

Members of the Legislative Citizen Commission on Minnesota Resources:

On behalf of the undersigned organizations, we are writing to ask the members of the Legislative Citizen Commission on Minnesota Resources (LCCMR) not to proceed with approval of any work plans for projects that are proposed to be funded by appropriation bonds approved by the 2018 legislature. The LCCMR members should instead uphold the clear language and intent of the constitutional amendments that have created and continue to support the Environment and Natural Resources Trust Fund (ENRTF).

Paying for these projects with the twice as expensive appropriation bonds is not fiscally prudent. Appropriation bonds are estimated to more than double the total interest costs on these-projects over what those interest costs would have been if traditional state general obligation bonds were used. Minnesota Management and Budget estimates that the ENRTF would pay \$66 million in total interest costs in addition to the \$98 million in actual project costs.¹

Apart from being fiscally unwise, the use of ENRTF monies to back and pay interest on appropriation bonds is in conflict with the Minnesota Constitution. The Minnesota Constitution allows appropriations for “protection, conservation, preservation, and enhancement of the state's air, water, land, fish, wildlife, and other natural resources” but does not state that the ENRTF can be used to pay the interest on appropriation bonds to bond holders.

The use of ENRTF to fund these projects also subverts the clear intent of the constitutional amendments creating and extending the Environment and Natural Resources Trust Fund. Using ENRTF appropriation bonds as a substitute for the general obligation bonds that have traditionally funded these projects flagrantly disregards the laws and agreements that resulted in the establishment of this historic constitutional dedication. Minnesotans voted to approve and amend the ENRTF three times over the last 30 years. In each instance, state statutes were in place that established the allowable uses of the ENRTF funds. These statutes were critical to building the support needed to pass these amendments.

State Law Prohibiting Substitution

M.S. 116P.03 (a) provides clear direction on the use of the Environment and Natural Resource Trust Fund, stating:

“The trust fund may not be used as a substitute for traditional sources of funding environmental and natural resources activities[.]”

The substitution that is occurring with the appropriation bond funded projects is directly in conflict with this state law. Not only are these projects the type of projects that have been traditionally funded with general obligation bonds, these project specifically had been part of the package of projects reviewed by the Capital Investment committees in the Senate and House for general obligation bond funding this past legislative session.

¹ The Minnesota Management and Budget estimate submitted to the LCCMR shows the interest costs of the projects slated to be paid for with appropriation bonds at approximately \$67 million if the bonds totaled \$100 million (scaled for the actual \$98 million in appropriation bonds, it would be approximately \$66 million in interest). Minnesota Management and Budget also shows the interest on those same projects, if paid for with general obligation bonds, would only approach an estimated \$33 million.

State Law Expressly Excluding Certain Projects

Before being amended in the 2018 Capital Budget Bill, state law of the prior 30 years would have *prohibited* many of the projects approved for funding with appropriation bonds, including projects that were normally funded in other ways, and projects specifically prohibited in section 116P.08, subdivision 2, such as:

- a Pollution Control Agency project for a closed hazardous waste disposal facility and landfill under chapter 115B,
- municipal water pollution control project grants (as opposed to the loans identified in the constitutional language), and
- projects that have never been evaluated with regard to the ENTRF strategic plan.

In order to get around the prohibitions in state law, the 2018 Bill used “notwithstanding” language (meaning to “disregard”). But changing state law does not get around the constitution. When voting for the constitutional amendment that established and twice reauthorized the Environment and Natural Resources Trust Fund, Minnesotans understood that it would be interpreted consistent with the concurrently adopted state law.

To change and disregard this 116P statute now, in the middle of the period through which this ENTRF dedication is authorized, is a violation of the trust of the voters who approved the constitutional amendments. The legislature cannot avoid the constitution by the use of a “notwithstanding” clause and by making changes to the legislation today, when the constitutional amendment is not before the voters.

Allowing the ENRTF funds to be diverted from the constitutional intent in this way condones the lack of public transparency used to achieve these ends. The 2018 Legislation affecting the ENRTF was not the subject of public hearings. The projects the LCCMR considers today have never been before the LCCMR. There was virtually no opportunity for voters and the public to weigh in during the last minute legislative decision-making process. This restructuring of the ENRTF is a major decision which undermines the impact of the trust fund created by voters and the public. These Minnesotans should not have been largely locked out of this process.

As the work plans for the appropriation bonds are not consistent with the Minnesota Constitution or the intent of the voters, we argue you have a duty to *not* adopt the proposed work plans. M.S. 116P.03 (d) states that;

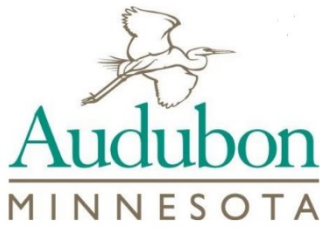
“Recommendations made by the commission under this chapter must be consistent with the Minnesota Constitution, article XI, section 14; this chapter....”

There is strong unified support in urging the members of the LCCMR to defend the public will and taxpayer interest and *not* proceed with the use of the Environment and Natural Resource Trust Fund to pay for debt service on the appropriation bonds approved by the legislature.

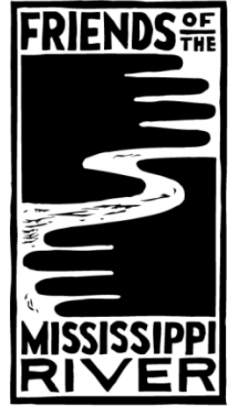
Please defer further action on these work plans and allow the next legislature the opportunity to receive and consider public input on this dramatic change in course and reconsider the use of state general obligation bonds for the many worthy projects that are before you.

Thank you for your consideration of this important request.

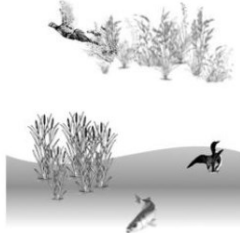
Respectfully submitted by the following organizations:



Fish & Wildlife
Legislative
Alliance



**CONSERVATION
MINNESOTA**
Protect the Minnesota you love.



**Minnesota Outdoor
Heritage Alliance**



Minnesota Waterfowl Association



Friends of Minnesota
Scientific & Natural Areas



Minnesota
Environmental
Partnership



**LEAGUE OF
WOMEN VOTERS**
MINNESOTA



Alliance for Sustainability
Ecologically sound, economically viable, socially just and humane



Mankato
Area
Environmentalists

