



May 9, 2022

Senator Bill Ingebrigtsen
Co-Chair, Environment and Natural Resources Conference Committee
3207 Minnesota Senate Building
95 University Avenue West
St. Paul, MN 55155

Representative Rick Hansen
Co-Chair, Environment and Natural Resources Conference Committee
407 State Office Building
St. Paul, MN 55155

Dear Chair Ingebrigtsen and Chair Hansen:

Thank you for your ongoing work toward arriving at a joint legislative position for Minnesota Department of Natural Resources (DNR) supplemental budget and policy provisions contained in the House and Senate Environment Omnibus Bills.

As you know, Minnesotans have been embracing outdoor activities and Minnesota's natural resources in record numbers throughout the state. Given the clear value the public places on Minnesota's natural resources and outdoor spaces, we believe now is a critical time to reinvest in our infrastructure and operations. The 2022 Walz-Flanagan Budget to Move Minnesota Forward includes \$97.4 million in investments in Minnesota's trees, forests, wetlands, grasslands, and natural resources infrastructure. This ambitious funding package reflects the significance of Minnesota's outdoors and outdoor recreation infrastructure to our state's economy, health, and way of life. With a historic budget surplus, we have a unique opportunity to work together and make significant one-time investments in natural resources and outdoor recreation. The timing could not be more critical, as many of our facilities are aging and in poor condition at the very same time that Minnesotans are using these outdoor spaces and facilities in record numbers.

This letter compares the investments made in the Governor's supplemental budget to the House and Senate proposals and highlights other issues in both the House and Senate language we hope can be resolved prior to final action on the Omnibus Environment Bill.

Strategic Investments in the Governor's Budget Relative to the House and Senate

Reinvestments will ensure Minnesotans are able to enjoy the high-quality experiences that they expect on our public lands for generations to come. The House bill funds \$66.3 million in proposed General Fund investments,

while the Senate foregoes the once-in-a-generation investment opportunity entirely. We strongly urge the Senate to reconsider the needs of Minnesota's natural resources and the historic investment opportunities we have this year.

Climate Adaptation for Natural Lands and Waters

The House includes many key provisions of our Climate Adaptation for Natural Lands and Water proposal, whereas the Senate does not. Like the Walz-Flanagan budget, the House bill provides \$10 million to improve public water accesses (PWAs). This funding will help rehabilitate PWAs impacted by flood and ice damage, as well as reconfigure key sites to ensure they are still functional into the future. This is a critical step in ensuring our PWA system meets Minnesotans' needs and expectations for high-quality boating experiences well into the future.

Similarly, the House matches the Walz-Flanagan budget provision of \$10 million for critical renewal and modernization of our fish hatcheries. Minnesota's renowned fishing heritage is supported by hatcheries—many of which were built in the 1950s and still rely on original equipment. Investments in these aging hatcheries will bolster our capacity to produce fish, improve efficiency of our systems, and provide more cost-effective infrastructure including new boilers and filtration systems. The Senate does not make these investments in our fish hatcheries.

Restoring Wetlands and Grasslands on Wildlife Management Areas

We appreciate the House's proposed investment of \$5 million for enhancing grasslands and restoring wetlands on Wildlife Management Areas (WMAs). Once we restore and/or enhance these WMAs with native vegetation, they will sequester more carbon than they currently do – up to 8,600 metric tons of carbon dioxide per year – while also protecting water quality and providing higher-quality wildlife and pollinator habitat. The Senate forgoes this opportunity to invest in wildlife habitat enhancement.

Ensure Aggregate Mapping for Local Governments

Our agency also appreciates and supports the House concurrence with the Walz-Flanagan budget in providing \$300,000 in FY23 for aggregate resource mapping. This investment provides counties and townships with critical data and technical assistance to inform local land use decisions, which in turn have important economic and environmental implications. It also positions Minnesota to leverage any available matching federal funding for this purpose in the near term. The Senate's position of discontinuing state funding for aggregate mapping would leave local governments without data needed for decision-making and likely result in a loss of federal matching dollars.

Additional Priority Proposals from the Administration

We urge the House and Senate to consider funding the following proposals (Walz-Flanagan proposed FY22/23 funding shown):

- **FY22 Enforcement Deficiency Request** (\$1.7 million): This request addresses a deficiency due to our public safety efforts to protect state assets this fiscal year. It is essential for the General Fund to fund this work. The DNR cannot use dedicated funding such as the Game and Fish Fund to pay for these general public

safety activities.

