam. The Board agreed they should conduct inspections of all of the dams the Board owns. The Board discussed including the \$30K necessary to conduct inspections of all dams owned by the Barnes County WRD within the Board's general fund budget request to the County Commission. Manager Legge moved to authorize the Secretary and Mike Opat to submit cost-share requests to help fund these inspections. Manager Schlagel seconded the motion. Upon roll call vote, the motion carried unanimously. This request is just for

inspections; the inspections will reveal what issues, if any, may exist at each dam. Potential remedies for any issues with any of the dams would be considered in a subsequent phase.

### **Sanborn Lake Outlet**

Mike reported the water level is at 1426.34, per a recent reading from the DWR's PRESENS gage.

### **Water-Related complaint – Oriska Township**

Oriska Township officer Tom Utkey was present and talked with the board regarding the Townships concern of water drainage under railroad tracks. The Township has not contacted BNSF to request a review of their concerns. Mike will provide BNSF contact information to Secretary Cara, who can then provide contact information for BNSF to the Township officers.

## **NEW BUSINESS**

### **Drain Tile Application – Mike Clemens**

#### **Application to Install a Subsurface Water Management System No. 2025-08 for Mike and Pam Clemens in the South Half and the Northwest Quarter of Section 11 in Uxbridge Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2025-08* filed May 27, 2025, by Applicants Mike and Pam Clemens. Under the Application, Applicants seek to install a 174-acre drain tile system in the South Half and the Northwest Quarter of Section 11 in Uxbridge Township, Barnes County, North Dakota. The project will include a single pump outlet located along the east boundary of the Southeast Quarter of Section 11; the pump will discharge into the west road ditch along 101st Avenue SE; the discharge will flow south in the west road ditch for a short distance before flowing into a USGS blue line natural watercourse. The blue line natural watercourse flows to the east, under 101st Avenue SE and into the Southwest Quarter of Section 12, where the natural watercourse flows into a pond, lake, or slough.

According to Barnes County records, Michael Clemens and Pamela Clemens, as Co-Trustees of the Michael and Pamela Clemens Living Trust, own the South Half and the Northwest Quarter of Section 11 in Uxbridge Township, where Applicants intend to install the tile system. Because the tile discharge will flow into a blue line natural watercourse, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Fehr moved, and Manager Legge seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2025-08* filed May 27, 2025, for Mike and Pam Clemens in the South Half and the Northwest Quarter of Section 11 in

Uxbridge Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2025-08, subject to the following conditions:

1. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
2. Applicants will install and maintain erosion protection at any and all outlets into Uxbridge Township's road right of way.
3. Applicants will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Barnes County Water Resource District.
4. Applicants will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicants' tile system, but only up to the discharge into the USGS blue line natural watercourse in the Southeast Quarter of Section 11 in Uxbridge Township, in accordance with N.D. Cent. Code § 61-32-03.1.
5. Applicants will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the South Half and the Northwest Quarter of Section 11 in Uxbridge Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
6. Applicants will apply for an amendment to Subsurface Water Management Permit No. 2025-08 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

With regard to condition #4, Applicants' obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by downstream landowners or road authorities that Applicants' tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring, all in accordance with N.D. Cent. Code § 61-32-03.1.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the Board recommends that Applicants comply with the following:

1. The Board recommends that Applicants obtain written consent from the Uxbridge Township Board of Township Supervisors to discharge into or otherwise utilize any of the Township's road right of way.
2. The Board recommends that Applicants obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

The Board will provide copies of the Board's Notice of Decision, Subsurface Water Management Permit No. 2025-08, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, Uxbridge Township, and Barnes Rural Water District. Applicants' detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

### **Drain Tile Application – Rob Hanson**

#### **Application to Install a Subsurface Water Management System No. 2025-09 for Rob Hanson in the North Half of Section 2 in Pierce Township**

The Board next reviewed Application to Install a Subsurface Water Management System No. 2025-09 filed June 1, 2025, by Applicant Rob Hanson. Under the Application, Applicant seeks to install a 229-acre drain tile system in the North Half of Section 2 in Pierce Township, Barnes County, North Dakota. The project will include a single gravity outlet that will discharge via a pipeline that will commence at the northeast corner of the Northeast Quarter of Section 2 in Pierce Township; the line will run to the north, under 12th Street SE, to the southeast corner of the Southeast Quarter of Section 35 in Dover Township in Griggs County; the line will then run to the east, under 102nd Avenue SE; the line will continue to the east, in the north road ditch along 12th Street SE and along the south boundary of the South Half of Section 36 in Dover Township; the pipeline will daylight and discharge directly into a USGS blue line natural watercourse in the Southeast Quarter of Section 36 in Dover Township.

Although the tile outlet will discharge in Griggs County, under the tile statute, N.D. Cent. Code § 61-32-03.1(3)(a), because the land Applicant plans to tile is in Barnes County, the Barnes County Water Resource District must consider and approve the Application:

...A person seeking to construct a subsurface water management system shall submit a completed application to the water resource district board within which is found a majority of the land area for consideration and approval....

