

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

DRAFT MINUTES

Meeting Minutes

February 9th, 2026 – 9:00 AM

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

OTHERS PRESENT: Sean Fredricks – Ohnstad Twichell; Mike Opat – Houston Engineering; Shawn Olauson – Barnes County Commissioner; Shawn Anderson – Legal Drain 2 Advisor.

Chairman Hieb called the meeting to order at 9:00 a.m.

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

Manager Fehr moved to approve the minutes from the regular board meeting and the Thordenskjold landowner meeting held on January 12th, 2026. Manager Anderson seconded the motion. Upon voice vote, the motion carried unanimously.

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

OLD BUSSINESS

Thordenskjold Drain

Mike presented cost estimates for crossing improvements. Discussion was held regarding the feedback received from landowners. No action taken at this time.

Clausen Springs Dam

Discussion regarding the trash rack installation. Previous motion to have RC Welding & Machine Shop install the trash rack had contingencies in it and they were not able to meet those contingencies. Manager Fehr made the motion to amend previous motion to state the board approved RC Welding & Machine Shop or Shawn Cole Construction with the same contingencies of evidence of contractor license and evidence they have secured the insurance coverage required under the contract. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

Chairman Hieb called for recess of the regular meeting to conduct Public Hearing @ 9:31 a.m.

Public Hearing – Surface Drain Application – Pat Hurley

Sean Fredricks explained that the Department of Water Resources (“DWR”) recently provided a RECORD OF DECISION regarding a surface drain application submitted to DWR by Pat Hurley, SURFACE DRAIN APPLICATION NO. 6842. Under APPLICATION NO. 6842, Mr. Hurley plans to remove sediment and vegetation from a natural channel in the Northwest Quarter of Section 19 in Rosebud Township. Mr. Hurley’s engineering consultant provided the following project description along with Mr. Hurley’s permit application:

This application pertains to the maintenance of an existing natural channel that extends from a culvert crossing through 102nd Ave SE on the western edge of Section 19 in Rosebud Township (S19-T137N-R60W) and drains eastward to the junction of two natural channels, as shown on the Vicinity Map in Appendix B.

The project involves the removal of sediment and vegetation within a reach of the existing channel, which is an unnamed tributary of Bear Creek. Over time, the channel has accumulated significant sediment and vegetation, reducing its capacity and overall function. These conditions were confirmed through a 2024 survey, detailed in the plan and profile sheets in Appendix C.

At the west end of Section 19, beginning at the east side of 102nd Ave SE, the original channel width is estimated to be approximately 25 feet, gradually narrowing to 8–10 feet toward the junction with the existing south-flowing channel. Some areas are narrower due to sediment buildup. The sediment removal will maintain a consistent width of approximately 8 feet along the channel bottom, with additional sediment left in place on the sides where the natural width exceeds this range.

The proposed cleanout will establish a straight grade from the north culvert invert at 102nd Ave SE to the west at approximately 0.20% until it daylight into the side slope of the channel flowing south, about 60 feet south of the private crossing known as the “Hurley Crossing.”

DWR further provided the following additional description of the project in the RECORD OF DECISION:

The Applicant clarified in discussions after submitting the Application that the reach proposed to be excavated begins downstream of a stream crossing at the east side of the east ditch along 102nd Ave SE and continues southeast approximately 865 feet to the west bank of the downstream waterway it enters (**Figure 1**). Sediment and vegetation are proposed to be removed to maintain a channel width of approximately eight feet with 3:1 side slopes and a straight channel alignment grade of 0.20%. The existing channel width is stated as spanning approximately 25 feet near 102nd Ave SE and narrowing to eight to 10 feet near its junction with the south flowing channel it enters.

