



April 3, 2012

The Honorable Denny McNamara
Minnesota House
375 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

The Honorable Tom Hackbarth
Minnesota House
409 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Representative McNamara and Representative Hackbarth:

We are writing regarding the Omnibus Environment and Natural Resources Policy and Game and Fish Bills and our thoughts on some of the provisions contained within them.

We appreciate your support for the BWSR Local Government Planning, DNR Policy, Game and Fish and MPCA Policy Bills. We appreciate your willingness to work with us on these and other issues, and to consider our remaining concerns.

There are a number of provisions in the bills we oppose as they are currently written. Our staffs have testified in committees with our thoughts, and this letter summarizes those concerns.

Environment and Natural Resources Policy Bill:

We are strongly opposed to the changes to de minimis that reduce wetland protection. Minnesota has a "no net loss" of wetland policy that has been carefully crafted over the past twenty years. The proposed elimination of more restrictive de minimis amount wetland exemptions for the metropolitan area (and wetland type 7) must be reinstated if that goal and policy are to be fully met. This proposed policy change would undermine the wetland restoration work being done with Legacy dollars, which Minnesotans voted for in overwhelming support.

The prohibition on state water quality standards being more restrictive than federal standards will only result in confusion and lawsuits. In the worst case, Minnesota will be prevented from adopting standards protective of our State's public health and environment. EPA does not set standards, but rather sets a framework under the Clean Water Act which states must follow when developing standards based on local conditions and needs. In some cases EPA may offer guidance/criteria on a specific substance. Under the change, a judge could support a lawsuit stating the lack of EPA guidance prevents the development of a state standard.

The automatic permit approval has many unintended consequences. Our state departments do not approve permits unless we can defend them to the public, courts and federal government. If a department could not meet the 60 day requirement, it would just deny the permit or in the case of federal permits defer them to the federal government. To ensure a complete review before 60 days, we would have to reassign staff, so minor permits (including renewals) would get a priority over larger construction projects that could include job creation. Both the potential denial and/or reassignment of priorities hurt permitting efficiency.

The change in where penalties for public health and environmental violations are deposited (General Fund instead of the Environmental Fund) is based on the misperception the MPCA assigns penalties to fund its operations. The data shows it is not the case and the Legislature must first appropriate any dollars the Agency receives. The change also jeopardizes the fiscal future of the Environmental Fund, which historically has been at risk of going into deficit and is used by more agencies than just the MPCA.

The provision, removing the MPCA Citizens' Board responsibility for final decisions on environmental review (EAW/EIS) and permits, is ill-advised. The Board has helped mediate controversial projects and offers citizens a valued opportunity to argue their case before their peers. A more in-depth discussion is needed before making such a change. The EOB review of all environmental governance bodies (including the MPCA Citizens' Board), which is already underway, is the better place to have this complex discussion and will result in a better outcome.

At this time, we are opposed to the provision contained in this bill that eliminates the oversight role that the Executive Council plays in approving the sale of mineral leases. While we are open to discussing this process with the legislature, the Executive Council has not been involved in these discussions, so we are not in favor of making this change at this time. We remain open to exploring ways to expedite the approval process for mineral leasing, but we must maintain opportunities for public participation.

We are also concerned about the language that reduces the liability insurance that surveyors would need working on DNR lands to \$1,000,000. The effect of this change mandates that the Department of Natural Resources accept \$500,000 of risk for any and all surveys contracts since the Minnesota governmental tort cap is currently set at \$1,500,000. This insurance change applies only to Department of Natural Resources surveying, contractors working for other agencies would still be required to carry \$1,500,000 of insurance.

Game and Fish Bill:

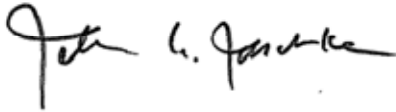
We do not support the language that removes the requirement of owners to display registration numbers on their snowmobiles. The registration display requirement has been in effect since snowmobiles were first registered. Law enforcement uses these registration numbers to identify specific machines and their owners (just like law enforcement uses license plates on motor vehicles). Making this change would be similar to requiring motor vehicles to only display their license plate tabs and not the actual license plate. This is a substantial change in recreational vehicle enforcement and is opposed by the Minnesota Chief's of Police Association and the Minnesota Sheriff's Association.

We are opposed to the changes related to the removal of beaver dams and lodges. This change would allow a local unit of government to take beaver without a permit. Beaver are valuable, protected wild animals, the harvest of which deserves state oversight. Under current authority we can and do issue a simplified general permit to a local unit of government to conduct these activities.

Finally, the language exempting venison from the food safety statutes is not acceptable. Food safety is a serious concern, and Minnesota cannot become an "island" among states with exemptions to the food code. Moreover, leaving venison exempt from all oversight means that Minnesotans using food shelves – many of whom are children -- may be exposed to adulterated venison and the resulting health effects of lead poisoning. We support the venison donation program, believe it is working well, and contend it needs no changes.

The list of concerns outlined in this letter is not comprehensive, but rather contains those provisions of greatest concern to our departments. We and our staffs are available to answer any questions on these outlined concerns, or any other parts of the bills.

Sincerely,



John Jaschke, Executive Director
Board of Water and Soil Resources



David Frederickson, Commissioner
Minnesota Department of Agriculture



Paul W. Aasen, Commissioner
Minnesota Pollution Control Agency



Tom Landwehr, Commissioner
Minnesota Department of Natural Resources

cc: Representative Kurt Zellers
Senator David Senjem
Representative Paul Thissen
Senator Thomas Bakk
Representative Jean Wagenius
Senator Bill Ingebrigtsen
Senator Linda Higgins
Will Seuffert, Office of Governor Dayton