

**2025 HOUSE AGRICULTURE**

**HB 1396**

# 2025 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Room JW327C, State Capitol

HB 1396  
1/23/2025

A BILL for an Act to amend and reenact section 61-16.1-45 of the North Dakota Century Code, relating to maintenance of drainage projects.

9:29 a.m. Chairman Beltz opened the meeting.

Members Present: Chairman Beltz, Vice Chairman Hauck, Representatives Anderson, Dobervich, Henderson, Holle, Hoverson, Kiefert, Nehring, Olson, Rios, Schreiber-Beck, Tveit, Vollmer

## **Discussion Topics:**

- Surface or drain tile
- Assessment, reassess
- 8 acres or more
- \$4 maximum
- Soil health
- Better crop yield
- Increase land values

9:29 a.m. Representative Mike Brandenburg Hagert, District 20, Emerado, ND, introduced and testified.

9:33 a.m. Lucas Siemieniewski, Board member, Sargent County Water Board, testified in favor and submitted testimony #31057 and #31059.

9:35 a.m. Todd Stein, Board member, Sargent County Water Board, testified in favor.

9:39 a.m. Bruce Speich, Board member, Sargent County Water Board, testified in favor

9:41 a.m. Roger Zetocha, Board member, Sargent County Water Board, testified in favor

9:48 a.m. Levi E. Otis, Director of Government Affairs, Ellingson Companies, testified in favor and submitted testimony #30913.

9:55 a.m. Zachary Cassidy, Organizer, Dakota Resource Council (DRC), testified and submitted testimony in opposition.

## **Additional written testimony:**

Paul H. Mathews, Cogswell, ND, submitted testimony in opposition #30919.

John Quandt, Quandt Farms, Oakes, ND, submitted testimony in favor #30814.

Bob Banderet, Cogswell, ND submitted testimony in opposition #30833

Brent Baldwin, Red River Valley Sugarbeet Growers Association, submitted testimony in favor #30853.

House Agriculture Committee

HB 1396

01/23/25

Page 2

Jack Dwyer, Executive Secretary, ND Water Resource Districts Association, submitted testimony in favor #30886.

Elijah P. Mathews, Cogswell, ND, submitted testimony in opposition #30905.

9:59 a.m. Chairman Beltz closed the hearing.

*Diane Lillis, Committee Clerk*

**HB 1396**

We support this bill as we feel if you do not want to support a assessed drain, you should not have the right to use it.

Quandt Farms

HB 1396

Room 327C, 9:30 am, January 23, 2025

Mr. Chairman and members of the committee,

My name is Bob Banderet and I am from Cogswell, ND. I am a landowner in the infamous Drain 11 watershed. I am shocked that I even need to testify in opposition to this proposed bill. A local governmental entity is attempting to influence the outcome of a landowner vote by threatening retribution if the landowner votes contrary to the board's position! What could be more un-American or undemocratic than that!

When a drainage project is proposed for a vote, it is the water resource district's responsibility to convince landowners that the project is a good one and that benefit exceeds cost. That is what a vote should be based on, not retribution for voting against the project! You will hear testimony from the Water Resource District that it isn't "fair" for a landowner to vote against a project and still be allowed to drain into the Drain. But remember, that landowner is still paying the annual maintenance assessment just like all the other landowners and will be expected to pay the assessment during the 5 years when no permits will be granted!

Please don't let water resource boards run rough shod over landowner rights. Please give this bill a do not pass recommendation. Thank you!

Bob Banderet

[bobnlori@drtel.net](mailto:bobnlori@drtel.net)

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January 22, 2025

Mr. Chairman and members of the House Agriculture Committee,

I am Brent Baldwin, a farmer from Saint Thomas, North Dakota. Thank you for the opportunity to submit testimony. I am representing the Red River Valley Sugarbeet Growers Association in SUPPORT of House Bill 1396.

This bill means that if you vote against a drainage ditch or legal assessment drain, you don't get to drain into it. Why should someone who actively works against efficient water management and adds immense costs to all involved be also to then receive benefit that they fought so hard against?

