

April 25, 2022

The Honorable Rena Moran  
Chair, House Ways & Means Finance Committee  
449 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Dear Representative Moran,

Thank you for the opportunity to provide comments on HF 4492, the House Environment & Natural Resources Omnibus bill. I recognize and appreciate the hard work of Chair Hansen and the members of the Environment & Natural Resources committee in assembling a strong bill that addresses some of the major environmental issues that Minnesotans are facing, including a changing climate, a growing waste problem, and exposure to per- and poly-fluoroalkyl substances, also known as PFAS chemicals. I am writing to highlight these positive steps to protect Minnesota's environment, as well as some areas where additional work will better equip us to meet the challenges ahead.

### **PFAS and lead**

Addressing exposure to toxics is among the Minnesota Pollution Control Agency's (MPCA) top legislative priorities for this year. I am pleased to see that this priority is shared by Rep. Hansen and members who spent significant time this year working on progressive legislation around PFAS and lead. In particular, I would like to thank Chair Hansen for including the Governor's provisions on PFAS community grants and restricting lead and cadmium in consumer products. Other provisions in the bill provide consumers with information on the use of PFAS in products, and restrict the use of PFAS in specific items, such as cookware, cosmetics, juvenile products, textiles, firefighting foam, and ski wax. These sections, collectively, take bold steps toward preventing PFAS from entering our air, soil, and water, reducing the need for future cleanup.

The Governor's budget includes two important PFAS proposals that did not make it into HF 4492—one meant to determine baseline levels of PFAS in soil, surface water, and groundwater statewide and one meant to provide technical assistance to wastewater treatment plants so that they can meet pollution reduction limits. I would encourage the committee to incorporate these proposals into their bill as the process moves forward.

Finally, I would like to recognize the progress that HF 4492 makes on reducing the impact of lead on human health and the environment. I am especially appreciative of the inclusion of the Governor's proposal to restrict the use of lead and cadmium in certain consumer products used by children and families. In addition, I appreciate the committee's interest in enhancing and providing additional funding for MPCA's "Get the Lead Out" program, an initiative designed to encourage Minnesota anglers to voluntarily switch to lead-free tackle products.

### **Environmental Justice**

MPCA recognizes that environmental and health impacts are felt disproportionately by economically disadvantaged communities and communities of color throughout the State, and I am pleased to see that HF 4492 contains several initiatives focused on creating a more equitable future. I appreciate the inclusion of the Governor's recommendations regarding the brownfields program. The revolving fund mechanism and community grants included in this bill will help the brownfields program continue to transform previously contaminated areas into new businesses and community spaces into the future.

This bill also makes important progress on key environmental justice initiatives such as integrating cumulative impacts into air and solid waste permits, expanding MPCA's ability to address air toxics in disproportionately impacted communities throughout the State, and creating tools for more air quality monitoring. MPCA sees opportunities to continue to refine this language to achieve its intended goals, and we have greatly appreciated the conversations we've had with the original bill author and environmental justice groups thus far. We look forward to continuing that collaborative process to help successfully implement these important initiatives.

### **Waste prevention and management**

As MPCA has testified many times in committee, waste prevention is always more efficient and cost-effective than managing waste or cleaning it up later. For this reason, I am pleased to see that HF 4492 contains a variety of sections that advance waste prevention efforts in Minnesota. I particularly appreciate the inclusion of partial funding for the Governor's proposal on waste prevention grants. Other sections in the bill empower Minnesota communities to address waste reduction at the local level through composting grants for multifamily dwellings and zero-waste grants. In addition, HF 4492 recognizes the importance of considering end-of-life disposal at the point when consumers make purchasing decisions. This is reflected in the inclusion of language around the labeling of compostable products and the creation of a plan for carpet stewardship. Finally, I would like to recognize Chair Hansen's ongoing commitment to replenishing the Metropolitan Landfill Contingency Action Trust account so that it can meet the need for which it was created.

Chair Hansen and members have shown steady interest in tackling emerging issues such as microplastic pollution and neonicotinoid-coated seeds. MPCA has appreciated the opportunity to engage on these issues and we look forward to working to address these challenges.

MPCA has been working with Rep. Hansen and original bill authors to adjust the language on a few sections related to waste prevention and management to ensure that the language accomplishes the members' goals. I appreciate members' willingness to participate in these discussions and consider suggestions that we have made.