Under APPLICATION NO. 6842, Mr. Hurley proposes to clean out a natural channel that is adjacent to, and discharges into, a channel in the West Half of Section 19 that was the subject of a COMPLAINT FOR WATER-RELATED ISSUES filed by Leslie Hansen against Pat Hurley, dated November 7, 2022 (the “Complaint”). In December of 2024, Mr. Hurley submitted SURFACE DRAIN APPLICATION NO. 6642 to DWR. Under APPLICATION NO. 6642, Mr. Hurley sought a permit to remove sediment and vegetation from a portion of the Original Drain, the channel that was the subject of the 2022 Complaint. However, DWR issued a notice dated January 22, 2025, in which DWR notified parties of record of

DWR's decision that Mr. Hurley's project proposed under APPLICATION NO. 6642 did not require a surface drainage permit. Mr. Hansen appealed DWR's decision and that matter is still pending.

Under APPLICATION NO. 6842, Mr. Hurley proposes to conduct sediment and vegetation removal from a natural channel to the west of the channel that was the subject of the 2022 Complaint. However, while the natural channel Mr. Hurley proposes to clean under APPLICATION NO. 6842 was not at issue in the 2022 Complaint, and is not at issue regarding the Hansen/DWR appeal related to SURFACE DRAIN APPLICATION NO. 6642, the channel is in the same quarter (the Northwest Quarter of Section 19 in Rosebud Township) and discharges into the natural channel that was the subject of the 2022 Complaint. In light of the contentious nature of the previous proceedings in this vicinity, the Board concluded "public and private interests would be better served by a specific public meeting to consider the project" and the Board set this hearing regarding APPLICATION NO. 6842 under Section 89-02-01-09.1(2)(a) of the Administrative Code.

Fredricks noted that, under N.D. Cent. Code 61-32-03 and under the North Dakota Administrative Code, the Board has to determine if the project will result in adverse downstream impacts and, if so, the Board has to require Mr. Hurley to obtain downstream easements as a condition to any approved permit. Fredricks noted that Mr. Hansen's counsel, Kale Van Bruggen, suggested that if Mr. Hurley will agree to conduct an as-built survey following the clean-out proposed under APPLICATION NO. 6842, Mr. Hansen will be more comfortable regarding the project and regarding any future activities in this vicinity, and Mr. Hansen will not challenge the permit.

Mr. Hurley indicated he is proposing an 8-inch sediment cleanout and further noted that he does not want to spend the money to conduct an as-built survey. Fredricks responded that a protracted fight about whether or not the project will result in downstream impacts would be expensive and unnecessary for all parties. Manager Anderson indicated that, in his view, this project will not result in adverse downstream impacts and further noted that requiring Mr. Hurley to conduct an as-built survey would be a reasonable manner of assuring the project does not exceed the application dimensions and would provide all parties a baseline to avoid future disputes regarding cleanouts of this particular channel.

The parties had no additional comments. Mike Opat will review the application and will prepare draft responses to the 8-point questionnaire required under the Administrative Code, for the Board's review and consideration. Ohnstad Twichell will prepare a proposed Order for the Board's consideration.

Chairman Hieb concluded the hearing.

Hearing ended @ 10:14 a.m. regular meeting resumed.

Sheyenne River Bank Stabilization Study

No update at this time.

Hobart Lake

No changes from last month.

Sanborn Lake Outlet

No changes from last month.

Dam Inventory

Mike provided the report from Houston Engineering Inc. on the Dam Inventory Inspection to the Board.

Brown Dam

Manager Fehr made a motion to direct Mike Opat with Houston Engineering Inc. to investigate cost-share funding options. Manager Legge seconded the motion. Upon roll call vote, the motion carried unanimously.

Sheyenne River Snagging & Clearing

Mike informed the Board that IBI is finishing on the South end. IBI plans to move North on the Sheyenne River if ice conditions continue to be favorable.