We encourage this committee to provide a DO PASS recommendations on HB 1396.

Brent Baldwin – Farmer – Saint Thomas, North Dakota  
President - Red River Valley Sugarbeet Growers Association

The logo for the North Dakota Water Resource Districts Association is a dark blue silhouette of the state of North Dakota. Inside the silhouette, the text "North Dakota Water Resource Districts Association" is written in white, sans-serif font, stacked in four lines.

North Dakota  
Water Resource  
Districts Association

House Agriculture Committee  
Hearing for H.B. 1396  
January 23, 2025

**Testimony of Jack Dwyer on behalf of the ND Water Resource Districts Association**

Chairman Beltz and members of the committee, my name is Jack Dwyer, and I serve as the Executive Secretary of the North Dakota Water Resource Districts Association (NDWRDA).

The NDWRDA represents water resource boards across the state who are responsible for wise and effective water resource management in their areas. One way many water resource boards achieve this management is through building and maintaining conveyance infrastructure to remove excess water from farm fields into public ditches and on to natural waterbodies.

The process for building and maintaining this infrastructure is locally led and locally driven, as it should be. Water boards work closely with local producers when exploring the establishment of new projects or looking to maintain existing infrastructure.

While the NDWRDA does not have any written policy relating to surface or subsurface drainage permits where a landowner has voted against a regional drainage project, our policy does recognize the importance of regional drainage projects:

**Resolution No. 74 – We believe assessment drains provide crucial drainage relief for North Dakota farmers; provide outlets for agriculture and tile drainage; and protect local, county, and state road infrastructure from damages due to sustained saturation and uncontrolled drainage.**

We all know that challenges exist relating to regional drainage projects. Several of our member districts have experienced opposition from landowners on maintaining infrastructure who also receive significant benefits and utilize that same infrastructure extensively.

**ELIJAH MATHEWS**  
 Resident of District 28  
 Cogswell, ND 58017  
[gov.ndlegis@elijahmathews.com](mailto:gov.ndlegis@elijahmathews.com)

22 January 2025

**HOUSE AGRICULTURE COMMITTEE**

600 East Boulevard Avenue  
 Bismarck, ND 58505

Dear Chairman Beltz, Vice Chairman Hauck, and members of the Committee,

I write to you today to provide testimony regarding H.B. 1396, which aims to amend N.D.C.C. § 61-16.1-45 as it relates to drainage improvement projects that require landowner votes under N.D.C.C. § 61-16.1-45(3). The proposed amendment seeks to empower water resource districts to deny permits to any landowner that votes against such a project, representing a severe overreach of governmental authority. This legislation directly undermines fundamental principles of democratic participation and threatens to chill free expression on matters of vital importance to landowners and their communities.

Firstly, the proposed legislation strikes at the heart of the First Amendment, specifically the rights to free speech and association. The act of voting on a drainage project is inherently an act of expressing one's views on land use and water management. By penalizing a "no" vote with the denial of essential permits, the state effectively silences dissent and coerces landowners into supporting projects they may find detrimental to their interests. This runs counter to the spirit of *NAACP v. Button* (1963), which recognized litigation, a form of political expression, as protected speech, and *Citizens United v. FEC* (2010), which, despite its complexities, affirmed the First Amendment rights of individuals and groups to engage in political expression. Additionally, rejecting permit applications on the basis of a landowner's "no" vote would fail to pass the test laid out in *Mt. Healthy City School District Board of Education v. Doyle* (1977), which determines if a government action was motivated by retaliation for protected speech.

Furthermore, this legislation raises serious concerns under the Fourteenth Amendment's Equal Protections Clause. By creating a distinct class of landowners – those who vote against drainage improvement projects – and subjecting them to discriminatory treatment, the law violates the principle of equal treatment under the law. This echoes the problematic legal landscape of *Yick Wo v. Hopkins* (1886), where seemingly neutral laws were applied in a discriminatory manner. The proposed amendment similarly utilizes the seemingly neutral act of voting to mask a discriminatory intent against those who exercise their right to oppose a project. This not only erodes the integrity of the democratic process but also opens the door to potential abuses of power by water resource districts, potentially leading to a chilling effect where landowners fear expressing any opposition for fear of reprisal.

