

House Bill 1437
House Agriculture Committee
Testimony of Levi Otis, Ellingson Companies
February 4, 2021

Good Morning Chairman Johnson & House Agriculture Committee Members:

Thank you for the opportunity to testify today in support of House Bill 1437. I am Levi Otis, Registered Lobbyist 370 for Ellingson Water Management – a family-owned water management contractor that operates here in North Dakota, employs about 70 North Dakotans across the state, and another sum around the United States.

House Bill 1437 is a reflection of the cooperation between water resource districts, agricultural groups, and land improvement contractors working together to improve governing processes. We believe that HB 1437 maintains important provisions of current law and improves upon current law in the following ways:

First, HB 1437 maintains the long-standing permitting exclusion for subsurface water management projects that comprise less than 80 acres. HB 1437 require that projects of less than 80 acres be reported to the water resource board. Project designs of all projects are maintained as confidential records.

Second, HB 1437 clarifies the permit application process by improving upon the information that can be provided with a permit application and clarifying that a permit application must be reviewed for a determination on whether it is complete within three business days. Complete applications must be approved with or without conditions within 30 days. Most water resource boards meet on, at least, a monthly basis.

Third, HB 1437 removes the fence-line conflicts from the permitting process and allows the weighing of competing technical evidence and property rights issues to be addressed through the judicial process. This is consistent with the law in Minnesota, South Dakota, and Iowa. Removing this from the permitting process saves water resource boards time and money and protects the property rights of landowners upstream and downstream.

Fourth, HB 1437 clarifies the reasonable conditions that can be attached by water resource boards to permit applications. These conditions require that the permit applicant work with the water board on the project outlet location, its control structure, and erosion. It also allows the water resource district to include land within an assessment drain's assessment district if the subsurface water management system artificially contributes flow into the assessment drain's watershed.

Overall, the bill is an improvement from current law and we support the Committee adopting a "DO PASS" recommendation on HB 1437. I will stand for any questions from the Committee.

Levi Otis