### **Climate adaptation**

I want to thank Chair Hansen and the environment committee members for hearing initiatives that help address the challenges that come with our changing climate. We continue to experience significant impacts from extreme weather events, especially mega-rain events. I am

pleased to see two critical items from the Governor's recommendations that help communities manage and adapt to these changing circumstances, including the creation of a stormwater infrastructure grant program and partial funding for adaptation action grants and water storage. Both efforts will fill notable gaps in funding available for local governments to protect community spaces and public infrastructure. As MPCA anticipates these needs around these shared priorities will increase, I urge the committee to consider full funding of the adaptation action grant program during this unprecedented time. Investing in making community infrastructure more resilient now will save Minnesotan communities millions of dollars.

### **Good governance**

We all agree it is important to ensure that government agencies do their work well and make constructive use of resources appropriated to them. Several sections in this bill do just that. Thank you to the committee for including funding for continued work on rail safety at MPCA, for including an operating increase that will allow MPCA to continue to meet timeliness goals of regulated parties and the needs of our communities and environment, for incorporating policy language to improve the timeline for a legislative report, and for extending the timeline to use funds appropriated for the St. Louis River Mercury TMDL (all of which were part of the Governor's budget). I also appreciate the inclusion of the agency's policy language requiring notification of downstream communities in the event of a sanitary sewer overflow. This common-sense policy change is an example of a simple, low-cost effort that protects the health and safety of Minnesotans.

Another good governance practice is ensuring that cost is not a barrier for qualified Minnesotans interested in participating on boards and commissions, such as the Clean Water Council. MPCA shares the goal of making opportunities for participation in government accessible to all, and updates to per diem compensation toward that end are appreciated.

MPCA participated in hearings earlier in session regarding the Office of the Legislative Auditor's (OLA) report on the Petroleum Remediation Program. Continuous improvement is one of MPCA's core values, and we share the interest of both the Legislature and the OLA in ensuring that the program continues to meet its goals. We would, however, like to work with the author to extend the report timeline to ensure a thorough analysis can be completed.

MPCA shares the goal of cleaning up contaminated properties that have the potential to be put to better use. We have been in conversation with the author about some technical changes for the Pig's Eye Task Force section and look forward to the opportunity to work with community and government leaders on the future of this land.

### **Opportunities for continued work**

We would like to work with the author on several items that are either missing from HF 4492 or could potentially be problematic without alterations.

Sections 63-64 and Section 86 require MPCA to enter into financial assurance agreements with feedlots with more than 1000 animal units before issuing or renewing a permit. As these feedlots are permitted under a general permit every 5 years, this provision would create

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significant upfront work to execute financial assurance agreements for the ~1200 feedlots under this section. We greatly appreciate the conversation we've had with the author on this subject already, and understand an amendment will be proposed to address our concerns.

I would like to mention three final items in the Governor's recommendations that are missing from HF 4492 and represent a missed opportunity for pollution prevention:

- Fee authority for MPCA's Smart Salting program – this successful program needs a sustainable funding source to continue to operate into the future. Chloride is an incredibly difficult contaminant to remove from water bodies, and the Smart Salting program has a proven track record of reducing the use of road salt, the major source of chloride contamination.
- Expansion of pollution prevention loans for small businesses – Small business owners are increasingly interested in examining and addressing the environmental impact of their operations. The Governor's recommendation is to help businesses do the right thing by expanding the amount of money available and the number of businesses eligible for these loans, thereby investing in less pollution and better working conditions across Minnesota.
- Expanding the use of Community Assistance Program (CAP) and Greater Minnesota Recycling and Composting grants—This would allow communities to undertake waste prevention projects that lead to better environmental benefits. Raising the CAP per-project limit (set in 1985) will support local governments' recycling and solid waste projects. The new policy language will also require an evaluation of the project with climate change and potential community impacts.

Once again, I would like to thank the committee for the good work that has gone into assembling this year's House Environment & Natural Resources bill. This year's historic budget surplus presents a special opportunity to make significant investments in the future of Minnesota, and I am encouraged to see that this bill represents a wide variety of initiatives that reflect the value Minnesotans place in their environment and natural resources.

I look forward to continuing to work with you as this bill moves forward, and encourage members to reach out to me or members of my team at any time.

Sincerely,



Katrina Kessler  
Commissioner

cc: Rachel Ganani, Policy Advisor to Governor Tim Walz; Rep. Rick Hansen, Chair, House Environment & Natural Resources Committee; Rep. Josh Heintzeman, Republican Lead, House Environment & Natural Resources Committee