



To: Members of the Environment and Natural Resources Conference Committee

Re: **Please build a strong SF 2314 to move forward on today's biggest challenges**

May 7, 2019

Dear Legislators:

Thank you for serving on this important committee. The environment and our natural resources are our people's greatest shared asset. This conference committee has a significant opportunity to move forward on some of the biggest challenges facing our environment today:

- Alarming pollinator declines
- Degrading soil health, water quality and farm profitability
- Increasing water contamination by salts and deicers
- Continuing carbon and greenhouse gas emissions
- Integrating citizen participation into environmental decisions.

We, the undersigned organizations and the citizens we represent, ask you to put together the best of the House and Senate provisions to make a strong bill that will tackle today's biggest challenges. While the following is not a comprehensive list of all we support, our coalition would like to highlight several priorities found within these proposals.

We urge the conference committee to include the following provisions found in both the Senate and House version of SF 2314:

**Prohibiting the use of neonicotinoid insecticides – harmful to pollinators, birds, and aquatic invertebrates – in Minnesota's Wildlife Management Areas.**

Senate: 3<sup>rd</sup> Engrossment, Article 3, Section 47

House: Unofficial Engrossment, Article 2, Section 41

(page R44 of the side-by-side)

"A person may not use a product containing an insecticide in a wildlife management area if the insecticide is from the neonicotinoid class of insecticides." This provision gives pollinators a safe haven by prohibiting through state law the use of a class of insecticides that is not only highly lethal to pollinators but is widely used in much of the state.

SPECIAL NOTE: We would like to thank all 67 Senators who voted for this language with a 5-year sunset provision. (This section expires June 30, 2024.) As grateful as we are to have received this strong support we are supporting the permanent version as passed in the House without the sunset provision. We ask you to take the House position.

We urge the conference committee to include the following provisions found in the House version of SF 2314:

**Establishing a “Lawns to Legumes” cost share program that helps increase backyard forage for pollinators.**

Unofficial Engrossment, Article 1 Section 4 (n)

Provides \$387,000 the first year and \$250,000 the second year to provide grants for up to 75% of the cost of a project planting residential lawns with native vegetation and pollinator-friendly forbs and legumes. Residential areas that have a high potential for serving as habitat for the endangered rusty patched bumble bee may receive a grant for up to 90% of the cost of the project.

**Reinstating public participation in decisions before the Pollution Control Agency.**

Unofficial Engrossment, Article 2, Section 90

The PCA’s Citizen’s Board, in existence for forty years, was eliminated in the late night hours of the final day of the legislative session in 2015. The Citizen’s Board allowed for democratic participation in the decision making on the environmental issues facing our communities. Its elimination has meant a loss of citizen input on important matters before the PCA.

**Establishing a voluntary certification program for salt applicators to become trained on best practices and limiting liability.**

Unofficial Engrossment, Article 2, Section 96

Minnesota’s waters are increasingly becoming permanently contaminated with salt residue from deicing road and walkways. This provision establishes a voluntary training program on best practices for deicing. A certified applicator would not be liable when best management practices for snow and ice removal and deicing were used.

We urge the conference committee to remove the following provisions found in the Senate version of SF 2314:

**Expanded exemption for protecting endangered plant species**

3<sup>rd</sup> Engrossment, Article 3, Section 14: (Page R10 of Side-by-Side for Article 3)

Endangered and threatened plants grow in public road rights-of-way throughout the state. This section would greatly expand an exemption for protecting threatened and endangered species around roadways by including land beyond the ditches and within the medians. The change allows all rights of way that have ever had any construction or disturbance to be free of the legal requirement to protect rare native plants.

*Please accept the House position and do not include this provision.*

### **Wild Rice Stewardship Council**

3<sup>rd</sup> Engrossment, Article 3, Section 15: (Page R12 of Side-by-Side for Article 3)

The makeup of the proposed council includes many positions representing industry and those who have a vested interest in limiting a meaningful water quality standard for the protection of wild rice. It is inappropriate to have those who work to undermine the wild rice standard to now steward the standard and protocols for the protection of wild rice. Their role should be to advise the Council.

The State of Minnesota currently has a water quality standard for the protection of wild rice. Creation of this Wild Rice Stewardship Council will likely extend the delay in enforcement of the standard and continue the harm to wild rice and its surrounding ecosystems.

*Please accept the House position and do not include this provision.*

### **Divesting Lake Minnetonka Conservation District of Jurisdiction**

3<sup>rd</sup> Engrossment, Article 3, Section 66: (Page R59 of Side-by-Side for Article 3)

Losing this joint jurisdiction over dry boat storage would lead to greater boat density of Lake Minnetonka, resulting in: increased pollution from fuel and litter, habitat disruption, increased noise and disturbance of birds and wildlife, increased sedimentation and reduced water clarity.