In summary, this proposed legislation is a clear infringement on individual rights and a threat to the foundations of fair governance. I urge the Committee to issue a "Do Not Pass" recommendation on H.B. 1396 and protect the constitutional rights of North Dakota landowners.

Sincerely,

**ELIJAH MATHEWS**  
 Ph.D. Candidate  
 Department of Astronomy & Astrophysics  
 The Pennsylvania State University

*Disclaimer: The views and opinions expressed in this testimony are solely my own, and are not representative of the views and opinions on this matter of the Pennsylvania State University, my colleagues, or my collaborators.*



**1/23/2025**

**Statement in Support of HB 1396 Amendments to Section 61-16.1-45**

**By Levi Otis, Director of Government Affairs, Ellingson Companies**

**Mr. Chairman and Members of the Committee,**

Thank you for the opportunity to testify today. My name is Levi Otis, and I serve as the Director of Government Affairs for Ellingson Companies. We specialize in agricultural water management, working with thousands of farmers across North Dakota to ensure sustainable practices that benefit our communities and economy.

I am here to express strong support for the proposed amendments to HB 1396, which reinforce the importance of legal drainage systems, foster collaboration among landowners, and ensure the economic and community benefits of improved drainage projects.

**The Role of Legal Drains in Agriculture and the Economy**

Legal drainage systems are the backbone of North Dakota agriculture, enabling farmers to manage water effectively to improve soil health, reduce erosion, prevent flooding, and enhance overall crop yields. These systems are not just critical for individual farmers but also drive economic growth by supporting the state's agricultural productivity, which is vital to our local and national food supply. When farmers work together to establish and maintain legal drains, the collective benefits extend far beyond individual properties. Communities see improved infrastructure, reduced disaster recovery costs, and increased economic stability. However, achieving and sustaining these benefits requires commitment and financial responsibility from all stakeholders.

**Discouraging Barriers to Progress**

The amendments to HB 1396 take a crucial step in discouraging behaviors that hinder progress and create undue burdens on other taxpayers. When individuals fail to pay their fair share of assessments or actively oppose necessary projects, it slows down improvements that benefit the broader community and state. By limiting voting eligibility for those who have not paid their assessments and restricting drainage approvals for those who vote against progress, the bill ensures fairness and accountability in decision-making.

**Encouraging Collaboration and Accountability**

Drainage projects succeed when landowners come together with a shared vision for improvement and sustainability. The amendments incentivize participation and

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discourage behaviors that shift financial burdens onto others. By requiring those who benefit from these projects to contribute fairly, the bill fosters a culture of accountability and ensures that the cost of maintaining and improving drainage infrastructure is shared equitably.

**Securing Long-Term Benefits for North Dakota**

Improved drainage systems benefit not just farmers but entire communities. They protect homes, infrastructure, and local economies from the devastating effects of flooding and poor water management. These amendments ensure that the projects needed to sustain this vital infrastructure can move forward without unnecessary delays caused by individuals who do not contribute their share.

For these reasons, I respectfully urge the Committee to provide a "DO PASS" recommendation for HB 1396. Thank you for your time and consideration. I am happy to answer any questions.

**Levi Otis**  
**Director of Government Affairs**  
**Ellingson Companies**

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January 22, 2025

Dear Honorable Chairman Beltz and Members of the ND House Agricultural Committee

RE: 2025 House Bill 1396

When I became aware of this proposed bill, my first reaction was one of shock for my lifelong conservative principles to even comprehend this being a serious consideration.

Over the past decade, I have been challenged twice by the Sargent County Water Resource District to defend my constitutional landowner rights, subjecting me to tens of thousands of dollars of un-reimbursable litigation costs. After a recent 7-year court battle, the Supreme Court provided a decision that affirmed the landowner protections that have been in effect since the 1950s (2023 ND 230). However, relief was brief once it became clear that the District aimed to react with retaliation and retribution toward me. The District quickly devised approaches to minimize landowner protections, and sought legislation that would allow protests from landowners who disagree with District's decisions to be cast away easily.

