

M & M WATER LLC
STEVE AND LOIS MORTENSON

14018 49 St NW
Williston, ND 58801
Home Phone (701) 572-5873
Cell Phone (701) 770-0942
56smort@gmail.com

To Members of the Senate Appropriations Committees:

My name is Steven Mortenson. I am a private water provider west of Williston. My wife Lois and I own M&M Water LLC (formerly known as BT Holdings, LLC). I understand that this committee will be dealing with providing funding for Western Area Water Supply (WAWS).

I have enclosed information stating the issues I have had with the WAWS and how they have affected my private water business. There are provisions in century code that I feel should have protected our company from being impacted by WAWS. I have contacted Rep Jim Schmidt who inserted the language in century code (SB 2233 in 2013, which was added to NDIC 61-40-01) and received no explanation on why this is not be followed. I have also contacted the NDIC (who is the controlling entity for WAWS) and received no response. I have contacted the attorney general, and he stated he could not give me any legal advice. **While I support WAWS, I am asking the committee before approving additional funding for WAWS to please require that WAWS follows the century code and provides protection for private water providers.**

Please note the name "private water provider" or "independent water provider" could mean one of two things. The phrase "private water providers" could mean those companies who purchase water from a water source and transfer the water via truck or pipeline (also known as a "water transfer company"), or the phrase "private water provider" could relate to those individuals or entities which own the water source itself. M&M Water is the latter type of private water provider, holding conditional water permits to divert water out of the north side of the Missouri River and Trenton Lake near Buford and Trenton, North Dakota.

The purpose of this letter is to explain what has happened to the customers of M&M Water LLC over the last few years. Since 2014, M&M Water has sold water exclusively to Trenton Water Depot, LLC (a truck depot in the town of Trenton), Lindale Pipeline, LLC (a water transfer company), and Regional Water Service, LLC (a water transfer company). Lindale Pipeline, LLC, and Regional Water Service LLC has a co-mingled pipeline that ran water from M&M Water, LLC's intake on Trenton Lake to approximately 15 miles north from the intake serving Equinor's freshwater system. As you can imagine, significant investment of time and money were made to run this private pipeline.

Due to the decline in oil prices and the reduction of new oil development, in addition to added competition from Western Area Water Supply Authority (WAWSA) and Northwest Rural Water District (NWRWD) in Williams County, Lindale Pipeline, LLC and Regional Water Service, LLC struggled with their cash flow since 2015.

There were several opportunities over the last few years to sell water, which would have likely allowed Lindale Pipeline and Regional Water Service to capture enough revenue to make their debt service and operating payments, but those opportunities were captured by WAWSA. In one instance in 2018, WAWS sold 2,342,233 barrels of water to Kraken Oil Company at a cost of \$.42 per barrel, \$.23 below our price. Using rural water lines to transport water, they delivered water within 5,100 feet from our water depot tap, clearly not considering our location. Our loss revenue on this sale was \$1,522,451, which revenue was desperately needed to survive at that time. As Ms. Madsen corrected me WAWS has raised it water price to .52 per barrel, but that is still less than what we were getting per barrel for maintenance water our rate was .58 a barrel to .75 per barrel.

For the past eight to ten years, Lindale Pipeline, LLC and Regional Water Service, LLC have sold water to Equinor (an oil company), whose water lines were directly connected to Lindale Pipeline, LLC and Regional Water Service, LLC's water infrastructure. In November of 2020, Equinor disconnected its lines from Lindale Pipeline, LLC and Regional Water Service, LLC's water infrastructure, and purchased WAWSA water from Cherry Creek Water, LLC, who utilized Northwest Rural Water District's rural water lines to transport WAWSA water. Our water depot tap, which was directly connected to Equinor's system, is located ½ mile from the WAWSA tap that is providing water to Equinor.

Since Equinor discontinued buying water from Lindale Pipeline, LLC and Regional Water Service, LLC, those entities have not sold a barrel of water from M&M Water's water source. M&M Water no longer has the ability to market its water except the small truck depot in Trenton, North Dakota.

My understanding is that the North Dakota provided protection for private water providers by adopting North Dakota Century Code 61-40-01 and 61-40-10.

N.D.C.C. 61-40-01: The Western area water supply authority shall consider in the process of locating industrial depots the location of private water sellers so as to minimize the impact on private water sellers. The independent water providers shall consider in the process of locating industrial water depots the location of private water sellers as to minimize the impact on private water sellers.

N.D.C.C. 61-40-10: The state water commission shall approve the planning location and water supply contracts of any authority depots, laterals, taps turnouts, and risers for industrial sales for the oil and gas exploration and production after July 1, 2013.

