

**Written & Oral Testimony by Doug Zink
Foster County Water Resource District Vice Chair**

**Written Testimony by Ronn Stangeland
Foster County Water Resource District Chair**

**Before the Senate Energy & Natural Resources Committee
In Opposition to Senate Bill 2118**

January 16, 2025

My name is Doug Zink. I am a farmer and landowner in Foster County, and the Vice Chair of the Foster County Water Resource District. I am here today to testify in opposition to Senate Bill 2118, and to explain why we believe the bill would weaken the enforcement of stream crossing standards in North Dakota.

The Foster County Water Resource District, which is concerned about the implications of this bill, has authorized its Chair, Ronn Stangeland, to join in submitting this written testimony.

In the past, I have testified before the legislature about the difficult task of balancing private property rights with the limited resources of public road authorities. As a landowner, I know firsthand how my property rights can be jeopardized when road authorities fail to comply with stream crossing standards. As Vice Chair of the Foster County Water Resource District, I also hear from our constituents who face similar challenges. They rely on us to mediate issues with local road authorities whose failure to comply with these standards can threaten their ability to protect their land and our shared ability to manage the flow of water in the county.

While I acknowledge that S.B. 2118 does not alter the core requirement of ND Century Code § 24-03-06, which mandates that road authorities construct highways to allow the natural flow and drainage of surface waters, there are concerns about how this bill would impact enforcement.

The key issue lies in how S.B. 2118 proposes to amend ND Century Code § 24-03-08. The Department of Water Resources (DWR) has stated that the bill would transition its role from the primary authority for determining compliance to a secondary review role for aggrieved parties. However, I believe the bill goes further than this. Specifically, Lines 15-16 of the bill strike the words “has been” and replace them with “newly constructed or reconstructed,” which introduces a significant change. This change would create a new exemption for road crossings that did not meet stream crossing standards at the time of construction, but for which aggrieved parties did not request timely review by DWR.

This amendment could have the unintended consequence of excusing road authorities from meeting the necessary standards for certain crossings, even if those crossings were problematic at the time of construction. This creates a loophole that could undermine the enforcement of stream crossing standards in North Dakota.

ND Century Code § 24-03-08 has been a valuable tool for water resource boards like ours, as it helps us mediate issues with road authorities who have failed to comply with stream crossing standards. The statute clearly states that when a road authority is notified of non-compliance, it

must install a culvert or bridge with sufficient capacity to allow water to flow freely. However, some road authorities are not following this law, and we are seeing the consequences of that failure in our own county. I have brought examples of these situations, which I would be happy to share with you.

In conclusion, S.B. 2118, as written, could weaken the enforcement of important stream crossing standards in North Dakota, and I respectfully ask you to reconsider this proposal. Thank you for the opportunity to testify, and I am happy to answer any questions you may have.

Doug Zink,
Vice Chair, Board of Managers
Foster County Water Resource District

Ronn Stangeland
Chair, Board of Managers
Foster County Water Resource District