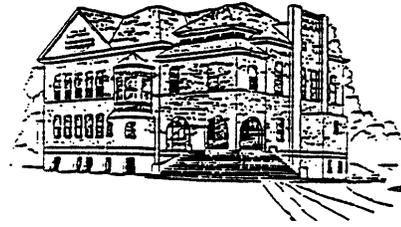


**Wells County Water Resource District**

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Chairman Patten & Senate Energy & Natural Resources Committee Members:

Thank you for the opportunity to testify on Senate Bill 2118.

My name is Larry Skiftun. I am a lifelong farmer in Wells County, a landowner, and the current Chairman of the Wells County Water Resource District Board of Managers.

On behalf of the Wells County Water Resource District Board of Managers, I submit this testimony in opposition to S.B. 2118.

Under North Dakota Century Code § 24-03-06, all highways must be constructed in a way that does not obstruct the natural flow and drainage of surface waters, in compliance with stream crossing standards set by the North Dakota Department of Transportation (ND DOT) and the North Dakota Department of Water Resources (ND DWR). S.B. 2118 does not change this basic requirement. However, enforcement of these stream crossing standards has been a significant challenge for water resource districts and property owners.

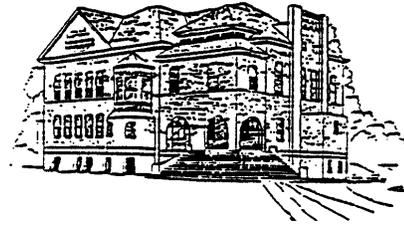
One of the most common problems we face is highway culverts that are undersized, poorly positioned, or inverted in a way that disrupts the natural flow of water. This leads to water accumulation and flooding of private property upstream from the highway. Ideally, these issues should be addressed with the road authority. However, when the road authority fails to act, property owners often turn to their local water boards for assistance.

Current law, specifically ND Century Code § 24-03-08, allows local water resource boards to request from the ND DWR a design discharge for stream crossing compliance. This discharge requirement, once determined, is used by the water resource board's engineer to recommend a crossing design that meets state standards. The local water board then shares the DWR's findings and the engineer's recommendation with the road authority, which is legally obligated to install a crossing that allows water to flow freely, provided it adheres to the state's stream crossing standards. The law also shields the road authority from liability if the crossing complies with these minimum standards.

Our objection to S.B. 2118 is that it removes an important tool that helps resolve these disputes. Specifically, Line 15 on Page 1 (S.B. 2118 25.8106.01000) strikes the words "has been" from the current statute and introduces the terms "newly constructed" or "reconstructed" to describe the highways that must comply with stream crossing standards. This change would create a loophole for culverts that were non-compliant when originally installed but would no longer be considered "newly constructed" or "reconstructed" over time. This means that culverts that obstruct water flow and flood private property could be exempt from future enforcement of stream crossing standards if they were not identified as problematic at the time of construction or reconstruction.

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We understand that the ND DWR is facing challenges with workload and response times regarding stream crossing compliance requests. However, we believe there are ways to address these issues without exempting non-compliant crossings from necessary improvements, which could exacerbate flooding problems and hinder effective water management. For example, we agree with the ND DWR that an entity qualified to design a code-compliant crossing can appropriately determine a stream crossing standards-compliant minimum design flow. Professional Engineers employed by water resource districts can make these initial determinations.

We strongly urge the committee to recommend a “Do Not Pass” on S.B. 2118 in its current form. I would also appreciate the opportunity to provide oral testimony to the committee, offering examples of how this bill could negatively impact water management and property rights in Wells County.

Thank you for your time and consideration.

Sincerely,

Larry Skiftun, Board of Managers Chair  
Wells County Water Resource District