

1/30/2025

North Dakota Senate Agriculture Committee
600 E Boulevard Ave
Bismarck, ND 58505

Chairman Luick and Members of the Senate Agriculture Committee,

I am writing to express my strong opposition to Senate Bill 2283, which seeks to amend section 61-32-03.3 of the North Dakota Century Code relating to smaller subsurface water management systems. After working with this body and many of you over the last 10 years, it is safe to say that I believe this bill would impose unnecessary burdens on farmers who are already facing numerous challenges.

Firstly, the notification requirements outlined in the bill would add significant administrative burdens and potential delays for farmers. Requiring farmers to notify the water resource district board and all downstream landowners before installing a subsurface water management system is an onerous task that could hinder timely agricultural operations.

It has been my experience that these notifications give downstream landowners false hope that there is something that can be done, when what needs to be done is that fence line neighbors need to come up with solutions together and try and force the law to do it.

Secondly, the objection process allows downstream landowners to object within 30 days, potentially leading to a lengthy and costly permit application process for farmers. This added layer of bureaucracy could discourage farmers from implementing essential water management practices.

The installation conditions specified in the bill, such as maintaining a certain distance from assessment drains and installing proper erosion controls, would increase the complexity and cost of installation. Not all farms, drains and tile systems are the same. Blanket regulations do not work. That is why we allow water boards to apply "Conditions" as they see fit.

The mediation requirement for resolving damages caused by subsurface water management systems adds another layer of complexity and potential delay. While mediation can be a useful tool, it may not always lead to satisfactory resolutions and could prolong the resolution of disputes. I also wonder how it fits into today's complaint process. Other questions have me asking: "What if the complaint is frivolous, does the applicant still pay for mediation?" That isn't right.

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Furthermore, the penalties for violating the provisions of this bill add a layer of risk for farmers, who may inadvertently fall foul of the regulations despite their best efforts to comply.

It is important to recognize that adding red tape and bureaucratic hurdles does the progress made by the legislature over the past two decades to support and streamline agricultural practices. Our farmers need support and flexibility, not additional obstacles that could impede their ability to manage their land effectively.

I believe that there is an appetite between the Water Board Association, Agriculture groups and Agribusiness to work through a solution that allows downstream landowners to recoup damages. This bill does not do any of that.

For these reasons, I urge you to oppose Senate Bill 2283 and consider the detrimental impact it would have on our farming community. Thank you for your attention to this important matter.

Sincerely,

Sincerely,
Levi Otis