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Dickey County Water Resource District.**

Dickey County Water Resource District

MEETING MINUTES

October 21, 2026

The Dickey County Water Resource District met at the Dickey County Courthouse in Ellendale, ND at 8:00 am on Wednesday, October 21, 2026. Managers Steve Hansen, Keith Hauck, Justin Gemar and John Quandt were all present at the meeting. Manager Don Zimbleman was absent from the meeting. Sean Fredricks, the board's attorney, and Nathan Trosen, Moore Engineering representative, joined via video conference.

Chairman Hansen called the meeting to order.

Public Comment Period

There were no comment cards submitted or any other requests for public comment.

David Kinzler Tile App(resubmitted)

Application to Install a Subsurface Water Management System No. 2026-13 for David Kinzler in the Southeast Quarter of Section 11 in Hamburg Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2026-13* filed September 25, 2026, by David Kinzler. Under the Application, Mr. Kinzler seeks to install an 85-acre drain tile system in the Southeast Quarter of Section 11 in Hamburg Township, Dickey County, North Dakota, lying south of CP Rail right of way. The project will include two gravity outlets, both in the West Half of the Southeast Quarter of Section 11; both outlets will discharge into a tributary of the South Fork of the Maple River in the West Half of the Southeast Quarter of Section 11. The project will include one surface inlet. Permit No. 2026-13 will replace Permit No. 2026-12, previously approved by the Dickey County Water Resource District on September 16, 2026.

According to Dickey County tax records, David and Susan Kinzler own the Southeast Quarter of Section 11, the property Permittee intends to tile. Because the project will discharge directly into a natural watercourse, no downstream notices are necessary under N.D. Cent. Code § 61-32-03.1.

Manager Hauck moved, and Manager Gemar seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2026-13* filed September 25, 2026, for David Kinzler in the Southeast Quarter of Section 11 in Hamburg Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2026-13, subject to the following conditions:

1. Permittee will re-establish any areas disturbed installing or maintaining Permittee's tile system.
2. Permittee will install and maintain erosion protection at any and all outlets into the tributary of the South Fork of the Maple River in the Southeast Quarter of Section 11 in Hamburg Township.
3. Permittee will not install Permittee's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Southeast Quarter of Section 11 in Hamburg Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
4. Permittee will apply for an amendment to Subsurface Water Management Permit No. 2026-13 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 Permittee's permit. However, for Permittee's protection, and to ensure protection of Permittee's tile system, the Board recommends that Permittee 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 and Subsurface Water Management Permit No. 2026-13 to the Department of Water Resources, and Southeast Water Users District. In addition, Fredricks will provide copies to Kenneth and Rachel Kellogg, to notify them that the project outlets will not, in fact, be located on their property. Permittee's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Scott Hansen Tile App

Application to Install a Subsurface Water Management System No. 2026-14 for Scott Hansen in the Northwest Quarter of Section 8 in Port Emma Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2026-14* filed September 22, 2026, by Scott Hansen. Before discussing the merits of the Application, Sean Fredricks noted the Board should conduct a conflict analysis regarding Chairman Hansen's potential conflict in the matter. Applicant Scott Hansen is Chairman Hansen's cousin. Sean Fredricks explained that Chairman Hansen may have some personal interest in the outcome of the Board's decision, but that may not be enough to meet the legal conflict standard under Section 44-04-22 of the North Dakota Century Code:

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.

Mr. Fredricks indicated the North Dakota Supreme Court and the Attorney General's Office have taken narrow views of situations where a public official can abstain from participating in a matter. A public official must have a "direct and substantial personal or pecuniary interest" in the matter. The mere appearance of a conflict is not enough to allow the public official to refrain from participating. The North Dakota Supreme Court adopted a "rule of necessity" that requires public officials to participate in matters before their respective boards. The public policy rationale is that public officials have a duty to vote on issues before them and cannot avoid participation simply to avoid the appearance of impropriety.

The Section 44-04-22 test requires a multi-step analysis. First, a public official concerned about a conflict of interest should confer with the Board's attorney to determine if a "direct and substantial personal or pecuniary interest" conflict exists under Section 44-04-22. If the public official's review with the governing entity's attorney is not dispositive, the remainder of the governing entity's Board should vote to determine if a conflict exists by a majority vote. If the remaining members conclude a conflict does exist (or if the member and the Board's attorney conclude a conflict exists), the remainder of the Board should next vote on whether or not the public official should "participate in or vote on that particular matter" In other words, even if a conflict does exist (even if the official does have a "direct and substantial personal or pecuniary interest" in the matter), if the governing entity concludes the public official should still participate despite the conflict, the official must participate and cannot abstain.

