

2025 SENATE ENERGY AND NATURAL RESOURCES

SB 2141

2025 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2141
1/16/2025

Relating to a change in the purpose of use of a conditional or perfected water permit.
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11:01 a.m. Chairman Patten opened the hearing.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

Discussion Topics:

- Simplify changes in water permit purposes
- Citing vague language on livestock use
- Potential water right conflicts
- Abandoned reservoirs permitted
- Maintaining reservoir validity

11:01 a.m. Chairman Dale Patten introduced the bill.

11:03 a.m. Andrew Nygren, Division Director of the Water Appropriation Division from the Department of Water, testified in favor and submitted testimony #29157.

11:12 a.m. Erik Olson testified in opposition and submitted testimony #29470.

11:15 a.m. Samuel Wagner, Ag and Food Field Organizer from the Dakota Resource Council, testified in opposition and submitted testimony #29321.

Additional written testimony:

Mary Sahl submitted testimony in opposition #29474.

11:17 a.m. Vice Chairman Kessel closed the hearing.

Kendra McCann, Committee Clerk



Testimony in Support of
SB 2141
Senate Energy and Natural Resources
January 16, 2025

TESTIMONY OF

Andrew Nygren, Division Director, Water Appropriation Division

Chairman Patten, and members of the Senate Energy and Natural Resources Committee, I am Andrew Nygren, the Water Appropriation Division Director for the Department of Water Resources. I'm here today to provide testimony in support of SB 2141.

The bill before you today is about making it easier to change the purpose of use for water permits tied to reservoirs with authorized withdrawals. Right now, section 61-04-15.4 only allows changes in use for what's considered a "superior use," based on a priority order outlined in section 61-04-06.1. That order is:

1. Domestic use
2. Municipal or public use
3. Livestock use
4. Irrigation use
5. Industrial use
6. Fish, wildlife, and recreational use

Currently, there are a small number of water permits tied to reservoirs that are for irrigation or industrial use. These reservoirs have authorized storage and withdrawals but should the irrigation or industrial use tied to them be abandoned or never built, the permit may be subject to cancellation leaving the reservoir without a valid permit.

This bill addresses the problem by allowing the permit to change from irrigation or industrial use to fish and wildlife use. This allows the structure to remain, while accommodating the cancellation of the withdrawals associated with the abandoned or never developed use. It's a practical solution that keeps the reservoir permitted.

Thank you for the opportunity to testify, and I'm happy to answer any questions.

Testimony for SB2141

To the Senate Energy and Natural Resources Committee,

I'm testifying in opposition against SB2141 because there seems to be good intentions

We at Dakota Resource Council support the use of allowing excess water permits to be used for fishing and recreational use. But we have questions about the livestock language in this bill on line 18?

There are two potential problems with this language: The first is that it does not take into account the size of the livestock operation in use if it is not clearly defined. Setting up this water to have your cows out to pasture might be just fine, but livestock operations could also include dairy farms which may have up to 25,000 head of cattle and need 1 million gallons of water per day. There should be limits more clearly defined. Because both of these situations could be permitted if it is written the way it is.

The second problem is that this bill could also infringe on cities' and businesses' abilities to grow in North Dakota. The language is too unclear to define exactly what "The department of water resources may approve the proposed change if the proposed change will not adversely affect the rights of other appropriators". This could have the unintended consequences of multiple lawsuits determining the definition of "adversely affecting" and conflicts with cities and businesses' water rights if you reclaim them for fishing and recreation. If we don't define this clearly we could run into legal troubles.

In conclusion we can support this bill if the intent is to provide ways to permit reservoirs for recreation and fishing if they have not been claimed by industry and you remove the livestock language and more clearly define your intentions in the law. But as written we urge DO NOT PASS due to the vagueness of the language.

Thank you for your consideration

Sam Wagner
Ag and Food Field Organizer
Dakota Resource Council.

Testimony of

Erik Olson, resident of Wahpeton, ND in Abercrombie Township

Chairman Patten and members of the Senate Energy and Natural Resources Committee. My name is Erik Olson, a resident of Wahpeton, North Dakota in the Township of Abercrombie North Dakota. I am submitting my testimony in opposition to SB 2141.

This bill could have lasting negative effects to entire communities and have permanent environmental impacts. Our state has opened the doors to mega livestock companies to come in and use our precious resources without any benefit to the residents of North Dakota. With the Proposed mega dairy's that are potentially being introduced to Richland and Trail County by Riverview ND, LLP, the "Livestock Use" needs to be carefully looked at.

Currently the Proposed Abercrombie Dairy would be looking at 12,500 dairy head and would use approximately 120 to 180 million gallons of water per year. There should be a limit of specific animal units that would be considered Livestock use, to ensure that a mega livestock farm cannot come in and use water that is already allocated to domestic and municipal use. Even if the allocated water isn't being used to full 100%, a mega livestock should not be able to come in and negatively impact the water source. The sheer amount of water that a mega livestock facility needs, would put an end to small communities. Current and future developments would be affected negatively.

Our state has only recently allowed these mega livestock companies to now enter, and appropriate regulations are not in place to protect the residents of North Dakota and the beautiful resources we have and their rights. I feel that this bill directly makes it easier for mega livestock to negotiate with already allocated water sources and affectively get what they want by using corporate power without consideration of the communities and environment.

Our valuable resource needs to be protected and carefully considered before opening the gates to these mega dairy's.

Thank you for the opportunity to testify, and I'm happy to answer any questions or have further discussions.