- **Acquisition of Public Lands** (\$24 million): Public lands provide climate, conservation, and recreational benefits. They capture and store carbon; increase water storage and reduce flooding risk; and provide habitat for wildlife, pollinators, and other species that will also help plant and animal communities adapt to future climate conditions. Additionally, access to outdoor experiences on public lands is vital for children and families and vibrant communities.
- **Replacing culverts and restoring streams** (\$13 million): In support of Minnesota's fishing tradition, the Walz-Flanagan budget invests \$13 million to replace culverts and restore streams in a manner that will enhance the resiliency of structures, promote fish passage, and improve fishing opportunities.
- **Upgrading State Parks Roads and Trails** (\$8 million): Minnesota's well-used recreational roads and trails require investment to enhance access to public lands and safety for users. This includes improving roads that serve outdoor recreation facilities, upgrading walking and hiking trails, and maintaining paved trails with sealcoating to better withstand intense rainfall.
- **Enhanced Forest Management Assistance to Private Woodland Owners** (\$5.5 million): This proposal will meet the increased demand for planning assistance and cost-share funding to assist private forest owners, whose lands account for 49 percent of Minnesota's forests. Private landowner assistance will be implemented through a partnership between DNR, soil and water conservation districts, and the Minnesota Forestry Association.
- **Increased Capacity for Broadband Licensing** (\$246,000): Broadband expansion is currently a major priority for many communities, particularly in rural areas of the state. The DNR needs additional staff to process utility license applications for utilities crossing state land or public waters to ensure our agency can provide timely and efficient review of broadband license applications. Without this funding, numerous projects to expand broadband access in Greater Minnesota may suffer delays.

Policy Items in House and Senate

We are pleased the Senate and House bills include the 2022 lands bills and portions of DNR's 2022 policy bill. The House also carries the agency's Enhanced Administrative Penalties proposal, as well as policy provisions recommended in the DNR and Board of Animal Health Concurrent Authority Regulating Farmed of White-tailed Deer Facility report. While much of the agency policy language is technical, it is programmatically important to the DNR and all Minnesotans. DNR previously sent letters outlining our concerns with policy items in the House and Senate bills, and those letters are enclosed for your reference.

Conclusion

Minnesotans are proud of our nationally-recognized outdoor recreation system; our outstanding hunting and angling opportunities; and the economic opportunities in our tourism, timber, and mining industries. With Minnesotans appreciating and using these resources at historically high levels, this is a critical time to be investing in our outdoors and natural resources. Missing this once-in-a-generation opportunity would undermine the quality and accessibility of these experiences to Minnesotans today and far into the future.

Thank you for the opportunity to work with you this session on these critical natural resources budget and policy

issues. DNR is committed to working with the House and Senate to address issues mentioned in this letter as well as in our previous communications prior to finalization of the bill. DNR is available to you and your staff to answer any questions and to work with you to develop solutions that will provide long lasting improvements in Minnesota's natural resource and outdoor recreation assets.

Sincerely,



Sarah Strommen
Commissioner

CC:

Majority Leader, Jeremy Miller, Minnesota Senate
Minority Leader, Melisa López Franzen, Minnesota Senate
Speaker Melissa Hortman, Minnesota House of Representatives
Minority Leader Kurt Daudt, Minnesota House of Representatives

Members of the Environment and Natural Resources Conference Committee
Senator Justin Eichorn
Senator Kent Eken
Senator David Tomassoni
Senator Bill Weber
Representative Ami Wazlawik
Representative Kelly Morrison
Representative Todd Lippert
Representative Josh Heintzeman

Rachel Ganani, Policy Advisor, Office of Governor Tim Walz and Lt. Governor Peggy Flanagan

Enclosures:

April 2, 2022 letter to Chairs Rosen and Ingebrigtsen – SF 4062
April 22, 2022 letter to Chairs Moran and Hansen – HF 4492



April 2, 2022

Senator Julie Rosen
Chair, Senate Finance Committee
Minnesota Senate Building, Room 2113
95 University Avenue West
St. Paul, MN 55155

Senator Bill Ingebrigtsen
Chair, Senate Environment and Natural Resources Finance
Minnesota Senate Building, Room 3207
95 University Avenue West
St. Paul, MN 55155

Dear Chair Rosen and Chair Ingebrigtsen:

I am writing on behalf of the Minnesota Department of Natural Resources (DNR) regarding the Senate Omnibus Environment and Natural Resources Supplemental Budget and Policy Bill, SF4062 1st Engrossment. The DNR appreciates Chair Ingebrigtsen, Chair Ruud, and their committees for their work they have done to assemble this bill.

Many of DNR's policy provisions, including the Lands Bill, are contained in this bill. We continue to believe these are important initiatives, and we look forward to working with the Senate to pass them into law.

