NORTH Dakota
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Testimony in Support of
SB 2044
Senate Energy & Natural Resources
January 16, 2025

TESTIMONY OF
Aaron Carranza, Division Director, Regulatory Division

Chairman Patten, and members of the Senate Energy and Natural Resources committee, I am Aaron Carranza the Regulatory Division Director of the Department of Water Resources. I'm here today to provide testimony in support of SB 2044.

This bill is an effort by the Department of Water Resources (Department) to enhance and optimize services provided.

Currently, the question of whether a Watercourse (N.D.C.C. § 61-01-06(1)) is constituted may be asked of the Department of Water Resources by any water resource district. Water resource districts may also perform this analysis independently of the Department. Typically, the Department's workload and the prioritization of active permitting requests results in an extended processing time for the requests that come into the Department directly.

This bill proposes transitioning the Department from the primary request and determination role into an appeal remedy for any aggrieved party by a state or state political subdivision's watercourse determination. In addition, the new language makes clear the administrative appeal remedy for any Department decision resulting from the proposed appeal.

North Dakota Administrative Code ch. 89-15-01 outlines the process and considerations that would guide any watercourse determination in the state. The Department also created the attached graphic to help with understanding the determination process.
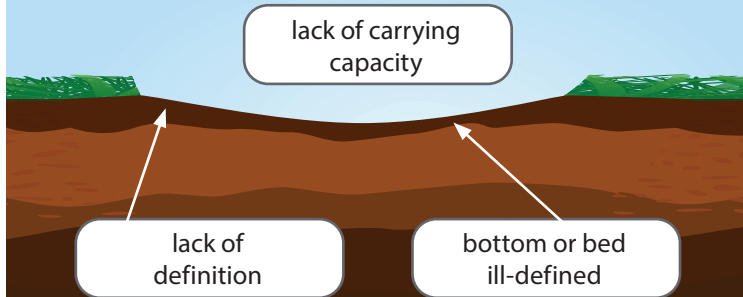
The move of the Department to an appeal remedy, as well as the creation of the review process in North Dakota Administrative Code, allows for more efficient processing of watercourse determinations throughout the state.

Thank you for the opportunity to testify, and I'm happy to answer any questions.

WATER FEATURES

"Waterway" - An overarching term for "a natural, geologic feature that conveys surface water over land."
A "watercourse" is a specific type of "waterway."

WATERWAY
N.D.C.C. § 61-01-06(2)

lack of carrying capacity
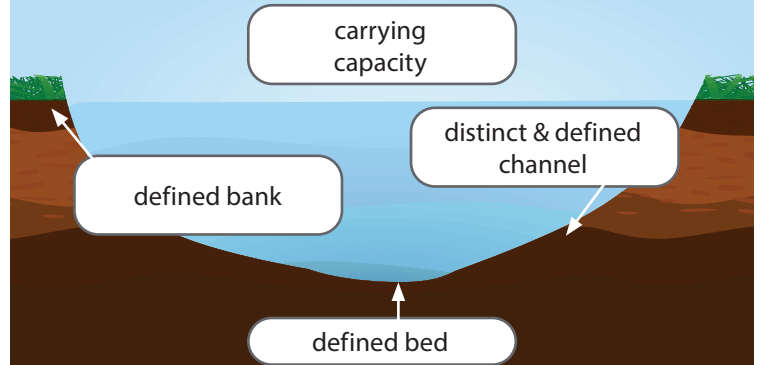
lack of definition

bottom or bed ill-defined

Terminology - Draw, Swale, Valley, all other Watercourse Terminology

Not distinct nor defined

May convey water occasionally but lacks carrying capacity

Ag production in normal precipitation years

WATERCOURSE
N.D.C.C. § 61-01-06(1)

carrying capacity

distinct & defined channel

defined bank

defined bed

Terminology - River, Stream, Creek, Channel

Distinct & plainly defined channel of permanent character

Sufficient natural and accustomed flow

No Ag production in normal precipitation years

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