

## Watershed Management Working Group

### Participants:

SD Agri-Business Association	SD Corn Growers Association
SD Association of Cooperatives	SD Farm Bureau
SD Association of Conservation Districts	SD Farmers Union
SD Association of County Commissioners	SD Soybean Association
SD Cattlemen's Association	SD Wheat, Inc.

This group has met four times to gather information and discuss the state's current watershed management laws. We are looking at how other states deal with drainage issues, and exploring ways to improve the current system.

The agronomic benefits of proper watershed management, including drainage, have long been understood and well-documented. We believe that responsible watershed management can continue to provide benefits for all South Dakota. This is especially true as new research and management techniques are implemented to govern both the quantity and quality of water being drained. At the same time, we need to be cognizant of potential adverse effects on neighboring landowners and local infrastructure such as roads and bridges. Current laws and historical court cases seem convoluted and inadequate to address watershed management issues in South Dakota.

South Dakota's Constitution declares the drainage of agricultural lands to be a public purpose. The Legislature has license to provide for drainage, provide for the organization of drainage districts, determine the authorities of counties, townships and municipalities, and provide for taxing property according to benefits received.

State drainage law has been around in some form since the early 1900s, including language pertaining to drainage districts with the power to assess taxes. A major legislative change in 1985 gave county commissions discretionary authority to regulate drainage within the county and to create "drainage projects." The law also gave counties the ability to work jointly where drainage affects more than one county.

Several counties in eastern South Dakota adopted drainage ordinances, with mixed results. Not all counties adopted drainage ordinances, and some have recently voted to repeal them, prompted in part by concerns over potential liability.

Our group has reviewed the work of the 1997 Interim Drainage Study, and have discussed the advantages of organizing watershed management along watershed boundaries. As representatives of those who will be affected by watershed management laws, our goal is to identify ways to make sure watershed management works.

Some areas we have identified for further research include:

- Finding ways to mediate drainage disputes without involving the court system.

- Developing a permitting process, so local governments know where current drainage systems are located and where future drainage will occur. This could potentially include some sort of voluntary grandfathering system for current drainages.
- Having a statewide expert or someone with expertise who can help county commissions establish good drainage ordinances. SDCL 46A-10A refers to counties being able to use experts.
- Whether there is a place for flowage easements to be used in mitigating drainage disputes.
- Whether or not county liability for drainage ordinance decisions differs from county liability in other areas.