Dear Mr. Chairman and Committee Members:

My name is Mary Sahl, I live at 6955 County Road 81, Wahpeton, North Dakota. I will be living near the proposed Abercrombie Dairy in Richland County in Southeast North Dakota.

I am in opposition of this bill because water is our most precious resource, and this bill appears to be promising unlimited and unregulated amounts of water to the proposed Riverview Dairy.

My husband and I have gone to the local Richland Water Board after a recent meeting held there for water permitting for the dairy from the Red River. We were told the Red River needs to be at a 53 year event level for them to be able to draw water from the Red River. It has not been at that level for many years now due to the drought in our area the past four years and beyond. We were told they would have to pump water uphill and this was basically impossible to do. Yet they have applied for a permit to draw water from the Red River. Historically, reports from other Minnesota locations reveal that Riverview will have multiple well site locations, and since they are not required to tell us where or how much water they are extracting from the earth, they could solely rely on the glacial aquifer, and use other sites as a smoke screen in order to obtain the water permit. In essence, they simply do not have enough water to sustain this dairy.

We understand they are trying next to get allocations from Wahpeton, North Dakota. We are opposed to this because this would limit the potential expansion of the city of Wahpeton from future development. In essence, our state is not set up to regulate industrial agriculture or the withdrawal of 130 million gallons of water per year from a glacial aquifer.

I'm not certain as to the changes in purpose of use wording in your proposed bill, but I conclude that will be to benefit Riverview Dairy, so I

oppose it on the basis that Riverview go through the normal processes anyone would have to go through to reapply for water allocations.

Our biggest fear is that our well and 24 other neighbor's wells will go dry, more than 50% are under 50 feet deep. There is no provision in their permit to replace local wells that go dry. This would adversely affect the rights of local citizens and negatively affect the local communities as well. Please take time to understand the impact of massive water depletion from the state of Arizona where Riverview has many barns and cows. The state has now had to impose regulations for water usage and declared several areas to be under a management plan for future water allocations. You can e-mail Dennis Troutman at dt troutman@azwater.gov for further information.

We simply feel you should not give pass to our most precious resource. It is not a resource that can be replenished. We cannot conduct our lives or sustain our farms without water. Nothing exists without water, nothing.

Thank you for your time.

2025 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2141
1/16/2025

Relating to a change in the purpose of use of a conditional or perfected water permit.
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2:18 p.m. Chairman Patten opened the hearing.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

Discussion Topics:

- Committee action

2:20 p.m. Senator Beard moved a Do Pass.

2:20 p.m. Senator Gerhardt seconded.

Senators	Vote
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Passed 7-0-0.

2:21 p.m. Senator Gerhardt will carry the bill.

2:21 p.m. Chairman Patten closed the hearing.

Kendra McCann, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2141 ([25.0754.02000](#))

Energy and Natural Resources Committee (Sen. Patten, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2025 HOUSE ENERGY AND NATURAL RESOURCES

SB 2141

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2141

3/6/2025

Relating to a change in the purpose of use of a conditional or perfected water permit.
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2:15 p.m. Chairman Porter called the hearing to order.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak,
Representatives: Dockter, Hagert, Headland, Heinert, Johnson, Marschall, Olson, M.
Ruby, Conmy, Foss

Discussion Topics:

- Priority orders
- Water permits
- Water Storage

2:16 p.m. Senator Patten introduced the bill.

2:16 p.m. Andrew Nygren, Division Director, Department of Water Resources, testified in favor and submitted testimony. #38911

2:20 p.m. Chairman Porter closed the hearing.

Leah Kuball, Committee Clerk



Testimony in Support of
SB 2141
House Energy and Natural Resources
March 6, 2025

TESTIMONY OF

Andrew Nygren, Division Director, Water Appropriation Division

Chairman Porter, and members of the House Energy and Natural Resources Committee, I am Andrew Nygren, the Water Appropriation Division Director for the Department of Water Resources. I'm here today to provide testimony in support of SB 2141.

The bill before you today is about making it easier to change the purpose of use for water permits tied to reservoirs with authorized withdrawals. Right now, section 61-04-15.4 only allows changes in use for what's considered a "superior use," based on a priority order outlined in section 61-04-06.1. That order is:

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Thank you for the opportunity to testify, and I'm happy to answer any questions.

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2141

3/6/2025

Relating to a change in the purpose of use of a conditional or perfected water permit.
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3:06 p.m. Chairman Porter called the hearing to order.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak,
Representatives: Dockter, Hagert, Headland, Heinert, Johnson, Marschall, Olson,
M.Ruby, Conmy, Foss

Discussion Topics:

- Committee action

3:07 p.m. Representative Olson moved a Do Pass.

3:07 p.m. Representative Headland seconded the motion.

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Anna Novak	AB
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Austin Foss	Y
Representative Jared c. Hagert	Y
Representative Craig Headland	Y
Representative Pat D. Heinert	Y
Representative Jorin Johnson	Y
Representative Andrew Marschall	Y
Representative Jeremy L. Olson	Y
Representative Matthew Ruby	Y

Motion carried: 12-0-1

3:08 p.m. Representative Foss moved to place on the consent calendar.

3:09 p.m. Vice Chairman Anderson seconded the motion.

Voice vote: Motion carried

Bill carrier: Vice Chairman Anderson

3:09 p.m. Chairman Porter closed the hearing.

Leah Kuball, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2141 ([25.0754.02000](#))

Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (12 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2141 was placed on the Tenth order on the calendar.