



RE: **Please oppose SF 3656 / HF 4099**

To: Members of the Minnesota House of Representatives

May 3, 2018

Dear Representative:

On behalf of the undersigned organizations and their thousands of Minnesota members, we would like to thank you for your attention to our shared environment and the current and future generations who depend on it.

The following provisions in SF 3656 / HF 4099 are detrimental to the short and long-term health and well-being of our state. We ask you to oppose this bill unless these items are removed.

Article 2: Agricultural Statutory Changes

Rolling-back Groundwater Protection Act authority to protect groundwater unless the rule is approved by the legislature.

Article 2, Section 15 (d)

This section impedes the MDA's ability to protect our groundwater by putting unnecessary delays and legislative hurdles into an already lengthy and comprehensive public process. This provision undercuts the authority and ability of our state agencies to protect our public health and well being.

An extensive body of research shows that nitrate from nitrogen fertilizer can leach below the root zone and migrate into our groundwater. Despite farmers' widespread adoption of efficient nitrogen fertilizer application practices, the problem is getting worse:

- 537 public water supply wells across the state have elevated nitrate levels.
- More than 50 communities in MN are facing significantly elevated nitrate levels.
- Nearly 10% of MDA tested private wells in vulnerable areas exceed the Health Risk Limit (HRL), including some townships with 30-40% or more of private wells unsafe to drink.

Because treating the well water or finding new drinking water sources can be prohibitively expensive for communities and individuals, preventing this contamination is vital to protecting public health.

Article 4: Environment and Natural Resources

Prohibiting DNR from imposing conditions or requiring testing when a landowner transfers his/her permit to a new owner, even where the old permitted amount is no longer sustainable.

Article 4, Section 39

Groundwater is a public resource which landowners may make “reasonable use” of. The amount that constitutes reasonable use is set by statute and amounts above this require a permit from DNR. State law requires DNR to permit only amounts that are sustainable and which do not deplete the aquifer or negatively impact connected aquatic systems such as trout streams. Applications for DNR groundwater appropriation permits that allow pumping of huge volumes for irrigation have soared in the past 10 years and use is exceeding sustainability thresholds in some areas.

Requiring DNR to pay for the installation of test wells if it denies approval of the groundwater appropriation permit.

Article 4, Section 40

Today, state law requires water use permits for operations using more than 10,000 gallons per day or 1,000,000 gallons per year. The state may require a test well before a new water appropriation permit is granted to ensure that the proposed water use won't compromise the aquifer or nearby wetlands. This provision would force the Department of Natural Resources to pay for the costs of any test well where an appropriation permit is denied. This ends up penalizing taxpayers and an already over-stressed DNR budget for the acquisition of data necessary for DNR to make their determination as to whether to grant a water appropriation permit or not.

Transferring water from one water body to another without a permit.

Article 4, Section 57

This provision allows waters to be moved from one body to another without a permit. Some waters are polluted and have aquatic invasive species, others are pristine. Current law protects the state's cleanest waters by requiring a permit for a water transfer between water bodies. Agencies should retain this authority in order to prevent transfers that harm Minnesota's waters.

Giving industry 16 years to meet water quality standards.

Article 4, Section 59

This provision allows a municipality or an industry that has already constructed or made improvements to a water treatment facility in order to meet water quality standards a 16-year pass for meeting any other water quality standards that may be developed. Similar language was passed by the legislature last year – though only for municipalities.

An Administrative Law Judge rejected the rulemaking that resulted from last year's legislation because it was not in compliance with the federal Clean Water Act. The provision is back again this year, now granting the 16-year holiday to industries as well. Water quality standards are developed to protect human health and the viability of our

waters for important uses. If new water quality standards are established, polluters should be required to meet those new standards through the permitting process.

Requiring legislative approval for fees set by the Pollution Control Agency.

Article 4, Sections 56 (j, n), 60, 61, 62, 77

The PCA has not increased its fees since 1992. In 2017, MPCA fees fell \$23.5 million short of covering program costs. Those program costs pay for the staff and resources to:

- write permits
- set discharge limits
- evaluate variance requests
- inspect facilities
- monitor for compliance
- enforce against non-compliance
- provide training and licensure to industry professionals
- certify laboratories

These shortfalls create delays in permitting, leave important tasks undone, and create uncertainty for permittees. This proposal would only make it more difficult to effectively and efficiently operate these programs.