As discussed in Senator Ingebrigtsen's committee the 2022 Walz-Flanagan Budget to Move Minnesota Forward includes \$97.4 million in investments in Minnesota's trees, forests, wetlands, grasslands, and natural resources infrastructure. This ambitious funding recommendation reflects the significance of Minnesota's outdoors and outdoor recreation infrastructure to our state's economy, health, and way of life. With a historic budget surplus, we have a unique opportunity to work together and make significant one-time investments in natural resources and outdoor recreation. The timing could not be more critical, as many of our facilities are aging and in poor condition at the very same time as Minnesotans are using these outdoor spaces and facilities in record numbers. Reinvestments will ensure Minnesotans are able to enjoy the high quality experiences that they expect throughout our public lands for generations to come.

Senate File 4062, unfortunately, foregoes the once in a generation investment opportunity contained in the Walz-Flanagan budget. In this letter, we outline the lost opportunities that this bill represents, as well concerns we have with some of the policy items contained in the bill. We look forward to working with you to address these issues in the final version of the bill.

Opportunities for Durable One-Time Investments

Trees and Forests

The Walz-Flanagan budget supports private woodland owners in managing their forests. That budget includes a \$5.5 million investment to meet the increased demand for planning assistance and cost-share funding to assist private forest owners, whose lands account for 49 percent of Minnesota's forests. Private landowner assistance would be implemented through a partnership between DNR, soil and water conservation districts, and the Minnesota Forestry Association. We encourage the Committee to join the Governor in supporting these private forest management efforts.

Wetland, Grassland, and Public Land Protection and Restoration

The Walz-Flanagan budget includes investments in public lands as well as wetlands and grasslands to improve habitat, resiliency, and outdoor recreation experiences across Minnesota. These public lands investments include \$10 million to enhance and restore more than 6,000 acres of grasslands and wetlands on existing state Wildlife Management Areas (WMAs) in western and southern Minnesota, and \$24 million to acquire new public lands for recreation and conservation. Public lands provide habitat for wildlife, pollinators, and other species. The Senate Omnibus bill foregoes the opportunity to improve and protect habitat and expand outdoor recreation.

Natural Lands and Waters Investments

The Senate Omnibus Environment and Natural Resources Supplemental Budget and Policy Bill does not include the Walz-Flanagan recommendation of \$42 million for natural lands and waters investments to improve Minnesota's outdoor recreation system and help ensure the continued health of, and public access to, natural lands and waters. These are important investments that will connect Minnesotans to the outdoors and maintain our high quality of life throughout the state.

Of the Walz-Flanagan recommended \$42 million for natural lands and waters, \$10 million would be invested in rehabilitating public water access sites. Public water access sites across the state are in significant need of repair and modernization to protect public waters from stormwater runoff and invasive species. Without investment, public water access sites around the state will continue to decay and fall short of the Minnesotan's needs and expectations for high-quality boating experiences.

Minnesota's renowned fishing heritage is supported by fish hatcheries that are in critical need of renewal and modernization. The Walz-Flanagan budget invests \$10 million in modernizing fish hatcheries, many of which were built in the 1950s and still rely on the original equipment. Investments in our hatcheries will increase our capacity to produce fingerlings, improve efficiency of our systems, and provide more cost-effective infrastructure including new boilers and filtration systems. Also in support of Minnesota's fishing tradition, the Walz-Flanagan budget invests \$13 million to replace culverts and restore streams in a manner that will enhance the resiliency of these structures, promote fish passage, and improve fishing opportunities.

The Walz-Flanagan budget invests \$9 million in state parks and trails. This includes \$1 million for restoring plant communities in state parks to enhance the landscape for current and future visitors to enjoy, and \$8 million to make needed improvements in trails and recreational roads. Reinvestments focus on roads that serve outdoor recreation facilities and upgrades to walking and hiking trails that have seen increased use in recent years.

Other Budget Needs

Public Safety Deficiency

The Walz-Flanagan budget includes \$1.73 million in FY22 to address a deficiency in the Enforcement Division's budget due to the costs of public safety efforts of conservation officers' response to protect state assets during the fiscal year. It is essential for the General Fund to fund this work, particularly as the DNR cannot use dedicated funding such as the Game and Fish Fund to pay for these general public safety activities. The Senate Omnibus Environment bill currently does not include any funding for DNR Enforcement, and we urge inclusion in the final bill.

Increase Capacity for Broadband Licensing

Broadband expansion is currently a major focus of investment for many communities, particularly in rural areas of the state. The DNR will require additional staff to process utility license applications for utilities crossing state land or public waters to ensure DNR is not a bottleneck to ensuring timely and efficient review of broadband applications. The Walz-Flanagan budget provides \$246,000 for two full-time employees for three years to conduct broadband permitting and licensing. Without this funding, broadband access to Greater Minnesota may suffer delays depending on the number of license applications for broadband infrastructure to cross DNR-administered state land or public waters.