Chairman Hansen may not have "a direct and substantial personal" interest in this matter; the fact that the Applicant is Chairman Hansen's cousin does not necessarily give rise to a personal interest in a matter. Manager Gemar moved to conclude that Chairman Hansen may have a statutory conflict but, regardless, to require that Chairman Hansen participate in discussions and voting regarding *Application No. 2026-14*. Manager Quandt seconded the motion. Upon roll call vote, Managers Hauck, Gemar, and Quandt voted in favor of the motion. Chairman Hansen abstained. The motion carried. With the conflict discussion concluded, the Board next discussed the Application.

Under the Application, Mr. Hansen seeks to install a 41-acre drain tile system in the Northwest Quarter of Section 8 in Port Emma Township, Dickey County, North Dakota. The project will include a single gravity outlet that will discharge via a pipeline that will run to the west, under Dickey County Highway No. 8; the pipeline will continue to the west on a portion of the Northeast Quarter of Section 7 until daylighting and discharging into a natural watercourse, as that term is defined under N.D. Cent. Code § 61-01-06; the natural watercourse runs to the south. The project will include one surface inlet.

According to Dickey County tax records, Scott D. Hansen, as Trustee of the Scott D. Hansen Revocable Living Trust, owns the 142.3 acres in the Northwest Quarter of Section 8 that Mr. Hansen intends to tile. With regard to the property where Mr. Hansen intends to install the project pipeline and outlet, the Kathleen Burkhardt Trust owns the Northeast Quarter of Section 7 in Port Emma Township. Because the project will discharge directly into a natural watercourse, no downstream notices are necessary under N.D. Cent. Code § 61-32-03.1.

Manager Quandt moved, and Manager Gemar seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2026-14* filed September 22, 2026, for Scott Hansen in the Northwest Quarter of Section 8 in Port Emma Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2026-14, subject to the following conditions:

1. Permittee will re-establish any areas disturbed installing or maintaining Permittee's tile system.
2. Permittee will install and maintain erosion protection at any and all outlets into the natural watercourse in the Northeast Quarter of Section 7 in Port Emma Township.
3. Permittee will not install Permittee's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Northwest Quarter of Section 8 in Port Emma Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
4. Permittee will apply for an amendment to Subsurface Water Management Permit No. 2026-14 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 Permittee's permit. However, for Permittee's protection, and to ensure protection of Permittee's tile system, the Board recommends that Permittee comply with the following:

1. The Board recommends that Permittee obtain written consent from the Dickey County Highway Department to install any pipeline or other project components in the County's highway right of way.
2. The Board recommends that Permittee obtain and record a pipeline easement from the owner of Northeast Quarter of Section 7 in Port Emma Township to install and maintain Permittee's pipeline and outlet.
3. The Board recommends that Permittee 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 and Subsurface Water Management Permit No. 2026-14 to the Department of Water Resources, the Dickey County Highway Department, the Kathleen Burkhardt Trust, and Southeast Water Users District. Permittee's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Steve Hansen Tile App

Application to Install a Subsurface Water Management System No. 2026-15 for Steve Hansen in the Southwest Quarter of Section 34 in Hudson Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2026-15* filed September 29, 2026, by Steve Hansen. Before discussing the merits of the Application, Sean Fredricks noted the Board should conduct a conflict analysis regarding Chairman Hansen's likely conflict in the matter. Chairman Hansen is the Applicant under this Application and Sean Fredricks indicated that he clearly has a conflict under Section 44-04-22 of the North Dakota Century Code:

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.

Mr. Fredricks noted that, even under the "rule of necessity" adopted by the North Dakota Supreme Court and the Attorney General's Office, Chairman Hansen clearly has a "direct and substantial personal or pecuniary interest" regarding his own tile application. Under Section 44-04-22, even if the remainder of the Board concludes a conflict does exist, the remainder of the Board should next vote on whether or not Chairman Hansen should "participate in or vote on that particular matter" In other words, even if a conflict does exist (even if Chairman Hansen does have a "direct and substantial personal or pecuniary interest" in the matter), if the rest of the Board concludes Chairman Hansen should still participate despite the conflict, Chairman Hansen must participate and cannot abstain. In this case, the Board agreed that, in the interest of protecting the Board, protecting Chairman Hansen, and protecting the integrity of his tile permit, prohibiting Chairman Hansen from voting in this matter is necessary and prudent.

Manager Hauck moved to conclude that Chairman has a "direct and substantial personal or pecuniary interest" regarding *Application No. 2026-15* and to prohibit Chairman Hansen from participating in discussions and voting regarding *Application No. 2026-15*. Manager Quandt seconded the motion. Upon roll call vote, Managers Hauck, Gemar, and Quandt all voted in favor of the motion. Chairman Hansen abstained. The motion carried. With the conflict discussion concluded, the Board next discussed the Application.

