

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

Meeting Minutes

August 11th, 2025 – 9:00 AM

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

OTHERS PRESENT: Mike Opat – Houston Engineering; Sean Fredricks – Ohnstad Twichell; Shawn Olauson – Barnes County Commissioner; see attached list.

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

Public Comment Period: No one submitted speaker cards to request permission to speak.

Manager Legge moved to approve the minutes from the July 14th, 2025, meeting. Manager Anderson seconded the motion. Upon voice vote, the motion carried unanimously.

Manager Legge moved to approve the bills as presented with the addition of the Minnesota Valley Testing Laboratories Inc. for Water Quality testing on Hobart Lake Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

OLD BUSSINESS

VC Little Dam

Mike gave update regarding reimbursement from the SWC. Mike stated he will have a recap of the financials for this project soon to present to the board. The permit from the Corps of Engineers has a certification form to be signed by Chairman Hieb stating the work has been completed in accordance with the terms and conditions of the permit.

Ten Mile Lake

No update.

Thordenskjold Drain

Mike informed that we are still waiting on the working committee to provide a recommendation regarding benefit analysis, information necessary to proceed with any project vote. After heavy rainfall Manager Schlagel reported that there seems to be no issues with the water going down.

Clausen Springs Dam

Mike informed he is still soliciting bids for the trash rack. Drillers to collect soil borings August 25th. Mike is working on updating the EAP to include the new observers.

Sheyenne River Bank Stabilization Study

No update at this time.

Svea Drain

No update.

Hobart Lake

Manager Anderson reported levels at 1415.69 with good water quality after significant rain.

Dam Inventory

Mike informed we are waiting to hear back from the SWC regarding reconsideration on cost-share funding. Mike discussed different potential projects regarding the Brown Dam remediation project and estimated costs. Manager Anderson made a motion to have Mike correspond with the SWC regarding funding and designate Secretary Didier to gather information for a public meeting for a potential project. Manager Schlagel seconded the motion. Upon roll call vote, the motion carried unanimously.

Sanborn Lake Outlet

Manager Anderson reported levels at 1426.29.

Water-Related complaint – Oriska Township

Secretary Didier to call the township officers to ask what they want to do as far as next steps.

LaMoure County WRD – Proposed Joint Project

There has been no response regarding the draft joint board agreement. No action taken at this time.

Spring Creek – Rodney Latt

Chairman Hieb was invited by Rodney Latt to join him to view the area prior to this meeting. Jack Olson was present on behalf of Rodney Latt. He presented the board with maps and information for the board's review. Dave Azure with the U.S. Fish and Wildlife Service was in attendance and was able to provide some information regarding the waterways history. Fredricks explained the Board lacks funds to manage or maintain natural watercourses without creation of an assessment district, a process that requires an assessment vote, typically prompted by a petition and bond from interested landowners. The Board advised that the landowners involved spray for cattails and obtain a surface drainage permit from DWR if they wish to proceed with a private project.

NEW BUSINESS

Drainage Complaint – David Richman

Sean discussed the previous complaint from David Richman against Joe Killoran. The complaint appears to be a frivolous complaint; the Board dismissed Mr. Richman's previous complaint regarding this same project. Manager Anderson to make contact with the complainant to discuss withdrawal of the complaint. If Mr. Richman refuses to withdraw the complaint, the Board will have to dismiss it and will likely declare the complaint frivolous.

Drain Tile Application – Jeff McMillon

Application to Install a Subsurface Water Management System No. 2025-15 for Jeff McMillan in the West Half of Section 8 in Uxbridge Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2025-15* filed August 4, 2025, by Applicant Jeff McMillan. Under the Application, Applicant seeks to install a 74-acre drain tile system in the West Half of Section 8 in Uxbridge Township, Barnes County, North Dakota. The project will include a single pump outlet located along the west boundary of the Southwest Quarter of Section 8; the pump will discharge directly into the east road ditch along North Dakota Highway 9; the

discharge will flow south in the east road ditch for before flowing into a wetland complex, designated on the National Wetland Inventory, in the Southwest Quarter of Section 8.

According to Barnes County records, J&R McMillan Land Trust owns the West Half of Section 8 in Uxbridge Township where Applicant intends to install the tile system. With regard to downstream landowners, the State of North Dakota owns its Highway 9 right of way. Once the tile discharge flows into the wetland complex in the Southwest Quarter of Section 8, a natural watercourse under N.D. Cent. Code § 61-01-06 or a slough, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Manager Schlagel seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2025-15* filed August 4, 2025, for Jeff McMillan in the West Half of Section 8 in Uxbridge Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2025-15, 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 all project outlets into the North Dakota Department of Transportation's Highway 9 right of way.
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 point where the tile discharge flows into a natural watercourse or slough, 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 West Half of Section 8 in Uxbridge 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. 2025-15 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, 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 the downstream road authority (NDDOT) 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 comply with the following:

1. The Board recommends that Applicant obtain written consent from the North Dakota Department of Transportation's to discharge into NDDOT's Highway 9 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. 2025-15, the downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, Jeffrey Ertelt, Douglas Gerard Kuhry, 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.

