

April 2, 2020

Governor Tim Walz and
Lieutenant Governor Peggy Flanagan
130 State Capitol
75 Rev Dr. Martin Luther Jr. Blvd
St Paul, MN 55155

SENT ELECTRONICALLY

RE: Suspension of work on Permitting and Environmental Review for New and Expanded Projects and Additional Safeguards for the Proposed “Flexibility” in Compliance with Environmental Requirements

Dear Governor Walz:

These are especially difficult times for Minnesota. We’ve appreciated your leadership in dealing with the pandemic and your consistent priorities to protect human health and vulnerable communities and to follow scientific advice in service of the public good.

We make two requests of your Administration in keeping with your priorities and the leadership you have shown in addressing the Covid-19 pandemic:

1. Suspend any environmental permitting or environmental review for new or expanded projects to ensure that government action is not taken without appropriate information and a thorough and meaningful public process.
2. Provide further safeguards for any MPCA “flexibility” in enforcement of environmental compliance to prevent adverse acute and chronic human health and environmental effects and to ensure public transparency and accountability.

1. Suspend Environmental Permitting and Review of New or Expanded Projects

Minnesota government has long valued and explicitly promoted transparency and public engagement, and this is a consistently stated principle of your Administration. The pandemic will be a true test of how we navigate public policy issues in the face of social distancing and self-quarantine. For the foreseeable future, the possibility of public meetings won’t be an option. While many of us will be able to continue our work via computer and internet, many Minnesotans don’t have that luxury. Some are operating under conditions where their very survival is at stake. It is important that their voices are also heard in all matters of public significance, such as permitting and environmental review.

At this time, the public is not, and cannot, be expected to meaningfully engage in the public review process. When Minnesotans are – first and foremost – concerning themselves with the wellbeing of their families, friends and communities, including the economic impacts of this crisis, they cannot focus on public engagement, no matter how significant the issue.

In addition, the pandemic is changing the economic landscape. Once markets have stabilized, there may be new realities about which projects are economically feasible as well as new priorities for government staff time and resources. Pressing forward with new industrial permits in these times is not only unfair to Minnesota's public, particularly those in less advantaged communities, but may also defy basic common sense.

For these reasons, Governor, we are collectively calling upon you to direct your agencies to put on hold any work on environmental permitting or environmental review for new or expanded projects until you lift the Peacetime Emergency order. We specifically emphasize that high profile, controversial major industrial projects require broad public participation. We must set aside weighty but less urgent decisions until Minnesotans have the capacity to fully re-engage.

2. Additional safeguards for Regulatory "Flexibility" Authorizing Environmental Violations

The information released to the media¹ explains that the Minnesota Pollution Control Agency ("MPCA") is relaxing compliance with environmental rules as a broad emergency "flexibility" policy. Unlike the Trump Administration U.S. Environmental Protection Agency ("EPA") complete blanket waiver, the MPCA proposes to exempt permittees from compliance only if they email the MPCA and work out any conditions under which a waiver might be granted.

However, the "MPCA regulations" information we've seen since does not provide adequate safeguards for the community and lacks public transparency. The "flexibility" allowed by the MPCA without such transparency could allow air pollutants that increase lung disease and directly impact the likely severity of Covid-19 symptoms. Regulatory "flexibility" could contribute to immune deficiency, brain damage, or cancer that would harm Minnesotans and strain health care systems not only on a current, acute basis, but in the long term after Covid-19 testing, treatment and vaccinations have made this particular infection less dangerous.

We urge your Administration to further specify stricter guidelines and transparent and accountable procedures for any temporary waivers of environmental compliance. In addition to what we have seen developed by the MPCA, we propose the following additional minimum requirements for any request for regulatory "flexibility" in enforcement of environmental standards:

- Any request to MPCA must be in made in writing, which can include email;
- Any request must propose a specific start and end date for the period of flexibility requested, which cannot exceed 90 days;

¹ *MPCA relaxes compliance with environmental rules amid coronavirus, but less than EPA* available at <https://www.startribune.com/mpca-relaxes-compliance-with-environmental-rules-amid-coronavirus-but-less-than-epa/569176682/?refresh=true>

- MPCA must post online and notify the public of any request for flexibility in enforcement of environmental requirements, along with a copy of the request;
- Except for emergency situations, MPCA must provide a minimum of 15 days for public comments before making any determination on a request for flexibility. If the agency determines it is an emergency situation, the agency may act before the end of the comment period but must review its decision and potential mitigation within 15 days after the comment period closes;
- MPCA must post online in writing and notify the public of any resolution or decision regarding compliance resulting from a request;
- MPCA must retain complete discretion to deny a request for flexibility in compliance with environmental requirements for any reason, including the existence of the underlying standard; and
- MPCA must analyze the potential human health effects and not approve any disproportionate impacts to vulnerable populations as a result of granting regulatory flexibility. By Feb 1st of 2021 MPCA shall prepare a report detailing the human health impacts of any granted flexibility, including detailed demographic information regarding any affected populations.

As Minnesotans our primary concern is with the health and wellbeing of our families, friends, communities, and the state of Minnesota as a whole: one Minnesota. We strongly urge your administration to avoid making permitting decisions with inadequate public participation and unreliable information as to the economic future.

We must also avoid the pitfall of sacrificing our state government's primary mission to protect health and the public interest and must not make changes in environmental enforcement without first considering both the short-term and long-term consequences to our state, especially members of our community who have compromised health or immune systems and our infants, children, and elderly.

We respectfully request your leadership in suspending work on permitting and environmental review activities for new or expanded projects. We also request your prompt action to further define the scope of regulatory flexibility that will avoid pollution of Minnesota lands, waters and air. Please feel free to contact Steve Morse (steve@mepartnership.org) at Minnesota Environmental Partnership for any questions or responses. Thank you.

Sincerely yours,

The following organizations and additional interested individuals:

Alliance for Sustainability
Citizens Climate Lobby Minnesota
Clean Water Action Minnesota
Cooperative Energy Futures
CURE
Friends of Minnesota Scientific & Natural Areas
Friends of the Boundary Waters Wilderness
Friends of the Mississippi River
Humming for Bees
Izaak Walton League - MN Division
Lakeville Friends of the Environment
Mankato Area Environmentalists
Minnesota Environmental Partnership
Minnesota Interfaith Power and Light
Minnesota Ornithologists Union
MN350
North American Water Office
Northeast Metro Climate Action
Northeastern Minnesotans for Wilderness
Northwest Metro Climate Action
Pesticide Action Network North America
Pollinate Minnesota
Pollinator Friendly Alliance
Sierra Club North Star Chapter
St. Croix River Association
St. Paul 350
Vote-Climate
WaterLegacy

And the following individuals:

Emily Onello, MD, Duluth, MN

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cc. Keith Ellison, Attorney General
Laura Bishop, Minnesota Pollution Control Agency Commissioner
Jan Malcolm, Minnesota Department of Health Commissioner
Sarah Strommen, Minnesota Department of Natural Resources Commissioner