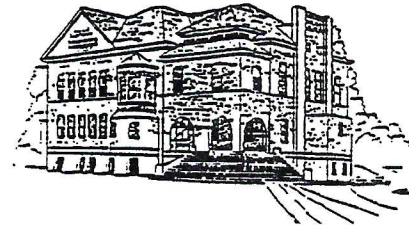


Wells County Water Resource District

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Testimony by Larry Skiftun
Wells County Farmer & Wells County Water Resource District Board Chair
House Bill 1437
House Agriculture Committee February 4, 2021; 9:00 a.m.

Chairman Johnson & House Agriculture Committee Members:

Thank you for the opportunity to testify today. My name is Larry Skiftun. I am a farmer and also Chair of the Wells County Water Board. I am here today to testify in support of House Bill 1437.

As a farmer, landowner, and taxpayer, I support the responsible management of water. Subsurface drain tile is a valuable tool in that regard. As Chair of the Wells County Water Board, I find myself responsible for making decisions on tile permits and investigating complaints filed by landowners when it is alleged tile systems do not have permits. This puts me and my Board in the position of investigating and reviewing technical evidence, and making decisions that impact upstream and downstream property rights. Sometimes, these conflicts become contentious and it is challenging to find people willing to serve on the water board when we are tasked as the go-between of these fence-line disputes.

In my opinion, House Bill 1437 is an improvement to current law in addressing all of these issues. I appreciate the work and collaboration the bill sponsors put in with agriculture and water resource district representatives on this bill. Specifically, House Bill 1437 is an improvement to current law in the following ways:

1. **80 Acre Permitting Exclusion:** Most tile projects are a component of the watershed in which they are located and do not significantly increase the volume of water in the watershed. Tile systems manage the timing of the release of water and allow for storage in the soil profile. Projects that comprise less than 80 acres of land are not a significant component of watershed management and HB 1437 protects the permitting exclusion for these smaller projects.
2. **Permit Application and Fee:** HB 1437 streamlines the requirements for the permit application and clarifies what information must be presented to the water board. Notice to downstream landowners of the permit application is no longer required, as the water board's permit decision no longer impacts the property rights of downstream landowners. The increase in permit fee from \$150 to \$500 is reasonable, and allows water boards to cover the costs of processing permits.
3. **Downstream Landowner Notice:** The process of identifying and notifying downstream landowners under current law is confusing and requires the application of quick judgment based on little information. This creates arguments about process that are costly and open water boards to the risk of an appeal. HB 1437 eliminates the need to notify downstream

landowners of the permit application because the permit decision does not bind the property rights of the permit applicant or downstream landowners.

4. **30 Day Approval Period:** HB 1437 requires water boards to make a determination that a permit application is complete within 3 business days and to make a determination on the permit application within 30 days. The increased permit fee will provide funds for our water board to designate someone to review and determine that applications are complete. Since our water board meets every month, permit decisions can be made at the meeting following the submission of a complete permit application. The permitting conditions in HB 1437 address certain design and outlet location aspects of tile, and do not require the water board to weigh competing technical evidence and arbitrate disputed property interests.
5. **Assessment Districts:** One of the biggest improvements to current law in HB 1437 is granting authority to water resource districts to add landowners to a legal drain assessment district when a tile project outlets into the watershed of a legal assessment drain. Current law requires the water board to complete a reassessment of benefits for the entire district, which is costly and often unnecessary to address one or more tile projects.

There are aspects of the bill that could be improved. Subparagraphs (h) and (i) of Paragraph 4 do not define what type of “damages” must be repaired as one of the permit conditions. Also, it still requires water boards to weigh competing interests regarding “substantive evidence” as to whether a tile system is the direct cause of silt, vegetation, or damages. We do not see these problems frequently in Wells County and would suggest the Committee consider removing these provisions from the bill.

Overall, the bill is an improvement from current law and we support the Committee adopting a “DO PASS” recommendation on HB 1437.