Policy Items of Concern

Unadopted Rules (Article 2, Sec.2)

This section would prevent the DNR from enforcing un-adopted rules. We believe this provision is unnecessary since MN Statute 14.381 already prohibits unpromulgated rulemaking. Furthermore, we are concerned that this provision, as proposed, could be interpreted to include policies and guidance that inform the internal management of the department and that do not directly affect the rights of, or procedures available to, the public. The use of guidance is fundamental to all state agencies' operations. We need to be able to provide interpretation and assistance in navigating complex rules and laws. Even if interpreted more narrowly, a definition that forces the agency to promulgate rules on our guidance documents will undoubtedly add unnecessary and costly delays to the permit processes, increase the complexity of review, and create confusion among regulated communities. It would also treat DNR guidance differently than other agencies' policy guidance, which makes government harder for Minnesotans and others to access and understand. All of these impacts would undermine the integrity of the rulemaking process that this bill seeks to preserve. Therefore, DNR opposes this language.

Definition of ATV (Article 2, Sec.9)

This section amends the definition of an all-terrain vehicle (ATV) to include vehicles weighing up to 3,000 pounds. Larger ATVs may create additional damage to certain maintained trails. The DNR does not oppose this language but would prefer that no definition changes be enacted until the trail inventory is completed next year.

Repeal of Minnow Importation Ban; Minnow Health Requirements (Article 2, Sec.28 and 30)

These sections repeal the prohibition on importing minnows for release into public waters and authorizes permitted minnow dealers to import minnows into the state based on requirements outlined in these sections. The DNR has concerns with these minnow importation provisions. The language would significantly increase the potential importation of invasive species or diseased fish into our state. Importation of live minnows is a high-risk potential pathway for invasive carp, as young silver carp and golden shiner minnows look nearly identical. In addition to the potential for invasive species to be contained in a large load of fish, it is also very difficult to detect and test for diseases. The DNR supports local minnow production and has worked with tribal governments and commercial bait harvesters to create a pilot project to allow bait harvest with additional gear types, such as hard-sided traps, in zebra mussel infested waters. Our staff are working with partners to finalize the pilot project for implementation in the 2022 open water season. We hope the Senate will consider removing this language and allow time for the pilot project to be implemented.

Nuisance Bear (Article 2, Sec.25)

This section requires the DNR to issue permits for wildlife control operators to take nuisance bears by live trapping and relocation. In most cases, nuisance bear issues can be resolved by education and technical guidance. When there are serious issues of agricultural or property damage, or human safety issues, bears may be trapped and dispatched. DNR's Fish & Wildlife Division already permits a limited number of bear trappers to trap bears when these serious nuisance issues occur. DNR opposes the addition of this language to the bill, as permits are currently available and trapping and relocating is not necessarily the best way to address nuisance bear issues.

Open Season on Wolves (Article 2, Sec.26)

This section provides for a wolf hunt if and when wolves are delisted under the federal Endangered Species Act. The DNR is in the process of finalizing and update to the state's Wolf Management Plan. The plan is based on wildlife science, input from stakeholder groups and people across Minnesota, and consultation with tribal nations using a public process. A draft plan will be released for public review and comment in the summer of 2022. Given the significant public interest in this plan, we believe it is essential to complete this science-based process and public review before considering holding a wolf hunt. DNR opposes the language in the bill because it is premature.

Public Waters Inventory Revisions (Article 2, Sec. 31)

This section gives local governments veto power over DNR corrections to the Public Water Inventory (PWI). A water body is subject to public water regulations if it meets the statutory definition, regardless of identification on the inventory. To have the inventory not reflect waters that meet the statutory definition because of a local veto

risks misunderstandings and violations within those waters that are not correctly identified. The PWI is an important tool for managing one of Minnesota's most valuable resources – public water, but this language has the potential to diminish its usefulness. The DNR opposes this language since it risks confusion over how public water regulation functions.

White Bear Lake Water Appropriations (Article 2, Sec.32, 37, 40 and 41)

These sections require DNR to issue any requested water appropriations or amendments to municipalities within a five-mile radius of White Bear Lake as long as the request is consistent with a water supply plan that was approved for the community prior to 2021. DNR is currently under a court order regarding the White Bear Lake matter. The agency has concerns with this proposal because the requirement to approve permits directs the DNR to disregard the obligation to ensure the statutory sustainability and protection of surface waters standards are met. These provisions need to be considered to ensure the health of ecosystems, water quality, use for future generations of households, and riparian uses. Therefore, the agency opposes this language.