The proposed legislation in HB 1396 clearly creates a pathway to ensure dissenting voices are awarded a separate class of citizenship, and their dissent for an unelected District's decision will result in their rights being held ransom to future penalties. Imagine if you will: a government entity forces payment of special assessment levies for public infrastructure but denies use of the facility because you believe the project costs to you do not exceed the benefits to you, merely all because of your statutory right of a vote. If this kind of retribution succeeds, what other governmental edicts can minimize dissent? I think the approach being discussed here is frightening if we recognize our Country's democracy. This proposed legislation truly chips away at the foundation of our faith in democracy. What decisions made by those in power now and seem acceptable to one's beliefs will be replaced in future with others. Don't take comfort that future powers may not use the same approach later to cast their decisions differently than today's.

The Sargent County Water Resource District members are naturally frustrated and perhaps embarrassed by two Supreme Court Decisions where landowners' rights were upheld. Perhaps this a "beg of forgiveness" or a quest of public mercy for their actions – I truly don't know.

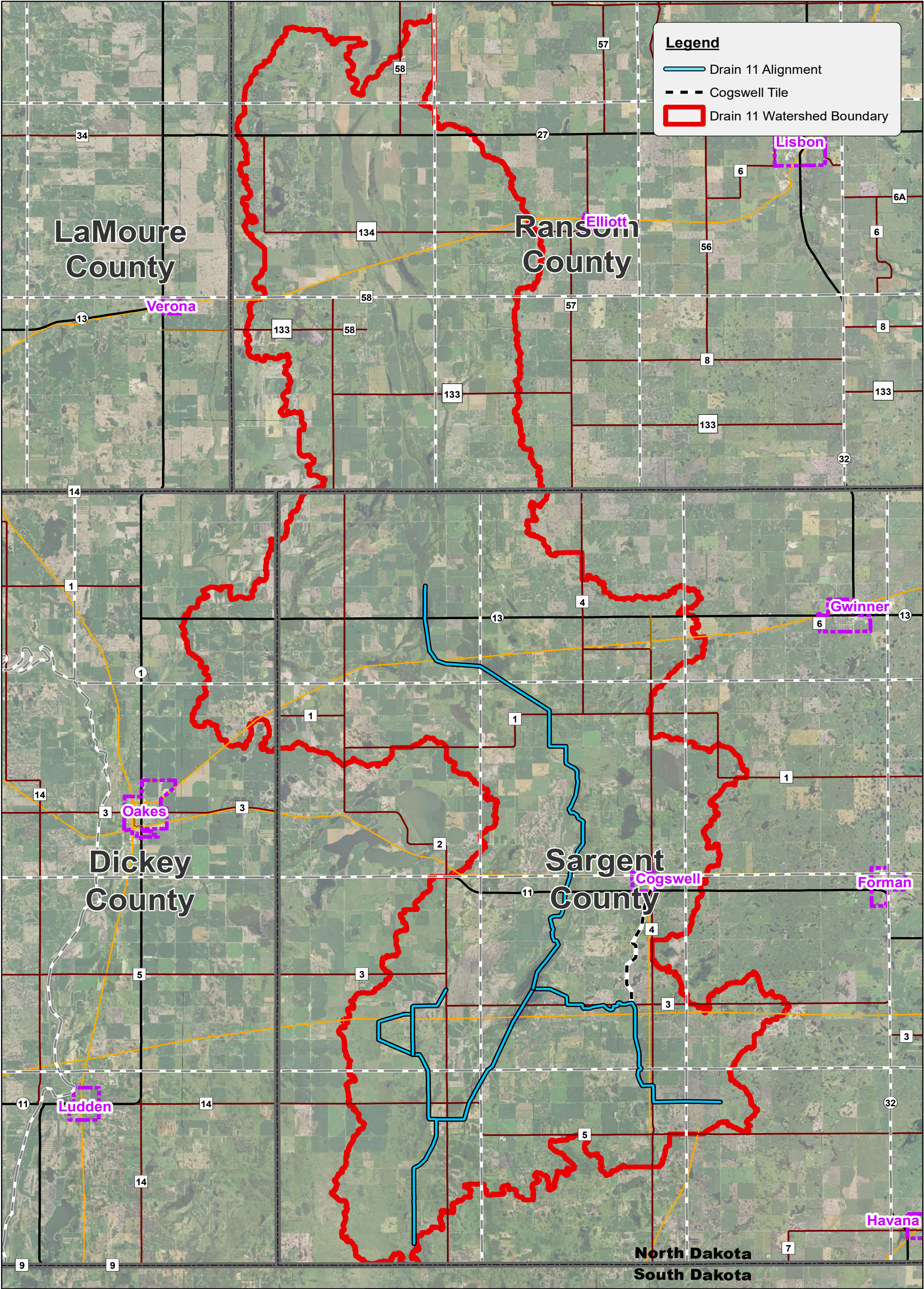
I urge the Committee to not let the District's personal quest for sympathy for their errors be a reason to do away with laws that protect other landowners from such errors. I am now a retired rancher, crop producer, and accountant who resembles the majority of your own constituents. Please let your conscience guide you here. Feel free to contact me for further background.