Legal Drain 2 – Annual Meeting

Shawn Anderson and Scott Legge were present from the Legal Drain 2 “Advisory Committee.” Kevin Harstad was absent. The Advisory Committee conducted election of officers, Kevin Harstad’s term on the Committee expired. Tim Ripplinger nominated Kevin Harstad for another term, seconded by Duane Farnquist. All members of the Advisory Committee voted in favor. Kevin Harstad will serve another term. Tim Ripplinger moved to approve the 2025 financial report as presented with Brian Harstad seconding. Upon voice vote the motion carried. The Water Resource District Board discussed the status of the bonds previously issued. There are 5 payments of \$19,525.08 remaining. Discussion was held on the maintenance plan. In 2025 there was no snow removal done. Cattails were sprayed in the fall of 2025 with plans to continue to spray in the fall of 2026. Discussion regarding chemicals used during spraying was held. Discussion was held on how the Advisory Committee’s meetings became part of the Water Resource District’s regular meetings. Fredricks explained that, under North Dakota law, only the Barnes County Water Resource District can make decisions regarding expenditures, modifications to the legal drain, and related items. The Advisory Committee is a committee of the Barnes County Water Resource District and is subject to open meetings laws; with that in mind, the Barnes County Water Resource District previously decided to include Advisory Committee meetings during WRD board meetings. LeRoy Triebold made a motion for the Advisory Committee to take the Barnes County Water Resource District’s board seats in the front of the conference room during their time with Tim Ripplinger seconding. Upon voice vote of the Advisory Committee, the motion carried unanimously. Cleanout of the drain and culverts was discussed. Neil Aman made the motion to adjourn the Advisory Committee meeting with Brian Harstad seconding. Upon voice vote the motion carried.

NEW BUSINESS

Spring Creek – Ron Kruger

Ron Kruger, the Mayor of the City of Kathryn, was present to discuss who is responsible for clearing the waterway through the City of Kathryn.

Drain Tile Applications – Matt Legge

The next items on the agenda were three tile applications filed by Matt Legge. Before proceeding with any substantive discussion regarding the applications, the Board discussed the potential conflict for Manager Legge. Applicant Matt Legge is Manager Scott Legge’s cousin and, with that in mind, the Board agreed they should conduct a conflict analysis regarding Manager Legge’s likely 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.

In this case, Fredricks indicated Manager Legge likely has a “direct and substantial personal interest” in the matter that creates a conflict. Manager Anderson moved to conclude Manager Legge has a conflict in the matter and should not vote on or discuss matters related to Matt Legge’s tile applications, Application Nos. 2026-02, 2026-03, and 2026-04. Manager Fehr seconded the motion. Upon roll call vote, Chairman Hieb and Managers Anderson, Fehr, and Schlagel voted in favor of the motion. Manager Legge 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 issue concluded, the Board proceeded with discussion regarding Matt Legge’s tile applications.

Application to Install a Subsurface Water Management System No. 2026-02 for Matt Legge in Section 13 in Anderson Township and the Southwest Quarter of Section 18 in Stewart Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2026-02* filed January 26, 2026, by Applicant Matt Legge. Under *Application No. 2026-02*, Applicant seeks to install a 451-acre drain tile system in Section 13 in Anderson Township and the Southwest Quarter of Section 18 in Stewart Township, Barnes County, North Dakota. The project in the Southwest Quarter of Section 18 in Stewart Township will connect to the system in Section 13 in Anderson Township via a pipeline under 108th Avenue SE. The project will include a single pump outlet in the Northeast Quarter of Section 13 in Anderson Township; the pump will discharge directly into a wetland complex designated by the National Wetland Inventory; the discharge will then flow to the northeast via a “natural watercourse,” as that term is defined under N.D. Cent. Code § 61-01-06.

According to Barnes County records supplied by Applicant, Matthew and Tania Legge, LLP, owns all of Section 13 in Anderson Township and the Southwest Quarter of Section 18 in Stewart Township. Because the outlet will discharge directly into a wetland and a natural watercourse, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Fehr moved, and Manager Schlagel seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2026-02* filed January 26, 2026, for Matt Legge in Section 13 in Anderson Township and the Southwest Quarter of Section 18 in Stewart Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2026-02, 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 into the wetland and natural watercourse in the Northeast Quarter of Section 13 in Anderson 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 Section 13 in Anderson Township and the Southwest Quarter of Section 18 in Stewart 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. 2026-02 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 Anderson, Fehr, and Schlagel voted in favor of the motion. Manager Legge abstained. The motion carried.

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 Stewart Township Board of Township Supervisors and the Anderson 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. 2026-02, downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, the Stewart Township Board of Township Supervisors, the Anderson Township Board of Township Supervisors, 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.