Jeopardizing native species by delaying needed conversion back to pre-settlement condition of oak-Savannah, oak woodland or prairie.

Article 4, Section 95

This provision extends an unfortunate conversion moratorium put into law last year in Sand Dunes State Forest (SDSF) from two years to six years. Sand Dunes State Forest is home to nearly 1/5 of all species identified as “Species in Greatest Conservation Need” by the State in the Minnesota Wildlife Action Plan.

The property harbors state and globally imperiled native plant communities and wildlife populations - including the federally endangered rusty-patched bumble bee. A few species are now believed to be extinct from the property due to prior lack of management for rare species. Converting a portion of the forest back to its pre-settlement condition is important to prevent further loss. In addition, the State and partnering organizations have already invested significant amounts of time and funding toward the restoration of SDSF. Extending the moratorium is financially irresponsible and jeopardizes previous investments by the State and conservation organizations.

Relieving enforcement of groundwater appropriation permit requirements.

Article 4, Sections 101 and 102

This provision suspends an existing legal directive for sustainable groundwater management in the northeast metro. If passed into law, the bill would result in two branches of government (Judicial & Legislative) offering conflicting instructions for the Executive branch (the Department of Natural Resources), putting sustainable water management (and water levels in White Bear Lake) in peril.

Nullifying the water quality standard and science protective of wild rice.

Article 4, Sections 93, 109-115

Wild rice is a sensitive grain and a “canary in the ecological coal mine.” For decades we have known that concentrated sulfate levels harm wild rice and the waters in which it grows. Today, we know even more about the complex relationship sulfate plays in the water and sediment -- from diminishing aquatic diversity to releasing phosphorous and nitrogen that foster algae, and increasing the methylation of mercury that is toxic to fish and the humans who consume them.

This provision would nullify Minnesota’s existing water quality standard that limits sulfate pollution in wild rice waters. Two recent decisions by Minnesota’s Office of Administrative Hearings have confirmed that eliminating this water quality standard would fail to protect wild rice and would violate the federal Clean Water Act.

In addition, studies conducted by the University of Minnesota and paid for by Minnesota taxpayers with \$1.5 million from the Clean Water Fund have confirmed that sulfate discharge both harms wild rice and increases mercury methylation.

To pass this provision would not only be a failure to protect our wild rice and water for the natural resource that it is, but also a blatant disregard of the science that forms the foundation of our public health.

Article 7 – Energy

Reducing Xcel Energy’s payment into the Renewable Development Account.

Article 7 Section 1

This provision restructures the formula for determining how much Xcel Energy should annually pay into the Renewable Development Account, changing it from a fee for each casket of dry storage of spent nuclear fuel to a flat fee. The net result of this change is a reduction of over \$10 million per year into the RDA, meant to fund research and development in renewable electric energy technologies, grid modernization (including storage) and projects that decrease demand for and increase efficiency of electricity use.

Please act today to protect our Great Outdoors for future generations and oppose SF 3656 / HF 4099.



Steve Morse
Minnesota Environmental Partnership

Alliance for Sustainability
Clean Water Action - Minnesota
CURE (Clean Up the River Environment)
Environment Minnesota
Freshwater Society
Friends of the Boundary Waters Wilderness
Friends of Minnesota Scientific & Natural Areas
Friends of the Mississippi River
Izaak Walton League – Minnesota Division
Land Stewardship Project
League of Women Voters - Minnesota
Lower Phalen Creek Project
Minnesota Center for Environmental Advocacy
Minnesota Council of Parks and Trails
Minnesota Land Trust
Minnesota Native Plant Society
Minnesota Ornithologists Union
Minnesota Trout Unlimited
MN350
Pollinator Friendly Alliance
Save Our Sky Blue Waters
Sierra Club – North Star Chapter
St. Croix River Association
WaterLegacy
Wilderness in the City
Women’s Congress for Future Generations