In support of the Application, Applicant already submitted a signed NDDOT Request for Drainage on Highway Right of Way, regarding Applicant's proposal to discharge into NDDOT's Highway 9 right of way. Fredricks advised the Board that water resource districts only have jurisdiction over tile drainage via the tile permitting statute, N.D. Cent. Code § 61-32-03.1. However, the District recognizes NDDOT must obtain approvals from water resource districts prior to NDDOT approval of tile discharge in NDDOT's right of to comply with federal highway rules. With that in mind, NDDOT has requested that water resource districts "approve" their Request for Drainage on Highway Right of Way forms for projects that will discharge into NDDOT right of way To address the concerns of water resource districts regarding their jurisdictional limitations, NDDOT previously indicated to Fredricks that water resource districts could submit the approved forms along with a cover letter that outlines water resource districts' jurisdiction related to drainage.

Manager Legge moved, and Manager Schlagel seconded the motion, to approve the NDDOT Request for Drainage on Highway Right of Way submitted by Applicant Jeff McMillan; to authorize the Secretary-Treasurer to sign the NDDOT Request for Drainage on Highway Right of Way; and to direct Fredricks to submit the approved permit to NDDOT along with a cover letter prepared by Fredricks. Upon roll call vote, the motion carried unanimously.

Drain Tile Application – Kohler Farms

Application to Install a Subsurface Water Management System No. 2025-14 for Kohler Farms in the West Half of Section 17 in Springvale Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2025-14* filed August 4, 2025, by Applicant Kohler Farms. Under the Application, Applicant seeks to install a 248-acre drain tile system in the West Half of Section 17 in Springvale Township, Barnes County, North Dakota. The project will include a pump outlet located near the southeast corner of the Southwest Quarter of Section 17; the pump will discharge directly into a USGS blue line natural watercourse. The project will also include two gravity outlets; the first gravity outlet will be located along the east boundary of the Northeast Quarter of the Southwest Quarter of Section 17; the outlet will discharge via a pipeline that will run to the east a short distance, onto the Southeast Quarter of Section 17; the pipeline will discharge directly into the same USGS blue line natural watercourse as the pump outlet. The second gravity outlet will be located along the east boundary of the Southeast Quarter of the Northwest Quarter of Section 17; the outlet will discharge via a pipeline that will run to the east a short distance, onto the Northeast Quarter of Section 17; the pipeline will discharge directly into the same USGS blue line natural watercourse.

According to Barnes County records, John Kohler owns the West Half of Section 17 in Springvale Township where Applicant intends to install the tile system. With regard to downstream property where Applicant intends to install tile pipeline and the two gravity outlets, Jeffrey Ertelt owns the Southeast Quarter of Section 17 in Springvale Township, and Douglas Gerard Kuhry owns the Northeast Quarter of Section 17 in Springvale Township. Because the project will discharge into a USGS blue line natural watercourse, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Manager Anderson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2025-14* filed August 4, 2025, for Kohler Farms in the West

Half of Section 17 in Springvale Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2025-14, 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 all project outlets into the USGS blue line natural watercourse in Section 17 in Springvale Township.
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 West Half of Section 17 in Springvale 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. 2025-14 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 and record pipeline easements from the owners of the Southeast Quarter of Section 17 and the Northeast Quarter of Section 17 in Springvale Township.
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. 2025-14, the downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, Jeffrey Ertelt, Douglas Gerard Kuhry, 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 – Dustin Theuer

Application to Install a Subsurface Water Management System No. 2025-17 for Dustin Theurer in the Northeast Quarter of Section 30 in Springvale Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2025-17* filed August 5, 2025, by Applicant Dustin Theurer. The Board previously approved *Subsurface Water Management Permit No. 2025-07* for Mr. Theurer at the Board's meeting on May 12, 2025, and Sean Fredricks provided a Notice of Decision and related permit documents regarding *Permit No. 2025-07* to parties of record, as required under N.D. Cent. Code § 61-32-03.1. The project proposed under *Application to Install a Subsurface Water Management System No. 2025-17* is very similar to the project approved by the Board under *Permit No. 2025-07*, with slight modifications; more specifically, Applicant intends to install the project outlet further south along the east boundary of the Northeast Quarter of Section 30 in Springvale Township compared to the project outlet approved under *Permit No. 2025-07*.

Under *Application No. 2025-17*, Applicant seeks to install a 72-acre drain tile system in the Northeast Quarter of Section 30 in Springvale Township, Barnes County, North Dakota. The project will include a single pump outlet located along the east boundary of the Northeast Quarter of Section 30; the pump will discharge into the west road ditch along North Dakota Highway 32; the discharge will flow south in the west road ditch for a short distance; the discharge will then flow east, through an existing culvert under Highway 32; the discharge will daylight in the east road ditch along Highway 32 and will continue east, across a portion of the Northwest Quarter of Section 29 and a small portion of the Southwest Quarter of Section 20, until flowing into a USGS blue line natural watercourse.