Sincerely,

Paul Mathews

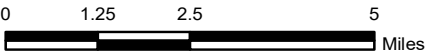
District 28 landowner

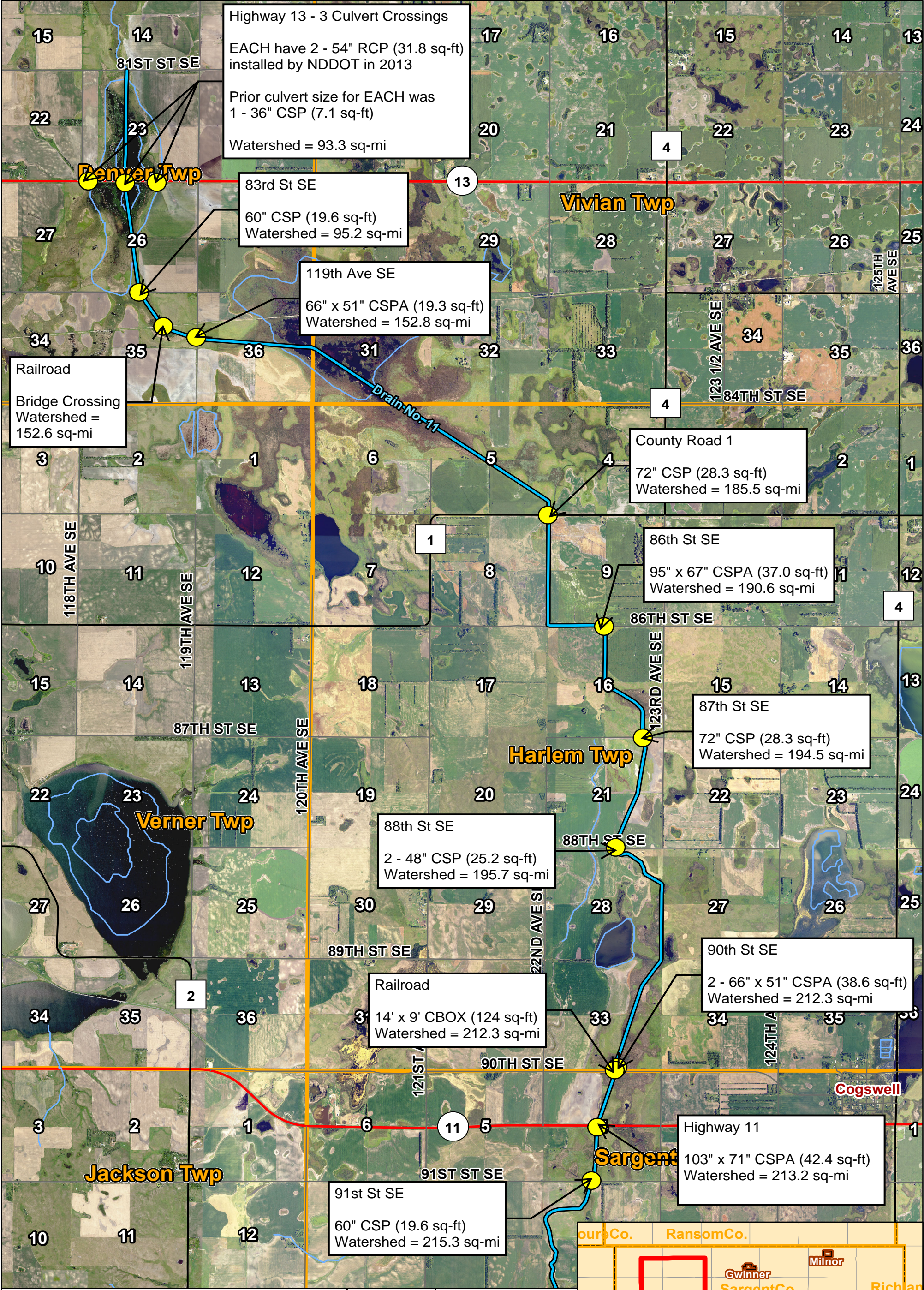
Cogswell, ND 58017 (farmerpost@hotmail.com)



