

**North Dakota State Water Commission Testimony
Relative To Engrossed House Bill 1437**

**Presented To The Senate Agriculture Committee
March 11, 2021**

Good morning Chairman Luick, and members of the Senate Agriculture Committee, I am Patrick Fridgen, Director of the Planning and Education Division with the State Water Commission. I am here today to offer testimony in support of House Bill 1437 as it relates to impacts to the Commission's cost-share policy eligibility requirements.

To provide some brief context, in September 2020, North Dakota's Attorney General released Letter Opinion 2020-L-04. In that Opinion, it was determined that deepening and widening of existing agricultural drains is considered "maintenance." Also of note, NDCC 61-02-01.4 (3) says the Commission "Must consider all project costs potentially eligible for reimbursement, except the commission shall exclude operations expense, regular maintenance, and removal of vegetative materials and sediment, for assessment drains..." Because the Letter Opinion used the broad term "maintenance," and because NDCC 61-02-01.4 (3) prohibits the agency from funding "regular maintenance," the Commission was advised to defer cost-share requests for drainage projects that involve deepening and widening of existing channels to avoid a conflict with Century Code.

Engrossed House bill 1437 currently includes language to mitigate this potential conflict. Section 1, lines 13 and 14 say "...deepening and widening of existing drains are eligible for reimbursement." We support this amendment as it clarifies the agency's ability to continue cost-sharing on drainage deepening and widening projects – as the Commission has done for decades before the September 2020 Letter Opinion.

Mr. Chairman, members of the committee, this concludes my testimony, and I will be happy to answer questions that you might have.