*Please accept the House position and do not include this provision.*

### **Preventing Modification of Groundwater Permits During Transfer**

3<sup>rd</sup> Engrossment, Article 3, Section 81: (Page R66 of Side-by-Side for Article 3)

This section would make a permit (permission) into a property right. A “permit” is not a permanent right to a certain amount of water, regardless of future conditions. That’s why they expire and need to be renewed. This provision prevents the DNR from modifying permits as they are transferred with the sale of land to account for evolving groundwater sustainability issues.

*Please accept the House position and do not include this provision.*

### **Preventing Agencies from Talking about Groundwater Management Areas**

3<sup>rd</sup> Engrossment, Article 3, Section 84: (Page R68 of Side-by-Side for Article 3)

This limitation is a gag rule on agencies, limiting their ability to talk about Groundwater Management Areas to only information about public hearings and responses to direct public and media inquiries. This section is vague and not in the interest of either the community or regulated parties.

*Please accept the House position and do not include this provision.*

### **Redefining Groundwater Sustainability**

3<sup>rd</sup> Engrossment, Article 3, Section 85: (Page R69 of Side-by-Side for Article 3)

This section redefines “sustainable” water use in contradiction to the definition recommended by the Department of Natural Resources experts. The proposed definition is a one-size-fits-all definition that does not take into account the variability of local conditions.

*Please accept the House position and do not include this provision.*

**Requiring Legislative Approval for Fee Increases**

3<sup>rd</sup> Engrossment, Article 3, Sections 107, 113, 114, 115, 123: (PP. R79-107 of Side-by-Side for Article 3)

Fees are a necessary part of funding state permit programs. The MPCA has not increased most water permit fees in over 27 years. Requiring legislative approval could create additional delays in accessing funds to efficiently process permits.

*Please accept the House position and do not include these provisions.*

**Allowing the transfer of water from one water body to another without a permit.**

3<sup>rd</sup> Engrossment, Article 3, Section 108 (PP R83-84 of Side-by-Side for Article 3)

At a time when many water bodies are becoming more polluted and seeing an increase in aquatic invasive species, transferring water from one water body to another without a permit heightens risks and exacerbates the spread of pollution. Requiring permits helps minimize this potential.

*Please accept the House position and do not include this provision.*

**Giving veto power to any county board to prevent adopting a state water quality standard.**

3<sup>rd</sup> Engrossment, Article 3, Section 111: (Page R85 of Side-by-Side for Article 3)

This section requires all 87 county boards to approve a water quality standard before it can be enacted – regardless of scientific and technical evaluation by the MPCA.

*Please accept the House position and do not include this provision.*

**Allowing industry 16 years to meet water quality standards.**

3<sup>rd</sup> Engrossment, Article 3, Section 112: (Page R86 of Side-by-Side for Article 3)

This section gives industry a blanket 16-year exemption from complying with any new water quality standards that may be developed, if the industry previously invested in wastewater treatment upgrades.

*Please accept the House position and do not include this provision.*

**Preventing enforcement of national and state air quality standards.**

3<sup>rd</sup> Engrossment, Article 3, Section 122: (Page R104 of Side-by-Side for Article 3)

This section violates the federal Clean Air Act because national or state ambient air quality standards should apply to all air permits including temporary permits.

*Please accept the House position and do not include this provision.*

**Restricting public participation in environmental review.**

3<sup>rd</sup> Engrossment, Article 3, Section 129: (Page R115 of Side-by-Side for Article 3)

Though state agencies rarely extend public comment periods, on occasion they understand that it is important to do so. Sometimes 30 days is not enough time for Minnesotans to find out about, and understand, a large-scale proposal that has the potential to greatly impact their community, read hundreds of pages of relevant documents, and compose and submit public comments – all while taking care of their regular duties. This is especially difficult for farmers during planting and harvesting

seasons. This section would strip agency authority to extend public comment periods for any environmental assessment worksheet and give that discretion to project proposers.

*Please accept the House position and do not include this provision.*

**Interfering with science-based forest management at Sand Dunes State Forest.**

3<sup>rd</sup> Engrossment, Article 3, Section 135: (Page R123 of Side-by-Side for Article 3)

This section does an end run around the existing well-established, science-based forest planning process that already includes the involvement of local citizens and representatives. This section revokes the authority to restore any part of the forest to native oak savannah, of which less than 1% of Minnesota’s original oak savannah forest remains.

*Please accept the House position and do not include this provision.*

In addition to the policy provisions outlined above, we have serious concerns about the following broader components of the Senate version of SF 2314.

**I. Budget Considerations**

While we understand that legislative leadership is negotiating joint budget targets, we must reiterate the importance of adequately funding conservation and environment work that protects the health of our air, water, land and people.

We are concerned that the Senate bill makes massive budget cuts to frontline environment and conservation agencies while also weakening environmental protections and the people’s ability to engage with processes that affect them.