Application (groundwater permits) (Article 2, Sec.59 and 60)

These sections amend the Minnesota Environmental Rights Act (MERA) to prohibit lawsuits related to water appropriation permits under criteria described in other sections of this bill. This specifically excludes groundwater appropriations from being applicable under MERA. This would prevent Minnesota's citizens from bringing a civil action and seeking relief under this Act. The DNR supports the right of Minnesotans to bring such action and opposes this language.

Continuation of White Bear Lake Appropriation Permits (Article 2, Sec.67)

This section prohibits termination of certain modifications of nonmunicipal water appropriations permits within five miles of White Bear Lake. DNR is currently under a court order regarding the White Bear Lake matter. The provision as written would be an indefinite moratorium, therefore limiting DNR's authority to exercise regulatory oversight over appropriations in the area.

Report on White Bear Lake Water Supply Options (Article 2, Sec. 69)

This section directs work that the DNR has already completed as part of a past study. It requires the DNR to explore available options for supplying east metropolitan area communities with safe drinking water, allowing for municipal growth and ensuring sustainability and quality and includes a report of recommendations to the legislature. To ensure an effective study, the DNR believes additional language is warranted in the bill to provide specific direction for the development of details on governance, engineering, and funding, which would help develop a path forward on any alternative solution. Related to the report, the appropriation for a study in Art. 1 Sec. 3(g) would need to increase to \$750,000 since the study would be more rigorous than any previously completed. The appropriation for the study would also need to be available until June 30, 2024.

Review of Calcareous Fen Decisions (Article 2, Sec.33)

This section moves the cost of the hydrologic evaluation and permit review for calcareous fens from the permit applicant, as is current practice, to the taxpayer. DNR opposes the addition of this language to the bill, as it is an

unnecessary burden to state taxpayers.

Water Appropriations to Facilitate Tree Growth (Article 2, Sec.34)

This section authorizes appropriation of water from the Mt. Simon-Hinckley aquifer, where the appropriation is less than four million gallons per year to facilitate the growth of trees. DNR generally avoids making statutory changes to allow for specific projects to occur. We would need to assess the project to ensure there are no feasible or practical alternatives to this source, so this language would not guarantee a permit. DNR opposes this provision as written.

Transfer of Water Use Permits (Article 2, Sec.35)

This section prohibits the DNR from changing or imposing any additional conditions on a water use permit when a permit is transferred as part of the conveyance of real property. This language conflicts with Minnesota's water law [Chapters 103A-103G] by implying western water rights, whereby water is owned as a property right that can be bought and sold. This contrasts with Minnesota's regulated riparian system, where water is a public trust resource managed by the state for all. DNR opposes this provision since requiring the automatic transfer of appropriation permits may mislead property buyers into believing that the permit is not subject to future modification.

Analysis of Water Appropriation Effect on Land Values (Article 2, Sec.36)

This section requires DNR to provide estimates of the impact of any new restriction or policy on land values in the affected area before a water management plan is prepared. DNR understands the value of groundwater and considers any potential impact to a community or area when making decisions on groundwater management. DNR does not currently have the expertise to assess irrigations impacts to land values. This would have to be hired or contracted, which would create a fiscal impact. Therefore, the DNR opposes this language.

Groundwater Management Area Plan Development (Article 2, Sec.38)

This section contains language that prevents the DNR from discussing a groundwater management area with the public. Withholding public data is in direct conflict with the Data Practices Act (MN Statute Chapter 13). Therefore, the DNR opposes this language.

Definition of Sustainable Groundwater Use (Article 2, Sec.39)

This section creates a definition of "sustainable" for purposes of groundwater management areas as a use that does not result in a hydrologic regime of more than 20 percent relative to August median stream flow. The "sustainable" standard in the bill misrepresents the work of the Thresholds Stakeholder Group by assuming that one numerical value would be applicable to all of the state's waters. A range between ten and twenty percent, depending on site-specific characteristics, is the recommendation of the work group. In contrast, this bill takes a one size fits all approach by applying a single value. The DNR supports the public stakeholder group's work and opposes this language.

Well Interference and Testing Requirements (Article 2, Sec.42)

This section requires the DNR to take into account the condition of a well when validating a well interference claim. This language is not needed. DNR already takes the condition of the well into account as part of the investigation and assessment process, which is covered in Minn. R. 6115.0730. Under the rule, parties already have the option of resolution through negotiation, settlement, or a hearing. Well interference complaints are resolved through negotiation between the parties. DNR only knows of one hearing that was requested, which occurred twenty years ago. A contested case hearing may extend out of water situations, which is a public health emergency, often involving older, low income Minnesotans. Because the language is not needed, the DNR opposes the provision.

