

TESTIMONY OF KATHRYN HOFFMAN, CHIEF EXECUTIVE OFFICER, MINNESOTA CENTER
FOR ENVIRONMENTAL ADVOCACY IN OPPOSITION TO H.F. 3280

House Environment and Natural Resources Policy and Finance Committee

March 8, 2018

Thank you, Mr. Chairman, members of the Committee. My name is Kathryn Hoffman, and I'm the chief Executive Officer of the Minnesota Center for Environmental Advocacy (MCEA). MCEA is a public interest environmental law and science organization headquartered here in St. Paul, and we have been involved in the disputes underlying this legislation for many years.

MCEA opposes this bill because it usurps the role of state agencies to enforce of our laws, and it interferes with ongoing administrative processes.

SUMMARY:

This bill is essentially a wish-list granted for industry because it obliterates the MPCA's authority to protect any wild rice growing anywhere—except paddy rice that doesn't need protection—from the deleterious impacts of sulfate.

We oppose the bill for two reasons. First, it does not create regulatory certainty as intended. Under federal law, the existing state water quality

standard cannot simply be abandoned. There is a process under federal law for repealing water quality standards, and this bill does not follow it. Real regulatory certainty would involve accepting that wild rice deserves protection and figuring out better cheaper cleanup techniques and ways to pay for the treatment. Second, although the bill promises to protect and preserve wild rice, the operative provisions do the opposite, stripping any protection for wild rice in state law, while wasting public resources that have already been put into this work.

#1 POINT: This bill is being presented to the committee as a path to regulatory certainty, but this bill won't create certainty. Interrupting the rulemaking will only lead to chaos, because the legislature cannot undue a water quality standard that has been approved by the U.S. EPA unless it substitutes a valid water quality standard that is at least as protective. . . which is what the MPCA was attempting to do. All this bill does is gut the existing standard and waste the millions of dollars of public money that resulted in the science-based standard. . .which was approved by the Administrative Law Judge. EPA –even our diminished EPA under President Trump—isn't going to approve such an obvious undoing of a protective water quality standard. There is already a Petition pending at EPA because of the

MPCA's failure to enforce the existing approved standard. **So the only certainty associated with this bill is that it bring on litigation.**

Real regulatory certainty would occur if the state would help pay for treatment at those facilities that need treatment, but can't afford it, work that is already underway at the Legislative Water Commission, and that my organization supports. **Real regulatory certainty** would occur if the legislature would continue funding scientific studies to develop less-expensive treatment.

#2 POINT: The bill contains language that suggests that the legislature intends to preserve wild rice as a protected use of water, but actually does the opposite. Make no mistake: this bill guts the MPCA's ability to put effluent limits in **any permit for any water** except to protect commercially grown wild rice. **Section 5** takes away the MPCA's authority to apply the water quality standard for sulfate "for wild rice waters nullified by this act" . . . which as it turns out are ALL wild rice waters except paddy rice. **Section 6** says that the MPCA cannot use the science based studies to establish a numeric limit for sulfate in a permit for a person discharging to the "exceptional" listed "WR" waters, which basically means that MPCA would have no way to enforce sulfate limits in the few waters that the legislation leaves as subject to the

standard **Section 7** prohibits MPCA from applying the “10” sulfate standard in waters classified for agricultural use until someone requests an appropriation involving paddy rice. By the end of this bill, there is no type of wild rice that remains protected.

Thank you for the opportunity to share our views with the legislature this morning ,Mr. Chairman. That concludes my testimony.