Application to Install a Subsurface Water Management System No. 2026-03 for Matt Legge in the Southeast Quarter of Section 19 in Stewart Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2026-03* filed January 26, 2026, by Applicant Matt Legge. Under *Application No. 2026-03*, Applicant seeks to install a 118-acre drain tile system in the Southeast Quarter of Section 19 in Stewart Township, Barnes County, North Dakota. The project will include a single pump outlet located near the southeast corner of the Southeast Quarter of Section 19; the pump will discharge into the west road ditch along North Dakota Highway No. 1; the discharge will flow to the south in the west road ditch, along the east boundary of the Northeast Quarter of Section 30, for a short distance; the discharge will then flow to the east under Highway 1, through an existing culvert; the discharge will daylight in the east road ditch along Highway 1 and will flow south, along the west boundary of the Northwest Quarter of Section 29, under BNSF Railway Company's right of way; at the northwest corner of the Southwest Quarter of Section 29, the tile discharge will flow into Stewart-Anderson Drain No. 2, a legal assessment drain owned and operated by the Barnes County Water Resource District.

According to Barnes County records supplied by Applicant, Matthew and Tania Legge own the Southeast Quarter of Section 19 in Stewart Township, where Applicant intends to install the tile system. With regard to downstream property, NDDOT owns its right of way; BNSF Railway Company owns its right of way; Joseph Krendel owns the Northeast Quarter of Section 30 in Stewart Township; and the Donald H. Jorissen Revocable Trust owns the west boundary of the Northwest Quarter of Section 29. Because the tile discharge will flow into a legal assessment drain in the Southwest Quarter of Section 29 in Stewart Township, no additional downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Sean Fredricks explained to the Board that, in 2024, the Traill County Water Resource District and the Maple River Water Resource District, separately, settled several court actions with BNSF Railway Company regarding tile projects that discharged into or upstream of BNSF right of way. In the settlement agreements, those water resource districts agreed to notify tile applicants that BNSF has a permitting process regarding tile discharge. More specifically, those water resource districts agreed to include the following recommendations in any future NOTICE OF DECISION regarding any tile project that will discharge into or within one mile upstream of any BNSF right of way:

The District recommends that Applicant complete and submit BNSF's RIGHT OF WAY DISCHARGE PERMIT to BNSF before discharging any water into BNSF's right of way.

The District recommends that Applicant contact BNSF before entering or allowing each of Applicant's agents and/or contractors to enter BNSF's right of way.

The District recommends that Applicant obtain written consent from BNSF to discharge into, through, or over, BNSF's right of way and/or before any entry by Applicant (or Applicant's agents or contractors) upon any of BNSF's property or right of way.

In this case, Applicant's tile discharge will flow into and through BNSF's right of way in the Northwest Quarter of Section 29. While the Barnes County Water Resource District was not a party to those

lawsuits, BNSF indicated at the time that if other water resource districts included these recommendations in their respective tile approval documents, BNSF would refrain from suing those boards and the tile applicants/permittees. In this case, Sean Fredricks recommended that the Barnes County Water Resource District include the above recommendations in the Board's NOTICE OF DECISION regarding Permit No. 2026-03, to avoid any suit against the Board and against Mr. Legge.

The Board discussed the benefit this property will receive from Stewart-Anderson Drain No. 2 as a result of this project. Mike Opat noted the Southeast Quarter of Section 19 in Stewart Township is not currently in the Stewart-Anderson Drain No. 2 assessment district. However, as a result of this tile project, that quarter will now discharge into the Stewart-Anderson drain. Under N.D. Cent. Code § 61-32-03.1(4)(g), as a condition to the Board's approval of the application, the Board can include the Southeast Quarter of Section 19 in the Stewart-Anderson Drain No. 2 assessment district. Mike reviewed LiDAR and the Stewart-Anderson Drain No. 2 assessment district map. The Board reviewed and considered the benefits of the drain to the property. There are no outstanding bond obligations regarding Stewart-Anderson Drain No. 2; inclusion of the Southeast Quarter of Section 19 will be for purposes of annual maintenance levies for the drain. Upon review and consideration, the Board ultimately concluded that the Southeast Quarter of Section 19 will benefit at a 35% level. Cara and Mike will update the Stewart-Anderson Drain No. 2 assessment district list to include this parcel on the Stewart-Anderson Drain No. 2 maintenance levy list next year.