The Board will provide copies of the permit documents to the Griggs County Water Resource District for their information.

According to Barnes County records, Rob Hanson owns the North Half of Section 2 in Pierce Township, where Applicant intends to install the tile system. With regard to the property where Applicant intends to install the pipeline, Rob Hanson owns the Southeast Quarter of Section 35 and the South Half of Section 36 in Dover Township in Griggs County. Because the tile discharge will flow into a blue line natural watercourse, no additional downstream notices are required under N.D. Cent. Code § 61 32-03.1.

Manager Fehr moved, and Manager Anderson seconded the motion, to approve Application to Install a Subsurface Water Management System No. 2025-09 filed June 1, 2025, for Rob Hanson in the North Half of Section 2 in Pierce Township, and to authorize the Secretary-

Treasurer to sign Subsurface Water Management Permit No. 2025-09, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all outlets into Dover Township's road right of way.
3. Applicant will install and maintain erosion protection at any and all outlets into the natural watercourse in the Southeast Quarter of Section 36 in Dover Township.
4. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the North Half of Section 2 in Pierce Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
5. Applicant will apply for an amendment to Subsurface Water Management Permit No. 2025-09 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the Pierce Township Board of Township Supervisors and the Dover Township Board of Township Supervisors to install a pipeline or any other project components in their respective road right of way.
2. The Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Sean Fredricks will provide copies of the Board's Notice of Decision, Subsurface Water Management Permit No. 2025-09, downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, Pierce Township, Dover Township, and Barnes Rural Water District. Fredricks will also provide complimentary copies to the Griggs County Water Resource District. Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

#### **LaMoure County WRD – Proposed Joint Project**

Nathan from Moore Engineering and Mike Vogel were present to discuss a joint project with the LaMoure County WRD along Bear Creek. Nathan discussed the area of a possible project. Manager Fehr moved to direct Sean Fredricks to work with LaMoure County WRD's

attorney to draft a joint water resource district agreement to create a joint board. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

### **Drain Tile Application – Devin Weber**

#### **Application to Install a Subsurface Water Management System No. 2025-10 for Devin Weber in the Southwest Quarter of Section 6 and the Northwest Quarter of Section 7 in Marsh Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2025-10* filed June 3, 2025, by Applicant Devin Weber. Under the Application, Applicant seeks to install a 64-acre drain tile system in the Southwest Quarter of Section 6 and the Northwest Quarter of Section 7 in Marsh Township, Barnes County, North Dakota. The project will include a single pump outlet located along the north boundary of the Southwest Quarter of Section 6; the pump will discharge into a drained wetland complex, as identified on the National Wetland Inventory Map; the discharge may flow into and across portions of the North Half of Section 6 before ultimately flowing south into the Southeast Quarter of Section 6 where it reaches a USGS blue line natural watercourse that flows across the Southeast Quarter of Section 6.

According to Barnes County records, with regard to the property Applicant intends to tile, Bruce Anderson owns the North Half of the Northwest Quarter of Section 7 in Marsh Township and Allen and Carol Dolliver and Jeffrey and Loren Dolliver own the Southwest Quarter of Section 6. With regard to downstream landowners, Allen and Carol Dolliver and Jeffrey Dolliver own the Northeast Quarter of Section 6; Bruce and Kathy Anderson own 109.33 acres in the Northwest Quarter of Section 6; Sherman and Jackie Sylling own Auditor's Lot 4 in the Northwest Quarter of Section 6; and Donna Ihme Erickson and Donna J. Ihme own the Southeast Quarter of Section 6. Once the tile discharge flows into the blue line natural watercourse in the Southeast Quarter of Section 6, no additional downstream notices are required under N.D. Cent. Code § 61-32-03.1.

The Board discussed Manager Bruce Anderson's likely conflict situation. Manager Anderson owns property Applicant intends to tile and owns property downstream of the project outlet. Sean Fredricks explained the conflict analysis the Board should conduct regarding Manager Anderson's potential conflict in the matter. Section 44-04-22 of the North Dakota Century Code provides the relevant standard. That statute provides:

A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.

The Section 44-04-22 test requires a multi-step analysis. In this case, Mr. Fredricks concluded Manager Anderson does, in fact, have a direct and substantial personal interest in the matter that creates a technical conflict. Manager Fehr moved to conclude that Manager Anderson has a conflict and should not participate in any votes regarding this Applicant. Manager Schlagel seconded the motion. Upon roll call vote, Chairman Hieb and Managers Legge, Fehr, and Schlagel all voted in favor of the motion. Manager Anderson abstained. The motion carried.