Under the Application, Chairman Hansen seeks to install a 150-acre drain tile system in the Southwest Quarter of Section 34 in Hudson Township, Dickey County, North Dakota. The project will include a single pump outlet near the southeast corner of the Southwest Quarter of Section 34, either in or near the north road ditch along 96th Street SE; the pump will discharge through a pipeline that will run to the south, under 96th Street; the pipeline will daylight in the south road ditch along 96th Street SE, and will discharge into a private drain in the south road ditch, along the north boundary of the Northwest Quarter of Section 3 in Port Emma Township; the discharge will then flow to the east in the private drain, along the north boundary of Section 3 and Section 2 in Port Emma Township. The project will include four surface inlets.

According to Dickey County tax records, the Stephen A. Hansen Revocable Living Trust and the Judy L. Hansen Revocable Living Trust own the Southwest Quarter of Section 34 in Hudson Township, the property that Chairman Hansen intends to tile. With regard to downstream notices one mile from the project outlet as required under N.D. Cent. Code § 61-32-03.1, Harold H. Scheffert Jr. and Madella Scheffert own the Northwest Quarter of Section 3 in Port Emma Township; Kyle Courtney owns the Northeast Quarter of Section 3 in Port Emma Township; and Erica Thorpe owns the North Half of the Northwest Quarter of Section 2 in Port Emma Township. Chairman Hansen has already obtained consent from the Port Emma Township Board of Township Supervisors to install a tile line through 96th Street.

Manager Gemar moved, and Manager Quandt seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2026-15* filed September 29, 2026, for Steve Hansen in the Southwest Quarter of Section 34 in Hudson Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2026-15, subject to the following conditions:

1. Permittee will re-establish any areas disturbed installing or maintaining Permittee's tile system.
2. Permittee will install and maintain erosion protection at any and all outlets into the south road ditch (and private drain) along 96th Street SE.
3. Permittee will turn off the pump outlet during "critical flood periods," as determined by the Dickey County Water Resource District.
4. Permittee will remove silt or vegetation or repair erosion or scour damages **directly** caused by Permittee's tile system, but only up to one mile from the project outlet, in accordance with N.D. Cent. Code § 61-32-03.1.
5. Permittee will not install Permittee's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the Southwest Quarter of Section 34 in Hudson Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
6. Permittee will apply for an amendment to Subsurface Water Management Permit No. 2026-15 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, Managers Hauck, Zimbleman, Gemar, and Quandt all voted in favor of the motion. Chairman Hansen abstained. The motion carried.

With regard to condition #4, Permittee'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 Permittee'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 Permittee's permit. However, for Permittee's protection, and to ensure protection of Permittee's tile system, the Board recommends that Permittee 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. 2026-15, the downstream flow map, and the consent from the Port Emma Township Board of Township Supervisors to the Department of Water Resources, the Hudson Township Board of Township Supervisors, the Port Emma Township Board of Township Supervisors, Harold H. Scheffert Jr., Madella Scheffert, Kyle Courtney, Erica Thorpe, and Southeast Water Users District. Chairman Hansen's detailed project design map is an exempt record, and the Board will not provide copies to any third parties

Ryan Forward Tile App

Application to Install a Subsurface Water Management System No. 2026-16 for Ryan Forward in the North Half of Section 35 in Hudson Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2026-16* filed October 13, 2026, by Ryan Forward. Under the Application, Mr. Forward seeks to install a 162-acre drain tile system in the North Half of Section 35 in Hudson Township, Dickey County, North Dakota, lying south of CP Rail right of way. The project will include a single gravity outlet, located in the northeast corner of the Southeast Quarter of Section 35, near or in the west road ditch along Dickey County Highway No. 14; the discharge will flow south in the west road ditch, along the east boundary of the Southeast Quarter of Section 35; at approximately the quarter-quarter line, the discharge will flow to the east, through an existing culvert under Highway 14, and will daylight in the east road ditch along Highway 14, along the west boundary of the Southwest Quarter of Section 36; the discharge will flow to the south in the east road ditch for a short distance until flowing into a natural drain; the discharge will then flow east in the natural drain until flowing into the James River, in the Southwest Quarter of Section 36 in Hudson Township.

