Testimony by Luke Siemieniewski
Chairman -- Sargent County Water Resource District

Before the Senate Agriculture Committee
In Opposition to SB 2208
January 28, 2021

Chairman Luick and Committee members, I appreciate the opportunity to testify before you today in opposition to SB 2208. My name is Luke Siemieniewski, and I am the Chairman of the Sargent County Water Resource District. Our Board opposes this bill for many of the same reasons noted by the North Dakota Water Resource Districts Association. We echo their concerns regarding Section 7 of the bill (Snagging and Clearing), Section 32 of the bill (limiting WRD abilities to use their annual levy funds), and the tile language in the bill. Beyond that, I am here to make myself available to the Committee to answer any questions you might have regarding the Sargent County Drain #11 project. My understanding is opponents of the Drain 11 have influenced this legislation, and the Sargent County Water Board would like to be sure you have all of the facts on that project.

If a few opponents to one project are driving major legislative changes to drainage law in North Dakota, we feel you should at least have the opportunity to hear the other side of the story. Some project opponents have suggested our Board has been secretive, that we pushed the project through without a vote, or that we are assessing people without any input. Those claims are completely untrue, and we can prove it. If you have questions about the project, we invite you down to tour the Drain and to meet with our water board. Or, we will provide any documents you want, we will answer any questions you have, and we can even set up a meeting with some

of the many people in Sargent County who desperately need this project. We just ask that you consider the other side of this Drain 11 story.

Drain 11 is the largest drain in North Dakota and many, many farmers in Sargent County rely on Drain 11 for drainage relief. The drain was built in 1917 and, as you might imagine, conditions in the Drain 11 watershed changed significantly over the last century. Landowners come to our water board frequently to request repairs and upgrades to Drain 11. The side slopes in some areas are too steep, culverts in some areas are too small, and a number of years ago, NDDOT installed larger culverts to discharge even more water into Drain 11. In light of all of the many issues, in 2014, our Board started looking at options to reconstruct and improve the Drain.

We completed a Watershed Study in 2016 to look at options for improvements to reduce localized flooding along Drain 11. We took those options to landowners at a public informational meeting. We wanted landowner input on options, and we also wanted input on project costs and how landowners wanted the Board to fund the project. We explained at the meeting the Study indicated Drain 11 is inadequate, has substantial sediment buildup, the drainage area is flat, water does not move through the drain efficiently, and many culverts are undersized.

The majority of landowners supported a project, and identified the most critical areas of need. When we discussed funding options, the majority of landowners supported a phased approach, utilizing the Drain 11 annual "maintenance" levy dollars to fund and finance the project. With that option, the Board could address the areas of Drain 11 in greatest need of improvement in order of priority, but at the same time the landowners in the Drain 11 district

would not have to pay any new assessments. They would simply continue to pay their annual Drain 11 levy, just as they do every year, with no additional assessments on top of those levies.

The Board's financing plan is to borrow against the Drain 11 annual levy fund, but only up to the six-year maximum levy amount under state law; the Board will not obligate the drain beyond the six-year maximum legal limit, and ***the project will not result in any new assessments for anyone in the Drain 11 district.*** This is a common funding plan for drain reconstruction and improvement projects; this is not some new scheme created by our water board to trick landowners or to push a project through without a vote. This is a funding plan that addresses the most critical areas of concern in the drain, and allows us to ensure our drain functions properly for the people who rely on it, while at the same time ensuring landowners do not have to pay any new assessments beyond their existing annual maintenance levy.

The alternative was reconstructing and improving the entire drain at once, which would result in substantial new assessments for all landowners in the Drain 11 district. Most landowners opposed that option, and wanted us to proceed with the phased approach so they would not have to pay any new assessments.

Following the public meeting, the Board finalized a project plan, and finalized a funding plan the Drain 11 assessment district could afford without any new assessments. Once the Board approved a final project plan and a funding plan, the Board then conducted a second public meeting. ***Neither public informational meeting was required by law; however, we held them anyway to ensure landowners in the Drain 11 watershed were aware of the project and could offer input.*** Again, most landowners voiced support for the project, and were pleased the project would not require additional assessments.

In addition to those public informational meetings, all of the Board's other discussions on this project were at regularly-scheduled meetings, open to the public, preceded by public notice as required by law. The Board has been open and transparent throughout all of this. The large majority of landowners in the Drain 11 assessment district want this project, and appreciate our efforts to make the drain function for their benefit without any new assessments.

Also worth noting is that our hydrology study shows the project will not result in adverse impacts to downstream properties. The Board considered several project options, but some of those would have resulted in downstream impacts. We are sensitive to downstream concerns and do not plan to build a project that will result in downstream impacts.

Finally, we have tried to work with the project opponents on this project, to address concerns they might have about downstream impacts. So far, those opponents are not willing to work with us but we hope they will discuss options with us.

Yes, there are some people who oppose this project. We respect their opinions and we want to work with them to address their concerns. However, the majority of people in the Drain 11 watershed want and need this project, and I have not even addressed all of the road safety issues the project will resolve. We hope the voices of a few will not result in sweeping legislation that would inhibit sensible water management for everyone else in the state.

Do Not Pass on SB 2208

We oppose SB 2208 and we respectfully urge a Do Not Pass. We are available to discuss any questions you might have about the Drain 11 project.