**SF 2314 proposes a 25% or \$89.6 million state General Fund budget cut for environment and conservation work, compared to total funding in the current biennium.** As stated in communications from commissioners, this budget will have dramatic consequences for state agencies.

Article I:

Department of Natural Resources:

A \$38.67 million cut (17%) of General Fund support will mean:

- **Deep cuts to Protecting Water Resources:**
  - \$6.4 million cut to Division of Ecological and Water Resources
  - \$4.4 million reduction to groundwater protection
- **Neglect of Aquatic Invasive Species:** cuts funding to programs that fight the spread of AIS.
- **Reduction of State Park Opportunities:** staff and service reductions that eliminate camping at up to 34 parks, close campgrounds for the shoulder seasons (Labor Day and Memorial Day), reduce trail service, and reduce tours
- **Lax Enforcement:** \$1.8 million reduction in the Division of Enforcement

Board of Water & Soil Resources:

A \$12.54 million cut (39%) of General Fund support will mean reductions to work that:

- **Reduces soil erosion:** Reduction of funds that go to landowners to help keep soil on their land and treat and store water to provide water quality improvement and flood control
- **Controls invasive weeds:** Elimination of funding to local government for weed management cooperatives
- **Maintains wetlands and manages public drainage:** Elimination of funding to carry out the Wetland Conservation Act and Public Drainage management put both man-made and natural water systems at risk.
- **Funds local Soil and Water Conservation Districts:** these are local, on-the-ground professional staff serving our current and future generations of landowners.

Pollution Control Agency:

A \$12.49 million cut (86%) of General Fund support will mean:

- **Reliance on permit fees and enforcement actions to fund the agency work.** “This is not a healthy situation for businesses, the public, nor for the environment and human health.” (Commissioner Bishop, Letter to the Senate, 4/10/19)
- **Lost opportunity to clean up St. Louis Area of Concern:** Cut to operating funding (\$484,000) to keep cleaning up this area, which leverages \$47.2 million federal dollars for the clean-up.
- **Elimination of Greater Minnesota recycling and composting grants.**
- **Elimination of dedicated staff for railroad emergency preparedness and response.**
- **Elimination of \$230,000 in historical funding for watershed monitoring activities.**
- **No funding for Electric Vehicle Infrastructure.**
- **No funding for engineering work to begin to clean up the dangerous Freeway Landfill and Dump in Burnsville.**
- **No funding to accelerate review of Closed Contaminated Sites to ensure people’s homes are not impacted by soil vapors or private wells contaminated.**

## II. Efforts to cover the massive cuts include unconstitutional raids of dedicated funds.

In order to fill some of the budget holes resulting from the proposed budget, SF 2314 proposes two shifts which are unconstitutional.

### Article 2

#### State Park Operations:

Subdivision 9 (l): The \$10 million appropriation for “state park and recreation area operations and improvements” is not legal because it replaces historic state general fund support with funds from the Environment and Natural Resources Trust Fund (the MN Lottery) that voters said should *supplement* state activities. The ENRTF cannot “substitute for traditional sources of funding environmental and natural resources activities” Minn. Stat. 116P.03 (2017).

#### Wastewater Treatment:

Subdivision 11(a) and 12 (b): The \$10.476 million appropriation for wastewater treatment violates the constitution because the Legislature would appropriate the money in the form of grants, not loans as was dictated by the voters’ approval of a constitutional amendment dedicating these lottery resources.

III. **SF 2314 deletes 19 worthy, mission-fulfilling projects totaling 25% of the Legislative Citizen Commission on Minnesota Resources (LCCMR) -vetted appropriations for 2020.**

The LCCMR meets through the year to select proposals that will “protect, conserve, preserve, and enhance Minnesota’s air, water, land, fish, wildlife, and other natural resources for the benefit of current citizens and future generations.” Substantial raids totaling nearly \$20 million as outlined above to keep the lights on in state parks and fund waste water treatment – a core function of state government – do not meet the mission of the voter-approved Environment and Natural Resources Trust Fund.

Please build a strong SF 2314 that will work to protect Minnesotans and the land and waters they call home.

Sincerely,



Steve Morse  
Executive Director

Alliance for Sustainability  
A.C.E.S. (Austin Coalition for Environmental Sustainability)  
CURE (Clean Up Our River Environment)  
Clean Water Action- Minnesota  
Environment Minnesota  
Friends of the Cloquet Valley State Forest  
Friends of the Minnesota Scientific and Natural Areas  
Friends of the Mississippi River  
Friends of the Parks and Trails of St. Paul and Ramsey County  
Izaak Walton League - Minnesota Division  
Land Stewardship Project  
Lutheran Advocacy – Minnesota  
Mankato Area Environmentalists  
Minnesota Native Plant Society  
Minnesota Ornithologists Union  
MN 350 Action  
Pesticide Action Network  
Renewing the Countryside  
Save our Sky Blue Waters  
St. Croix River Association  
Wilderness in the City