The State Water Commission defines water depots as follows: **"Water depots shall be defined as point of water to the oil/gas industry including permanently located truck fill sites, temporarily located truck fill sites, direct connections to main transmission water pipeline, temporary connections to the main water pipeline via overland pipe or hose, or any other facility that provides water to the oil and gas industry."** Despite this definition, WAWSA has taken the position that the protection provided in N.D.C.C 61-40-01 is obsolete because it only applies to the placement of truck depots, not water lines. In other words, WAWSA has indicated that it can transport water via pipe and completely take over private water providers' customers without considering N.D.C.C. 61-40-01.

It is incredibly challenging for a private business owner who sells water to compete with a government entity that has the ability to take easements by quick take eminent domain, endless amounts of capital and deferred loan payments, subsidized water rates, and the use of rural water lines that were donated by landowners for domestic use. I personally have donated 5 miles of easements to NWRWD for domestic use, which are now being used to compete with my own water sales business. Meanwhile, NWRWD receives approximately \$50,000 a month in industrial reimbursement from WAWSA.

My email is 56smort@gmail.com and phone number 701-770-0942. My request is that the protection that was enacted by N.D.C.C. 61-40-01 be enforced, and that WAWSA be prevented from encroaching on my water customers and our service area. This could be as easy as adding a definition of a water depot to century code.

Thank you,

Steven Mortenson

Members of the Senate Appropriations Committee:

Added Amendment to the Appropriations Bill

This is Steven Mortenson I appreciate the opportunity the Senate appropriations committee has given me to explain my situation with WAWSA. Visiting with Senator Wardner he explained to me the purpose of bonding the debt for WAWS, was to treat them just like any other water projects that has been funded by the state and that being a 60/40 cost share. Almost all the other water projects in the state do not compete with the private water providers but use domestic water to pay and fund their projects.

My wife and I have supported WAWSA for this area because it was needed for domestic and potable water for the growing population in our area, we have donated many miles of pipeline easements with no compensation only to have WAWS use them to sell water against us in our location where we sell water. WAWSA has subsidized money (it has received \$151,000,000 in grant monies and if the bonding bill is approved that would grant another \$75,000,000). WAWSA current project cost of \$442,000,00 puts the states cost share at 51%. The hardship we have faced from WAWSA is its governmental power, quick authority and massive amounts of funding that has greatly damaged our investment by undercutting the private market with subsidized rates. I would like to request this amendment be added to the appropriations bill "**WAWSA or any private water provider purchasing water from WAWSA would not be allowed to sell industrial water in location where a private provider has the ability and can demonstrate the capacity to provide the industrial water retroactive of October of 1, 2020.**" I feel this definition should be added to what is in the century code to clarify the wording.

thank you, Steven Mortenson.

REVENUE AND LOAN PAYMENTS

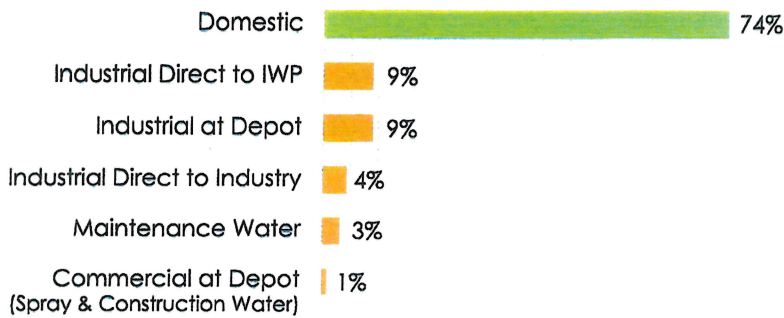
 **\$91.5M**

To date, WAWSA has already repaid more than \$91.5 Million in principal and interest on its State guaranteed loans.

Biennium	Grants	Domestic Loans	Industrial Loans	SB2233 Debt
2011 - 2013	\$0	\$0	\$110,000,000	\$0
2013 - 2015	\$29,500,000	\$0	\$79,500,000	\$48,500,000
2015 - 2017	\$60,000,000	\$20,000,000	\$0	\$0
2017 - 2019	\$22,400,000	\$16,500,000	\$0	\$0
2019 - 2021	\$40,000,000	\$16,500,000	\$0	\$0
Totals	\$151,900,000	\$53,000,000	\$189,500,000	\$48,500,000

\$291,000,000 Loan Total to Date (65.7%)

\$151,000,000 Grant Total to Date (34.3%)



**WAWSA
WATER SALES
BY PERCENTAGE
2016-2020**