EAW Petitions (Article 2, Sec.61)

This section of the bill requires that 100 signatories to an environmental assessment worksheet petition reside or own property in the county where the proposed action will be undertaken or in one or more adjoining counties. This language reduces transparency and an opportunity for all Minnesotans to provide input, even those impacted and downstream of a project. The impacts of many projects, particularly those involving water, do not stay within county boundaries. Therefore, the DNR opposes the language.

Requiring permits be issued for CSAH 13 in Murray County (Article 2, Sec.70)

This section requires the DNR to issue any permits applied for by Murray County and convey any rights-of-way, easements, or other interest in real property administered by the DNR to facilitate the widening of County State-Aid Highway 13 in Murray County over Lake Shetek. If any permits or requests made by Murray County are denied, the DNR is required to immediately report this to the chairs and ranking minority members of the house of representatives and senate committees and divisions overseeing the environment and natural resources. The reporting requirement further stipulates that DNR policies directing that the lake is more important than the lives of travelers does not constitute a sufficient decision to deny a permit. The EAW developed for this project does not sufficiently identify project impacts or consider alternative designs options that could reduce the scope and scale of the environmental impacts. Therefore, the DNR opposes this language.

EAW and Public Waters (A10 Amendment)

This section states that a mandatory environmental assessment worksheet is not required for a project that will diminish the course, current, or cross-section of one acre or more of any water unless the affected water is on the public waters inventory. In addition, a discretionary environmental assessment worksheet is not required if the water is not on the PWI unless the responsible government unit determines the project is likely to have catastrophic environmental effects. Currently, statute provides a definition of a public water. Waters meeting this definition, should have the same standard of environmental review. The Minnesota Supreme Court is currently reviewing a related case. DNR opposes this language.

In conclusion, Minnesotans are proud of our nationally-recognized outdoor recreations system; our hunting and angling opportunities; and the economic opportunities in our tourism, timber, and mining industries. With more Minnesotans appreciating and using these opportunities at historically high levels, this is a critical time to be

investing in our outdoors and natural resources. Missing this once-a generation opportunity will undermine the quality of experiences Minnesotans are seeking today and jeopardizes the future availability of these experiences.

Thank you for the opportunity to work with you this session on these critical natural resources budget and policy issues. The DNR is available to you and your staff to answer any questions and to work with you to develop solutions that will provide long lasting improvements in our states natural resource and outdoor recreation assets.

Sincerely,



Sarah Strommen
Commissioner

CC:

Majority Leader Jeremy Miller
Chair Carrie Ruud, Environment and Natural Resources Policy and Legacy Finance Committee
Ranking Minority Member Patricia Torres Ray, Environment and Natural Resources Finance Committee
Rachel Ganani, Policy Advisor, Office of Governor Tim Walz and Lt. Governor Peggy Flanagan

April 22, 2022

Representative Rena Moran
Chair, House Ways and Means Committee
449 Rev. Dr. Martin Luther King Jr. Blvd
St. Paul, MN 55155

Representative Rick Hansen
Chair, House Environment and Natural Resources Finance and Policy Committee
449 Rev. Dr. Martin Luther King Jr. Blvd
St. Paul, MN 55155

Dear Chair Moran and Chair Hansen:

I am writing on behalf of the Minnesota Department of Natural Resources (DNR) regarding the House Omnibus Environment and Natural Resources Supplemental Budget and Policy Bill, House File 4492 1st Engrossment. The DNR appreciates Chair Hansen's and the committee's work to assemble this bill.

Budget Provisions

As discussed in Representative Hansen's committee, the 2022 Walz-Flanagan Budget to Move Minnesota Forward includes \$97.4 million in investments in Minnesota's trees, forests, wetlands, grasslands, and natural resources infrastructure. This ambitious funding package reflects the significance of Minnesota's outdoors and outdoor recreation infrastructure to our state's economy, health, and way of life. With a historic budget surplus, we have a unique opportunity to work together and make significant one-time investments in natural resources and outdoor recreation. The timing could not be more critical, as many of our facilities are aging and in poor condition at the very same time that Minnesotans are using these outdoor spaces and facilities in record numbers. Reinvestments will ensure Minnesotans are able to enjoy the high quality experiences that they expect on our public lands for generations to come. We want to thank you for including several key provisions in the 2022 Walz-Flanagan Budget to Move Minnesota Forward.

