

RENVILLE COUNTY WATER RESOURCE DISTRICT
P.O. Box 68, Mohall, North Dakota 58761

Written Testimony by Peter Gates
Renville County Farmer & Renville County Water Resource District Chair
Senate Bill 2208 Senate Agriculture Committee January 28, 2021; 10:30 a.m.

Senate Ag Committee Members & Chairman Luick:

Thank you for the opportunity to testify today. My name is Peter Gates. I am a lifelong farmer in Renville County. I also recently became a manager of the Renville County Water Resource District Board and am currently entering my second year in the role serving as the Board's Chair.

I am here today to express concerns my Board and I share with Senate Bill 2208. Our testimony is in opposition to this bill.

There are presently no legal assessment drains in Renville County. In 2018, however, several landowners and I filed a petition for the county's first assessment drain with the water resource board. The proposed project spans four townships and covers approximately 15.7 miles. It is a large project that is currently under review our board's appointed engineer. Our board intends on holding its first public hearing and landowner assessment vote in 2021.

The project's preliminary proceeding costs incurred by the District are covered by a cash bond the landowners filed with the petition. We are concerned with some of the changes in current water management law proposed by SB 2208, especially while our cash bond investment and project are presently pending before the Renville water board.

We understand SB 2208 is being promoted as having the limited purpose of creating a clear set of procedures and timelines for all water board projects and we support that endeavor. However, it is apparent that certain sections of this bill change existing law in a way that leaves our investment into the assessment drains uncertain.

Here are some examples of our concerns:

1. **SB 2208 requires a vote of all assessed landowners for any changes to the original assessment drain design.**

We've asked our engineer to study current needs and anticipate future needs in drain watershed for urban and rural landowners, farmers, road authorities, and the general public. We have faith in our engineer, but we know that we cannot anticipate all future water management needs in the watershed.

Unanticipated changes from abnormally wet climates and flooding, changes in future land use and modern farming practices, roadway changes and improvements all have an impact on the watershed and the expected service of

this proposed project. We hope the law will continue to provide flexibility to address these future and unanticipated watershed impacts and needs.

How should the water board meet these unanticipated changes if landowners do not vote in favor of reasonable improvements?

Some minor improvements to the original design are low cost, yet provide high economic and environmental value. Requiring a vote of all landowners within the watershed of a 15.7 mile drain to simply bring one road crossing up to code could more than double the cost of that minor improvement. We need water boards to have at least some flexibility in managing our investment to meet these unanticipated, future needs.

2. **Sections 5 & 9 of the bill require landowner petitions to state the “practical drainage area” of land to be drained.**

When we submitted the petition for our project, we had a general concept in mind but did not have the engineering expertise to determine the practical drainage area of our proposal. Current law allowed the water resource district to appoint an engineer to survey the watershed. In fact, the engineer appointed by the Board conducted a survey and a site visit and has modified our original proposal to ensure the project is practical, feasible, and reasonably meets current and anticipated needs. We do not support changes to current law that chill efforts by landowners to bring forward petitions for proposed drain projects.

3. **SB 2208 repeals the permitting exclusion for drain tile projects that comprise less than 80 acres.**

Current law provides a permit exclusion for surface drains with a watershed of less than 80 acres and tile projects comprising a land area of less than 80 acres.

SB 2208 repeals the permitting exclusion for drain tile projects. We promote the investment of private landowners into reasonable drain tile systems which help reduce surface runoff and erosion, increase the ability of soil to store water over time, increase yields, protect roadways and vital infrastructure, and improve the county tax base.

We oppose lowering the threshold permit exclusion for drain tile projects. The threshold for surface drains under SB 2208 remains at 80-acre watersheds, and we see no reasonable reason to promote a surface drain permitting exclusion over management of water by drain tile.

4. **SB 2208 creates confusion over the appeals procedure for water resource board decisions.** Section 1 requires appeals of drain permits to the state engineer to be conducted through the office of administrative hearings. This process can be costly and time consuming to the landowner, to the permit opponent, and to the

water board. Section 38 states that denied permits are appealed to district court for record review. We do not support changing the appeals procedures in existing law which limit appeals to a record review before district court.

We are willing to work with the bill's sponsors to understand how SB 2208 negatively impacts our proposed assessment drain project, the ability of our water resource Board to manage the project once constructed and address unanticipated changes in the project's need, and to understand how the bill may negatively setback the advancement of water management in our state. In its current form, my District and I cannot support SB 2208.

This concludes my testimony in opposition to SB 2208. I will stand for any questions from the committee.