According to Dickey County tax records, Marjorie Forward, as Trustee of the G&M Forward Trust, owns the Northwest Quarter of Section 35 in Hudson Township; and Lynn and Ruby Voightman, Trustees of the Voightman Family Trust, own the Northeast Quarter of Section 35 in Hudson Township, the property Mr. Forward intends to tile. With regard to the property where Mr. Forward intends to install the project outlet, Craig German, Curt German, Bryan German, Linette Helgersen, Lori Nelson, Lana Norton, and Gerald and Claire German own the Southeast Quarter of Section 35. With regard to notices to downstream landowners one mile from the project outlet, as required under N.D. Cent. Code § 61-32-03.1, Craig German, Curt German, Bryan German, Linette Helgersen, Lori Nelson, Lana Norton, and Gerald and Claire German own the Southeast Quarter of Section 35 and the Southwest Quarter of Section 36 west of the James River. Once the discharge flows into the James River, no additional downstream notices are necessary under Section 61-32-03.1.

Manager Hauck moved, and Manager Quandt seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2026-16* filed October 13, 2026, for Ryan Forward in the North Half of Section 35 in Hudson Township, and to authorize the Secretary-Treasurer to sign Subsurface Water Management Permit No. 2026-16, subject to the following conditions:

1. Permittee will re-establish any areas disturbed installing or maintaining Permittee's tile system.
2. Permittee will install and maintain erosion protection at any and all outlets into the Dickey County Highway Department's highway right of way.
3. Permittee will remove silt or vegetation or repair erosion or scour damages **directly** caused by Permittee's tile system, but only up to one mile from the project outlet, in accordance with N.D. Cent. Code § 61-32-03.1.
4. Permittee will not install Permittee's tile system within 20 feet, on either side, of any rural water lines Southeast Water Users District has in the North Half of Section 35 in Hudson Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
5. Permittee will apply for an amendment to Subsurface Water Management Permit No. 2026-16 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.

With regard to condition #3, Permittee'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 Permittee'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 Permittee's permit. However, for Permittee's protection, and to ensure protection of Permittee's tile system, the Board recommends that Permittee comply with the following:

1. The Board recommends that Permittee obtain written consent from the Dickey County Highway Department to install the project outlet or other project components in the County's highway right of way, or to discharge into the County's highway right of way.
2. The Board recommends that Permittee obtain written consent from the owner of any land not owned by Permittee to install and maintain Permittee's tile system, outlet, or other project components.
3. The Board recommends that Permittee 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. 2026-16, and the downstream flow map to the Department of Water Resources; the Dickey County Highway Department; Marjorie Forward, Trustee of the G&M Forward Trust; Lynn and Ruby Voightman, Trustees of the Voightman Family Trust; Craig German; Curt German; Bryan German; Linette Helgerson; Lori Nelson; Lana Norton; Gerald and Claire German; and Southeast Water Users District. Permittee's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Mason Kamlitz Agreement

The Board previously directed Fredricks to prepare an independent contractor agreement with Mason Kamlitz. Manager Quandt will present the agreement to Mr. Kamlitz for his signature, in regards to his reimbursement of any beaver removal of the Oakes Pilot Drain. Manager Quandt will then get it to Secretary Hansen and Chairman Hansen for their signatures.

Flood Plain Permit Application

The County Commissioners are looking for direction regarding a floodplain ordinance for Flood Plain Permitting. Chairman Hansen indicated that if the County seeks assistance from Sean Fredricks, the board's attorney, in drafting an ordinance, he can work with State's Attorney Radermacher; however, because floodplain administration is not within the Dickey County Water Resource District's purview, the Board's preference is that Fredricks work directly with the County (and submit any billing to the County).

John Quandt Update on County RD 4

Manager Quandt led the discussion on his assistance with the County Commissioners for the County Rd 4 project. Nathan Trosen, Moore Engineering representative, will assist Mr. Quandt when the county is prepared to file a surface drain permit application for this project.

Dickey County Drain #1

Manager Gemar gave a brief update with the continuing damage brought on by beaver dams to the drain. Baker Trapping Service is having a difficult time taking care of the matter and that a lot of the issues are coming from the culverts under the railroad in that area of the dam. Manager Hansen mentioned that he would reach out to Doug at the railroad and see if there is anything on the railroad's end that could help alleviate the issues.

Meeting Minutes

Manager Hauck moved to approve the September 16, 2026, meeting minutes. Manager Gemar seconded the motion. Upon roll call, the motion passed unanimously.

Financial Statement and Bills

The board considered bills from Ohnstad Twichell of \$840.92 and Hansen Ag Air of \$770.66. Secretary Hansen gave the financial report. Manager Quandt moved to approve the financial statement and bills. Manager Hauck seconded the motion. Upon roll call, the motion passed unanimously.

There being no further business to discuss, the meeting was adjourned.

APPROVED:

Steve Hansen, Chairman

Attest:

Judy Hansen, Secretary