Climate Adaptation for Natural Lands and Waters

House File 4492 includes many key provisions of our Climate Adaptation for Natural Lands and Water proposal. Like the Walz-Flanagan budget, it provides \$10 million to improve public water accesses (PWAs). This funding will help rehabilitate PWAs impacted by climate-driven flood and ice damage, as well as reconfigure key sites to ensure they are still functional in the face of future climate change. This is a critical step in creating and maintaining a PWA system that meets Minnesotans' needs and expectations for high-quality boating experiences.

Similarly, House File 4492 matches the Walz-Flanagan budget provision of \$10 million for critical renewal and modernization of our fish hatcheries. Minnesota's renowned fishing heritage is supported by hatcheries—many of which were built in the 1950s and still rely on original equipment. Investments in these aging hatcheries will bolster our capacity to produce fish, improve efficiency of our systems, and provide more cost-effective infrastructure including new boilers and filtration systems.

Restoring Wetlands and Grasslands on Wildlife Management Areas

We appreciate the House's proposed investment of \$5 million for enhancing grasslands and restoring wetlands on Wildlife Management Areas (WMAs). Once we restore and/or enhance these WMAs with native vegetation, they will sequester more carbon than they currently do – up to 8,600 metric tons of carbon dioxide per year – while also protecting water quality and providing higher-quality wildlife and pollinator habitat.

Ensure Aggregate Mapping for Local Governments

Our agency also appreciates and supports the House concurrence with the Walz-Flanagan budget provision of \$300,000 in FY23 for aggregate resource mapping. This investment provides counties and townships with critical data and technical assistance to inform local land use decisions, which in turn have important economic and environmental implications. It also positions Minnesota to leverage any available matching federal funding for this purpose in the near term.

Additional Budget Considerations

House File 4492 also includes the following additional provisions that address various state conservation and recreation goals (HF 4492's FY22/23 funding shown):

- \$1.8 million for preventing and managing the spread of spread of aquatic invasive species (AIS) in Minnesota waters, with increased grants to key partners;
- \$600,000 for connecting children to the outdoors through the No Child Left Inside program;
- \$500,000 for responding to Localized Chronic Wasting Disease Response in Grand Rapids;
- \$3.3 million for preserving Minnesota's natural heritage, including native plant and animal communities, rare species, and places of biological significance; and
- \$11 million in grants to replace trees removed to address emerald ash borer.

While these are all worthwhile investments, there are key proposals contained in the Walz-Flanagan budget that are missing from this bill. We urge the House to reconsider its decision not to fund the following proposals (Walz-Flanagan proposed FY22/23 funding shown):

- **FY22 Enforcement Deficiency Request** (\$1.7 million): This request addresses a deficiency due to our public safety efforts to protect state assets this fiscal year. It is essential for the General Fund to fund this work, particularly as the DNR cannot use dedicated funding such as the Game and Fish Fund to pay for these general public safety activities.
- **Increased Capacity for Broadband Licensing** (\$246,000): Broadband expansion is currently a major focus of investment for many communities, particularly in rural areas of the state. The DNR needs additional staff

to process utility license applications for utilities crossing state land or public waters to ensure our agency is not a bottleneck to timely and efficient review of broadband applications. Without this funding, numerous projects to expand broadband access in Greater Minnesota may suffer delays.

- **Enhanced Forest Management Assistance to Private Woodland Owners** (\$5.5 million): This proposal would meet the increased demand for planning assistance and cost-share funding to assist private forest owners, whose lands account for 49 percent of Minnesota's forests. Private landowner assistance would be implemented through a partnership between DNR, soil and water conservation districts, and the Minnesota Forestry Association.
- **Replacing culverts and restoring streams** (\$13 million): In support of Minnesota's fishing tradition, the Walz-Flanagan budget invests \$13 million to replace culverts and restore streams in a manner that would enhance the resiliency of these structures, promote fish passage, and improve fishing opportunities.
- **Upgrading State Parks Roads and Trails** (\$8 million): Minnesota's well-used recreational roads and trails require renewal investments to enhance access to public lands, including improving roads that serve outdoor recreation facilities, upgrading walking and hiking trails, and maintaining paved trails with sealcoating to better withstand intense rainfall.
- **Acquisition of Public Lands** (\$24 million): Public lands provide climate, conservation, and recreational benefits. They capture and store carbon; increase water storage and reduce flooding risk; and provide habitat for wildlife, pollinators, and other species that will also help plant and animal communities adapt to future climate conditions. Additionally, access to outdoor experiences on public lands has been particularly invaluable for children and families during the COVID-19 pandemic.

House File 4492 clearly demonstrates the House of Representative's support for many of Minnesota's natural resources needs, including many of the once-in-a-generation investment opportunities contained in the Walz-Flanagan budget. We look forward to further discussing points of difference between House File 4492 and the Walz-Flanagan budget, to ensure the House's proposed investments have the maximum impact legislators may seek at this critical time for our state's public lands and waters.