There is an additional conflict statute specific to water resource districts, Section 61-16-08.1 of the Century Code, that provides the County Commission with discretionary authority to appoint alternate water managers if a full-time member has a conflict. However, that statute was effectively superseded by Section 44-04-22 when the Legislature adopted Section 44-04-22 in 1995 (Section 61-16-08.1 went into effect in 1985). Section 61-16-08.1 does not provide a definition for what qualifies as a “conflict of interest” and does not provide a mandatory process; rather, the legislative history of Section 61-16-08.1 indicates the Legislature approved that statute to provide a process for water managers to avoid situations where they are not comfortable voting on a matter and is not a mandatory process. Conversely, the process under Section 44-04-22 is mandatory for conflict situations, provides a detailed test for determining if a conflict exists, and provides a detailed process for a Board to proceed even if a conflict does exist. The Legislature enacted Section 44-04-22 after passing the vague and optional Section 61-16-08.1 and, therefore, the process under Section 44-04-22 controls all conflict matters.

With the conflict matter concluded, the Board proceeded with discussion of Application.

Manager Fehr moved, and Manager Schlagel seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2025-10* filed June 3, 2025, for Devin Weber in the Southwest Quarter of Section 6 and the Northwest Quarter of Section 7 in Marsh Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2025-10, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant’s tile system.
2. Applicant will install and maintain erosion protection at the project outlet.
3. Applicant will turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the Barnes County Water Resource District.
4. Applicant will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant’s tile system, but only up to the discharge into the USGS blue line natural watercourse in the Southeast Quarter of Section 6 in Marsh Township, in accordance with N.D. Cent. Code § 61-32-03.1.
5. Applicant will not install Applicant’s tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the Southwest Quarter of Section 6 and the Northwest Quarter of Section 7 in Marsh



Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).

6. Applicant will apply for an amendment to Subsurface Water Management Permit No. 2025-10 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, Chairman Hieb and Managers Legge, Fehr, and Schlagel all voted in favor of the motion. Manager Anderson abstained. The motion carried.

With regard to condition #4, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by downstream landowners or road authorities that Applicant's tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring, all in accordance with N.D. Cent. Code § 61-32-03.1.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Sean Fredricks will provide copies of the Board's Notice of Decision, Subsurface Water Management Permit No. 2025-10, downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, Marsh Township, Bruce and Kathy Anderson, Allen and Carol Dolliver, Jeffrey and Loren Dolliver, Sherman and Jackie Sylling, Donna Ihme Erickson, Donna J. Ihme, and Barnes Rural Water District. Applicant's detailed project design map is an exempt record and the Board will not provide copies to any third parties.

#### **Drain Tile Application – Devin Weber Second Application**

##### **Application to Install a Subsurface Water Management System No. 2025-11 for Devin Weber in the South Half of Section 6 in Marsh Township**

The Board next reviewed Application to Install a Subsurface Water Management System No. 2025-11 filed June 3, 2025, by Applicant Devin Weber. Under the Application, Applicant seeks to install a 121-acre drain tile system in the South Half of Section 6 in Marsh Township, Barnes County, North Dakota. The project will include a pump outlet located in the Southeast Quarter of Section 6 that will discharge directly into a USGS blue line natural watercourse. The project will also include a gravity outlet along the east boundary of the Southeast Quarter of Section 6; the gravity outlet will discharge into the same USGS blue line natural watercourse.

According to Barnes County records, Allen and Carol Dolliver and Jeffrey and Loren Dolliver own the Southwest Quarter of Section 6 in Marsh Township, and Donna Ihme Erickson and Donna J. Ihme own the Southeast Quarter of Section 6. Because the project will discharge directly into a blue line natural watercourse in the Southeast Quarter of Section 6, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Manager Fehr seconded the motion, to approve Application to Install a Subsurface Water Management System No. 2025-11 filed June 3, 2025, for Devin Weber in the South Half of Section 6 in Marsh Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2025-11, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at the project outlets into the USGS blue line natural watercourse in the Southeast Quarter of Section 6.
3. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Barnes County Water Resource District.
4. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the South Half of Section 6 in Marsh Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
5. Applicant will apply for an amendment to Subsurface Water Management Permit No. 2025-11 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from Marsh Township to the extent Applicant intends to install any project components within the Township's right of way.
2. The Board recommends that Applicant obtain and record easements to install tile components on property not owned by Applicant.
3. The Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Sean Fredricks will provide copies of the Board's Notice of Decision, Subsurface Water Management Permit No. 2025-11, downstream flow map, and the Barnes County

Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, Marsh Township, Allen and Carol Dolliver, Jeffrey and Loren Dolliver, Donna Ihme Erickson, Donna J. Ihme, and Barnes Rural Water District. Applicant's detailed project design map is an exempt record and the Board will not provide copies to any third parties.

#### **Engineer Report**

Nothing more to be added.

#### **Legal Report**

Sean prepared a Resolution of Policy for the Board's consideration in response to SB 2180, a bill approved by the North Dakota Legislature this past session that requires a public comment period at regular meetings. Manager Anderson moved to approve the Resolution of Policy. Manager Legge seconded the motion. Upon roll call vote, the motion carried unanimously.

Discussion was held regarding the 2026 budget.

With nothing more to be discussed the meeting was adjourned at 10:48

APPROVED:

By: \_\_\_\_\_  
Jerry Hieb, Chair

ATTEST:

\_\_\_\_\_  
Cara Didier  
Secretary-Treasurer