

January 2, 2019

Thomas E. Casey, Board Chair
Friends of Minnesota Scientific and Natural Areas, Inc.
2854 Cambridge Lane
Mound, Minnesota 55364

Dear Mr. Casey:

This letter is in response to your November 27, 2018 petition in which you request the Minnesota Department of Natural Resources (DNR) adopt rules to 1) prohibit use or possession of lead fishing tackle to take fish and wildlife, 2) prohibit use or possession of lead shot to take wild animals, and 3) prohibit use or possession of lead bullets to take wild animals. The DNR denies the three requests based on the following.

1. Lead Fishing Tackle: The DNR is authorized to make rules about methods of take for fish, as your petition advises, but the specific language states:

"M.S. 97C.375 Restrictions on Taking Fish (d) To protect water quality or improve habitat for fish or wildlife, the commissioner may prescribe restrictions on fishing seasons, limits, or methods on specific bodies of water."

The authority for these restrictions is specific to protecting water quality or improving habitat. Further, the authority is provided for "specific bodies of water". It is not broad authority to prescribe restrictions on all waters of the state or to prevent incidental mortalities.

2. Lead Shot: As you point out and acknowledge in your petition, the 2017 Legislature enacted the following:

"Chapter 93, Article 2 Sec. 164. RULES LIMITING USE OF LEAD SHOT PROHIBITED. Until July 1, 2019, the commissioner of natural resources shall not adopt rules further restricting the use of lead shot."

Based on this language, DNR does not have authority to adopt a rule that prohibits use or possession of lead shot to take wild animals. Further, we believe the legislative intent was that DNR not work on such rules during the moratorium period, thereby covering both rule initiation and adoption.

3. Lead Bullets: The above legislative language related to lead shot was enacted in response to a very limited and targeted proposed rule in 2016 that would have required use of non-toxic shot on all State Wildlife Management Areas in the farmland portion of Minnesota. Even with this modest proposal, the Legislature overruled the DNR and prohibited implementation after significant public resistance. By doing so, they have indicated that a change of this significance is a policy decision that rises to the Legislative level. A prohibition on use or possession of lead bullets statewide is much more expansive than the 2016 lead shot proposal, and consequently we believe a policy change of this magnitude is appropriately addressed by the Legislature.

Thank you for your continued work in support of Minnesota's Scientific and Natural Areas.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Landwehr".

Tom Landwehr
Commissioner

- C: Barb Naramore, Assistant Commissioner
Sarah Strommen, Assistant Commissioner
Bob Meier, Assistant Commissioner
Jim Leach, Fish and Wildlife Division Director
Steve Colvin, Ecological and Water Resources Division Director