Policy Provisions

We appreciate that House File 4492 includes the DNR Lands Bill, the DNR's Enhanced Administrative Penalties proposal, and policy provisions recommended in the DNR and Board of Animal Health Concurrent Authority Regulating Farmed of White-tailed Deer Facility report. We also appreciate the inclusion of several policy related provisions from the DNR Policy and Technical Bill (House File 4407).

There are some key policy provisions found in the DNR Policy and Technical Bill (House File 4407) that are not included in the House omnibus bill. We renew our request that the House consider these important policy provisions:

- **Permit Efficiency Deadline:** Changing the permitting efficiency report deadline from August 1st to October 1st would allow the DNR the time needed to collect information and produce a quality report.
- **Snowmobile Registration Display:** Current registration decals are too small to clearly read when machines are in motion. Moving to a larger decal size would provide for easier registration verification.
- **State Park Reservation System:** Adding day-use facilities, tours, educational programs, seminars, events, and rentals to the list of state park activities the commissioner may set reservation policies for would

standardize reservation practices across all state park services.

- **Muzzleloader Definitions:** Clarifying the definition of an “unloaded” muzzleloader would help accommodate new and safe firearm technology.
- **Tribal ID for Licenses:** This provision would make it clear that a current tribal identification card is an acceptable proof of residency when applying for a Minnesota resident hunting, fishing, or trapping license.
- **Ground Blind Blaze Color Requirements:** Requiring ground blinds on public land to have blaze orange or pink covering the top of the blind would increase the safety of those who use blinds.
- **Nonlethal Hazing for Elk and Deer:** For landowners experiencing agricultural crop damage, this provision would allow property owners to nonlethally scare, haze, chase, or harass deer or elk causing damage to crops.
- **Two Line River Fishing:** At the request of the DNR Catfish Workgroup, the DNR is seeking to allow two line fishing on Minnesota River downstream of Granite Falls Dam and in the Mississippi River downstream of St. Anthony Falls. This will provide for increased opportunities for anglers on these underutilized fisheries.

As we’ve previously shared with Chair Hansen and his committee, we do have a few concerns with policy provisions included in House File 4492 and hope to continue to work with the House on these items.

- **Nontoxic Shot on Wildlife Management Areas:** DNR supports the transition to non-toxic shot; however, an implementation date of July 1, 2023 may be practically difficult due to the lack of available ammunition.
- **Groundwater Sustainability Standard:** DNR currently considers what is known about aquifer recharge when establishing safe aquifer yields. The safe yield limits how much water can be appropriated from an aquifer. “Replenish” is not a technical term that is defined; nor is the concept time-bound. It could not be incorporated into a credible and defensible analysis for determining water availability.

Policy with Fiscal Impacts

- **Office of Outdoor Recreation:** DNR supports the goals of the proposed office but believes a new office would result in duplication of the work or policies of DNR and Explore Minnesota. We favor continuing to enhance the collaboration between Explore Minnesota, DNR, and DEED on issues related to outdoor recreation.
- **Public Meetings before Issuing Water Use Permit:** The DNR supports transparency in decision-making processes, however, this provision would result in up to 20 additional public hearings each year. This additional time would lesson DNR’s ability to address other important water resource issues such as water use conflicts, well interference complaints and non-compliance. The initial one-time funding of \$1,000,000 for meetings and the \$250,000 each year following is insufficient to maintain the effort going forward.
- **Designated Swan Resting Areas:** The recovery of swans in Minnesota is a success story, and the DNR agrees we need to continue working to ensure it remains so. We do have questions about the timeframes and scale of what is proposed in the bill, as building up the implementation capacity, and the feasibility to recruit, train and hire staff would be challenging.

Minnesotans are proud of our nationally-recognized outdoor recreation system; our outstanding hunting and angling opportunities; and the economic opportunities in our tourism, timber, and mining industries. With more

Minnesotans appreciating and using these resources at historically high levels, this is a critical time to be investing in our outdoors and natural resources.

Thank you for the opportunity to work with you this session on these critical natural resources budget and policy issues. DNR is available to you and your staff to answer any questions and to work with you to develop solutions that will provide long lasting improvements in Minnesota's natural resource and outdoor recreation assets.

Sincerely,



Sarah Strommen
Commissioner

CC:

Speaker of the House Melissa Hortman
Minority Leader Kurt Daudt
Ranking Minority Lead Josh Heintzeman, Environment and Natural Resources Finance and Policy
Rachel Ganani, Policy Advisor, Office of Governor Tim Walz and Lt. Governor Peggy Flanagan