

Dear North Dakota Legislator:

December 26, 2022

Sargent County now has 4.5 miles of 90 foot wide ditch costing \$4,100,000.00 where those that pay were excluded. Autocratic actions of Public Boards, at any level, should be questioned and corrected. I refer to the Water Board of Sargent County, ND. This situation has left the affected landowners frustrated and dismayed and questioning the word "Public" in Public Board. A quote from a County Commissioner in the Sargent County Teller on July 10, 2015: *"(County Commissioner) Anderson pointed out that, while the County Commission appoints members to the water Board, it is a self-governing entity and does not answer to the commission."* *The question is who do they answer to?* Over a substantial period of time, they have not seen fit to allowed landowner to be involved. If you are a remote landowner living outside the County you have little standing. In a memorandum prepared for the Water Board for Forum Communication Outlets on March 14, 2019, it states: *"The District had no legal obligation to take the Project to a vote (of affected landowners), and did not even have any obligation to discuss the Project with the public (taxpayer)."* Apparently they feel the law allows them the latitude to say that. Reviewing State law, the Water Boards truly do not answer to anyone.

The construction in question is called the Drain # 11 Improvement Project, involving the largest watershed of its kind in North Dakota. The area includes land in Sargent, Ransom, and Dickey Counties in ND and at one time Marshall County, SD. For 106 years, the only land to be assessed for its construction / up-keep was Sargent County. The other Counties were not assessed but contributed approximately 40% of the water in the drain. Sargent County carried the whole load for 106 years!

Several requests were made to include all counties in the watershed and provide a vote of the affected landowners *to no avail*. A "Resolution of Necessity" by five (5) unelected board members was all that was needed to exclude all landowner in three counties.

The project has progressed with the following result: Drain # 11 has a total of 44 miles of ditch of which 10.5 miles were to be improved. Once a "Motion to Proceed" was passed, the Water Board found they could only afford 3.5 – 4.5 miles of the proposed 10.5 miles. Presently we now have a new 90 foot wide ditch in the middle of nowhere with a 106 year old, 40 foot wide ditch on both ends at a cost \$4,100,000. Presently there is no benefit or return to anyone in the watershed. Not one additional shovel of dirt will be moved for another 6 – 7 years because of the way it was financed. The board committed all of the maintenance money allowed by law for 7 years to secure the construction bonds leaving no money for maintenance of the remaining 41.5 miles of Drain.

There was a solution that only the landowners could provide but the board would not consider it. However there is a Water Board in Bottineau County that seems to work very well but their first priority and concern is the landowner. As a suggestion, the Legislature should consider changing the law so that all land in a watershed is included and water board maintenance or improvement projects over \$100,000.00 are voted on by the effected landowners to make sure they are involved and agreed. Additional details are available upon request.

Leon L Mallberg, Landowner – Drain # 11 Watershed
941 13th Street West, Dickinson, ND 58601-3538
Phone Line: 701 483 8338 Cell Phone: 701 590 9370
E-mail: llmallberg@ndsupernet.com