

**HB 1218
Testimony of Dennis Reep, WRDA Board Member
House Energy and Natural Resources Committee
January 30, 2025**

Chairman Porter and members of the House Energy and Natural Resources Committee. My name is Dennis Reep, and I serve on the North Dakota Water Resource Districts Association Board, the North Dakota Water Users Board, and as a water manager for the Burleigh County Water Resource District. I am here today to ask for your support for HB 1218.

Water resource districts are the local sponsors of many water conveyance and flood control projects of a variety of sizes. We believe these projects, large and small, provide real benefit to the people we serve, the citizens of our counties. While we recognize the importance of ensuring appropriate use of public funds, we believe that the economic analysis (EA) required for water conveyance and flood control projects by the State Water Commission (SWC) should be limited to large projects. The Water Resource Districts Association voted to include the following resolution in their 2025 policy document:

We oppose the incorporation of benefit-cost principles in determining the feasibility and justification of state funding for water conveyance and flood control projects under \$5 million total project cost as stipulated by N.D.C.C. 61-03-21.4.

I would like to provide information to this committee regarding the state's EA tool. The state has described the EA as just one tool in the toolbox. However, our experience is that the cost benefit ratio derived by the EA tool is weighed heavily by the SWC when making decisions. Rather than just one tool in the toolbox, it feels as if the SWC uses the EA as a determiner of decisions. As noted by other speakers, state cost share for water projects is reduced when the cost benefit ratio derived from the EA tool is less than 1:1.

The EA tool was derived from the federal government. As a note of comparison, when a federal agency, such as the Natural Resources Conservation Service (NRCS), conducts an EA, and the cost benefit ratio is less than a 1:1 ratio, the NRCS considers that data point along with other, non-monetized, benefits, such as societal or environmental effects and values, in evaluating eligibility for cost share, and does not necessarily reduce cost share should the cost benefit be less than 1:1. In my view, this provides a more comprehensive look at the overall costs and benefits of a project. The state has not yet chosen to look at non-monetized benefits in considering the overall benefits a project may generate.

As a local water manager, I can assure you that local water resource districts are committed to managing our water resources responsibly. State funding is critical to making these projects happen, regardless of the size of projects. The projects being pursued by water resource districts

are important projects, particularly to agricultural producers and landowners. In fact, it is most often landowners who petition to have projects developed in the first place. The idea that water resource districts spend time, energy, and resources, including state resources, to develop projects that won't deliver benefits for their neighbors, just isn't factual.

Because of the rather limited view that the EA tool has of the overall benefits derived by a project, as well as the significant time and resource investment that conducting the EA has for local water boards, I believe it is important for us to consider the ROI on conducting EAs, particularly for small projects. At what point does the benefit of the information provided by the EA tool outweigh the time and expense of conducting it? Put another way, what's the EA of the EA?

BANK STABILIZATION PROJECTS

Much like the issues experienced with the EAs required for projects on rural legal assessment drains, there are also burdensome challenges associated with the EAs required for rural bank stabilization projects. SWC's cost share policy stipulates that cost share assistance will only be approved for bank stabilization projects that protect public infrastructure. In rural settings, this often means that protecting rural roadways and other transportation infrastructure are the only benefits that can be captured under the EA required by the policy.

The SWC's current EA worksheet bases these transportation benefits on detour-related costs, which require values for the length of the detour, the number of days the detour is required, and the number of vehicles or trips impacted by the detour. All these inputs require effort to develop, but the number of estimated trips is especially onerous. To determine this, a traffic study is often required. These studies are costly and provide no other benefit for the project. Furthermore, these traffic studies and the SWC's EA worksheet do not consider the significant financial impact that even a brief detour can have on rural ag producers and residents. For example, some rural township roads may not see many daily trips outside of spring planting or fall harvest times, but even a brief detour or closure during those time periods can have a significant impact on a farmer's ability to get their crop seeded or harvested, and these impacts are not accounted for.

Project sponsors are often left with a dilemma: Do they spend the money gathering the information required by the SWC to try to maximize their potential cost share - costs that are not eligible for SWC cost share assistance, or do they simply give up on the project or accept a lower amount of cost share because the effort just isn't worth it?

In addition to the burdens encountered when determining benefits associated with rural bank stabilization projects, project sponsors also encounter other challenges and expenses simply trying to satisfy other requirements associated with SWC's EA worksheet. For example, project sponsors are often required to undertake costly hydraulic modeling and/or geotechnical analyses to provide Department of Water Resource (DWR) staff with additional information that is requested by the DWR to support a review of additional benefits that may not be captured by the initial analysis. Again, these additional engineering efforts are costly and provide little, if any, benefit to the design and construction of a solution to the bank stability issue. Here again, not only are these additional engineering efforts often not useful for anything other than the required EA, but they are also typically ineligible for SWC cost share assistance.

BURLEIGH COUNTY WRD - SIBLEY ISLAND FLOOD CONTROL PROJECT.

To illustrate one recent example of the EA, in response to the 2011 floods along the Missouri River, the Burleigh County WRD and the City of Bismarck collaborated to develop the Burleigh County 20-Foot Plan in 2013 to protect as many residences and properties as possible. Many of the plan's features have been implemented and the Sibley Island segment is the last of the primary flood protective measures for the plan. The \$1.85 million project was developed to protect 90 rural residential properties from Missouri River flooding.

SWC cost share was planned as an integral part of the project funding and as such an EA was prepared and presented to them as part of the cost share application. Review and comments resulted in the EA going through several submittals, ultimately costing the project an additional \$16,000 in direct costs to complete. Indirectly, the EA required additional analyses and data collection necessary to populate the spreadsheet, and the EA process added three months to the project.

The EA tool was intended to be used for good; we aren't suggesting it was created in bad faith. But in practice, this tool has become an impediment to getting much needed projects done.

We ask for your support of HB 1218. Thank you for the opportunity to testify this morning, Mr. Chairman. I would be happy to stand for any questions.