Watershed Map  
Drain 11  
Sargent County, North Dakota

Created By: KMW/MSH Date Created: 12/10/20 Date Saved: 08/08/24 Date Exported: 01/20/25  
Plotted By: nathan.trosen Parcel Date: VARIES Aerial Image: 2020 County NAIP SIDS Elevation Data: IWI Lidar  
Horizontal Datum: NAD 1983 StatePlane North Dakota South FIPS 5002 Feet Vertical Datum: NAVD1988  
T:\Projects\178001\17864\Drain 11 Watershed Map.mxd





**Culvert Sizes (2014 Survey)**  
**Sargent County Drain No. 11**  
**Sargent County, ND**

Created By: NHT    Date Created: 6/29/2022    Date Saved: 01/13/25    Date Plotted: 06/24/20    Date Exported: 01/13/25  
Plotted By: nathan.trosen    Parcel Date: XX/XX/XX    Aerial Image: 2020 County NAIP SIDS    Elevation Data: Lidar  
Horizontal Datum: NAD 1983 UTM Zone 14N    Vertical Datum: NAVD1988  
T:\BaseData\ND\County\Sargent\Sargent Co WRD Basemap\_LS.mxd

**Legend:**

- Drains
- Crossings

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Agriculture Committee Room JW327C, State Capitol

HB 1396  
1/31/2025

A BILL for an Act to amend and reenact section 61-16.1-45 of the North Dakota Century Code, relating to maintenance of drainage projects.

11:47 a.m. Chairman Beltz opened the meeting.

Members Present: Chairman Beltz, Vice Chairman Hauck, Representatives Anderson, Dobervich, Henderson, Holle, Hoverson, Kiefert, Nehring, Olson, Rios, Schreiber-Beck, Tveit, Vollmer

### Discussion Topics:

- Committee Action

11:48 a.m. Representative Hauck moved Do Not Pass.

11:48 a.m. Representative Vollmer seconded the motion.

Representatives	Vote
Representative Mike Beltz	Y
Representative Dori Hauck	Y
Representative Karen A. Anderson	AB
Representative Gretchen Dobervich	Y
Representative Donna Henderson	Y
Representative Dawson Holle	Y
Representative Jeff Hoverson	Y
Representative Dwight Kiefert	Y
Representative Dennis Nehring	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Cynthia Schreiber-Beck	AB
Representative Bill Tveit	Y
Representative Daniel R. Vollmer	Y

Motion passed 12-0-2.

11:49 a.m. Representative Tveit will carry the bill.

11:49 a.m. Chairman Beltz closed the meeting.

*Diane Lillis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**  
**HB 1396 ([25.0849.02000](#))**

**Agriculture Committee (Rep. Beltz, Chairman)** recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1396 was placed on the Eleventh order on the calendar.