According to Barnes County records, Harriet Dimmer and Neal Dimmer own the Northeast Quarter of Section 30 in Springvale Township, where Applicant intends to install the tile system. With regard to downstream landowners, Rodney and Theresa Haugtvedt own the West Half of the Northwest Quarter of Section 29 in Springvale Township; Ronald Weber and Sharon Weber, as Co-Trustees of the Ronald & Sharon Weber Family Trust, own the East Half of the Northwest Quarter of Section 29; and Harriet Dimmer owns the Southwest Quarter of Section 20 in Springvale Township. Because the tile discharge will flow into a blue line natural watercourse in the Southwest Quarter of Section 20, no additional downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Manager Anderson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2025-17* filed August 5, 2025, for Dustin Theurer in the Northeast Quarter of Section 30 in Springvale Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2025-17, 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 the North Dakota Department of Transportation's Highway 32 right of way.
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 Southwest Quarter of Section 20 in Springvale 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 Northeast Quarter of Section 30 in Springvale 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. 2025-17 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, 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 comply with the following:

1. The Board recommends that Applicant obtain written consent from the North Dakota Department of Transportation to discharge into or otherwise utilize any of NDDOT's Highway 32 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.

The Board will provide copies of the Board's Notice of Decision, Subsurface Water Management Permit No. 2025-17, downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, NDDOT, Springvale Township, Neal Dimmer, Harriet Dimmer, Rodney and Theresa Haugtvedt, the Ronald & Sharon Weber Family Trust, 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 – Tim Richman

Application to Install a Subsurface Water Management System No. 2025-16 for Tim Richman in the East Half of Section 12 in Springvale Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2025-16* filed August 5, 2025, by Applicant Tim Richman. Under the Application, Applicant seeks to install an 83-acre drain tile system in the East Half of Section 12 in Springvale Township, Barnes County, North Dakota. The project will include a single gravity outlet located along the east boundary of the Northeast Quarter of Section 12; the gravity outlet will discharge directly into a USGS blue line waterway; the waterway flows east, under 132nd Avenue SE/Cass County Highway 1, and into Section 7 in Hill Township in Cass County.

According to Barnes County records, Stacy Richman owns the East Half of Section 12 in Springvale Township where Applicant intends to install the tile system. Because the project discharges directly into a USGS blue line waterway, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Legge moved, and Chairman Hieb seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2025-16* filed August 5, 2025, for Tim Richman in the East Half of Section 12 in Springvale Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2025-16, 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 all project outlets into the USGS blue line natural waterway in the Northeast Quarter of Section 12 in Springvale Township.
3. 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 East Half of Section 12 in Springvale Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
4. Applicant will apply for an amendment to Subsurface Water Management Permit No. 2025-16 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 owner of the East Half of Section 12 in Springvale Township to install tile components.
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. 2025-16, the downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, Stacy Richman, Springvale Township, the Cass County Highway Department, 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

Application to Install a Subsurface Water Management System No. 2025-18 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. 2025-18* filed August 5, 2025, by Applicant Devin Weber. The Board previously approved *Subsurface Water Management Permit No. 2025-10* for Mr. Weber at the Board's meeting on June 9, 2025, and Sean Fredricks provided a Notice of Decision and related permit documents regarding *Permit No. 2025-10* to parties of record, as required under N.D. Cent. Code § 61-32-03.1. The project proposed under *Application to Install a Subsurface Water Management System No. 2025-18* is very similar to the project approved by the Board under *Permit No. 2025-10*, with slight modifications; more specifically, Applicant intends to reduce the tile footprint from the 64-acre footprint approved under *Permit No. 2025-10* to 42 acres under *Application No. 2025-18*; Applicant intends to relocate the proposed outlet further to the south on the Southwest Quarter of Section 6; and Applicant intends to add an additional surface inlet. In addition, Applicant is proposing the addition of a dike to the system; Applicant has submitted a dike application to the North Dakota Department of Water Resources. *Subsurface Water Management System No. 2025-18* will supersede *Permit No. 2025-10*.

Under *Application No. 2025-18*, Applicant seeks to install a 42-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 in 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 will flow into and across portions of the North Half of Section 6 before ultimately flowing south into the Southeast Quarter of Section 6 where the discharge will flow into 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, less 30.38 acres owned by Marlin and Tammi Severson; 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 Legge 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, 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 the Application.

Manager Legge moved, and Manager Schlagel seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2025-18* filed August 5, 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. 2025-18, 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. 2025-18 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, 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 comply with the following:

1. The Board recommends that Applicant obtain and record easements to install tile components on property not owned by Applicant.
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. 2025-18, 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, Marlin and Tammi Severson, 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


Nothing more to be added.

With nothing more to be discussed the meeting was adjourned at 11:44 a.m.

APPROVED:

By 
Jerry Hieb, Chair

ATTEST:



Cara Didier
Secretary-Treasurer

Barnes County Water Resource District
PO Box 306
Valley City, ND 58072

August 11th, 2025

PLEASE SIGN IN BELOW

Shawn Olanson

BCC

Dennis Nelson

Spring Creek

Marissa Kirby

Dave Azure

Bob Latt

Suea