Manager Fehr moved, and Manager Anderson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2026-03* filed January 26, 2026, for Matt Legge in the Southeast Quarter of Section 19 in Stewart Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2026-03, 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 into NDDOT's Highway No. 1 road 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. The Board will include the Southeast Quarter of Section 19 of Stewart Township in the Stewart-Anderson Drain No. 2 assessment district at 35% benefit.
5. 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 Stewart-Anderson Drain No. 2, in accordance with N.D. Cent. Code § 61-32-03.1.
6. 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 Southeast Quarter of Section 19 in Stewart Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
7. Applicant will apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2026-03 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 Anderson, Fehr, and Schlagel voted in favor of the motion. Manager Legge abstained. The motion carried.

With regard to condition #5, 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 No. 1 right of way.
2. The Board recommends that Applicant complete and submit BNSF's RIGHT OF WAY DISCHARGE PERMIT to BNSF before discharging any water into BNSF's right of way.
3. The Board recommends that Applicant contact BNSF before entering or allowing each of Applicant's agents and/or contractors to enter BNSF's right of way.
4. The Board recommends that Applicant obtain written consent from BNSF to discharge into, through, or over, BNSF's right of way and/or before any entry by Applicant (or Applicant's agents or contractors) upon any of BNSF's property or right of way.
5. The Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and 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. 2026-03, downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, the North Dakota Department of Transportation, BNSF Railway Company, Joseph Krendel, Donald H. Jorissen Revocable 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. The Board's NOTICE OF DECISION will notify the Applicant of where to seek and access BNSF's permit form and contact information for BNSF's permitting department.

Application to Install a Subsurface Water Management System No. 2026-04 for Matt Legge in the East Half of Section 29 in Stewart Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2026-04* filed January 26, 2026, by Applicant Matt Legge. Under *Application No. 2026-04*, Applicant seeks to install a 202-acre drain tile system in the East Half of Section 29 in Stewart Township, Barnes County, North Dakota. The project will include a single pump outlet in the southeast corner of the Southeast Quarter of Section 29 in Stewart Township; the pump will discharge via a pipe that will run to the south, under 29th Street SE; the discharge pipe will daylight on the south side of 29th Street SE, along

the north boundary of the Northeast Quarter of Section 32 in Stewart Township, and will discharge into Stewart-Anderson Drain No. 2, a legal assessment drain owned and operated by the Barnes County Water Resource District.

According to Barnes County records supplied by Applicant, Matthew Legge owns the East Half of Section 29 in Stewart Township, where Applicant intends to install the tile system. Because the project will discharge into a legal assessment drain, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

The Board discussed the benefit this property will receive from Stewart-Anderson Drain No. 2 as a result of this project. Mike Opat noted the Southeast Quarter of Section 29 in Stewart Township is already in the Stewart-Anderson Drain No. 2 assessment district; however, the Northeast Quarter of Section 29 is not currently in the Stewart-Anderson Drain No. 2 assessment district. As a result of this tile project, drainage from the Northeast Quarter of Section 29 will now discharge into the Stewart-Anderson drain. Under N.D. Cent. Code § 61-32-03.1(4)(g), as a condition to the Board's approval of Application No. 2026-04, the Board can include the Northeast Quarter of Section 29 in the Stewart-Anderson Drain No. 2 assessment district. Mike reviewed LiDAR and the Stewart-Anderson Drain No. 2 assessment district map. The Board reviewed and considered the benefits of the drain to the property. There are no outstanding bond obligations regarding Stewart-Anderson Drain No. 2; inclusion of the Northeast Quarter of Section 29 will be for purposes of annual maintenance levies for the drain. Upon review and consideration, the Board ultimately concluded that the Northeast Quarter of Section 29 will benefit at an 80% level. Cara and Mike will update the Stewart-Anderson Drain No. 2 assessment district list to include this parcel on the Stewart-Anderson Drain No. 2 maintenance levy list next year.

