

N.D.A.G. Letter to McLean (Sep. 1, 1987)

September 1, 1987

Ms. Jeanne L. McLean
Bottineau County State's Attorney
P.O. Box 26
Bottineau, ND 58318

Dear Ms. McLean:

Thank you for your letter of August 11, 1987. You ask whether a county commission has the power to override decisions made by its county water resource district.

The managers of a county water resource district are appointed by the county commission. N.D.C.C. § 61-16-08. Once appointed the water managers have significant independence. There is no statute or case law empowering the county commission to supervise water managers, overrule their decisions, or otherwise oversee the operations of the water resource district. In exceptional circumstances, however, a county commission may remove a water manager from office. N.D.C.C. § 61-16-08.

I recognize that N.D.C.C. § 11-11-11(2) says that the county commissioners shall supervise the conduct of the county officers. However, N.D.C.C. § 11-10-02 sets forth a list of county officers and the managers of water resource districts are not included.

A county commission's control of a water resource district lies in its power of appointment. This power enables the commissioners to appoint individuals that share the commissioners' view of water matters.

Though water resource districts have considerable independence, they are not free of judicial oversight. N.D.C.C. § 61-16.1-54 allows "any person aggrieved" to appeal to district court any decision of a water resource district.

I trust this adequately answers your question. If not, please contact me for further clarification.

Sincerely,

Nicholas J. Spaeth

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