

January 19, 2023

Senate Agriculture & Veterans Affairs Committee
c/o Senator Larry Luick, Chair
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Re: Senate Bill 2036

Dear Chairman Larry Luick and Members of the Senate Agriculture Committee:

The Bottineau County Water Resource District operates & maintains over 16 assessment drains and consolidated assessment drain projects within its jurisdiction in Bottineau County. The District has several assessment drains currently under construction. Its most recent assessment drain project, the South Landa Drain, was approved by over 88 percent of the votes filed for the project.

I serve as Chair of the Bottineau County Water Resource District and recently served as a Citizen Member on the Interim Water Drainage Committee as a representative of the North Dakota Water Resource District Association. Senate Bill 2036 was created as the result of work of the Interim Water Drainage Committee, which was responsible for studying and answering certain questions related to water management and drainage law in North Dakota.

The Bottineau County Water Resource District Board of Managers reviewed S.B. 2036 at its most recent meeting and authorized me to submit this testimony in neutral position for the Introduced Version 23.0024.03000.

This testimony is submitted to raise concerns about Section 25 of S.B. 2036, which provides that any person aggrieved from any order or decision of a water resource board may request assistance from the North Dakota mediation service to resolve grievances. Mediation is a good tool when all impacted parties are involved and when a resolution between the parties exists, but the parties need help finding it. However, not all orders or decision of a water resource board can be appropriately addressed through mediation. Many orders or decisions significantly impact other parties in the district. Without the participation of those parties, the water resource board can hardly mediate the raised concerns.

For example, mediation is particularly inappropriate in the instance of one or a few aggrieved persons who request to mediate the water resource board's order establishing a proposed

project as required under NDCC 61-16.1-19 if more than fifty percent of the votes filed are in favor of establishing the project. If the aggrieved person seeks to request the water resource board modify the project design, or order dismissal of a project otherwise approved by a majority of the votes filed, the interests of other voting landowners may be adversely impacted without their participation in the mediation process. We suspect the water resource board would not even have the authority, through mediation, to modify project designs or dismiss a project otherwise approved by landowner vote. Offering mediation will create expectations in some circumstances where a resolution does not exist. This will cause frustration with aggrieved parties and water resource boards.

The Bottineau County Water Resource District Board request the Committee consider removing Section 25 from S.B. 2036. Thank you for the opportunity to submit this testimony for your consideration.

Sincerely,

Clifford Issendorf
Board of Managers Chair, on behalf of the
Bottineau County Water Resource District