Manager Fehr moved, and Manager Anderson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2026-04* filed January 26, 2026, for Matt Legge in the East Half of Section 29 in Stewart Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2026-04, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will set and install any drain tile pump at least 25 feet from the top of the back slope of Stewart-Anderson Drain No. 2, with a pipe buried from the pump to Drain No. 2.
3. Applicant will install and maintain erosion protection at the project outlet into Stewart-Anderson Drain No. 2.
4. The Board will include the Northeast Quarter of Section 29 of Stewart Township in the Stewart-Anderson Drain No. 2 assessment district at 80% benefit.
5. 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.
6. 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 29 in Stewart Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
7. Applicant will apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2026-04 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 Anderson, Fehr, and Schlagel voted in favor of the motion. Manager Legge abstained. The motion carried.

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 Stewart Township Board of Township Supervisors to install a pipeline or any other project components in the Township's road right of way.
2. The Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and 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. 2026-04, downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, the Stewart Township Board of Township Supervisors, 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 – Aaron Larson

Application to Install a Subsurface Water Management System No. 2026-01 for Aaron Larson in the Southeast Quarter of Section 21 and the South Half of the Northeast Quarter of Section 21 in Oriska Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2026-01* filed January 20, 2026, by Applicant Aaron Larson. Under *Application No. 2026-01*, Applicant seeks to install a 140-acre drain tile system in the Southeast Quarter of Section 21 and the South Half of the Northeast Quarter of Section 21 in Oriska Township, Barnes County, North Dakota. The project will include a single gravity outlet that will discharge via a pipeline that will run to the east from the Southeast Quarter of Section 21, under 129th Avenue SE; the pipeline will run for a short distance into the Southwest Quarter of Section 22; the pipeline will daylight and discharge directly into a USGS blue line natural waterway.

According to Barnes County records supplied by Applicant, with regard to the property Applicant intends to tile, Aaron and Stacie Larson own the Southeast Quarter of Section 21 and 52 acres of the Northeast Quarter of Section 21 south of BNSF's right of way. Because the outlet will discharge directly into a USGS blue line natural waterway, no downstream notices are required under N.D. Cent. Code § 61-32-03.1. Darlene Measor owns the Southwest Quarter of Section 22 in Oriska Township, where Applicant intends to install the pipeline and project outlet.

Manager Legge moved, and Manager Schlagel seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2026-01* filed January 20, 2026, for Aaron Larson in the Southeast Quarter of Section 21 and the South Half of the Northeast Quarter of Section 21 in Oriska

Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT No. 2026-01, 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 into the USGS blue line natural waterway in the Southwest Quarter of Section 22 in Oriska 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 Southeast Quarter of Section 21 and the South Half of the Northeast Quarter of Section 21 in Oriska 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. 2026-01 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 an easement from the owner of the Southwest Quarter of Section 22 in Oriska Township to install and maintain a pipeline and the project outlet.
2. The Board recommends that Applicant obtain written consent from the Oriska Township Board of Township Supervisors to install any project components in the Township's right of way.
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. 2026-01, downstream flow map, and the Barnes County Drainage/Ditch Cleaning Permit Application to the Department of Water Resources, Oriska Township, Darlene Measor, 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.

2027 Water Development Plan

Mike informed the Board that the State Water Commission put out official notice that their annual water development planning process for the upcoming biennium has begun. Mike stated potential project lists are due to the State Water Commission by April 30th. Mike to bring potential list to next meeting for the board's review.

Engineer Report

Secretary Cara stated she was asked by the new observers of Clausen Springs Dam if there would be training regarding the EAP. After some discussion it was decided after our next regular meeting on March 9th Mike will meet with new observers at Clausen Springs Dam.

Legal Report

Nothing more to be added.

With nothing more to be discussed the meeting was adjourned at 11:57 a.m.

APPROVED:

By: _____
Jerry Hieb, Chair

ATTEST:

Cara Didier
Secretary-Treasurer

DRAFT