



Minnesota Center for Environmental Advocacy

To: Senate Environment & Natural Resources Policy and Legacy Finance Committee Members
From: Kara Josephson, Minnesota Center for Environmental Advocacy
Re: SF814 A6 DE Amendment - Environment & Natural Resources Finance Omnibus Bill
Date: March 16, 2021

Members of the Senate Environment & Natural Resources Policy and Legacy Finance Committee, the Minnesota Center for Environmental Advocacy (MCEA) thank you for your work to improve and protect Minnesota's water, air, and land, especially during these challenging and uncertain times. MCEA is a nonprofit organization with almost 50 years of experience using the law and science to protect Minnesota's environment and the health of its people.

There are many sections in the A6 amendment to SF 814 that MCEA supports, or is neutral on. However, we do have concerns about several sections in the bill. We are submitting our testimony on the A6 amendment to outline MCEA's concerns and suggest priority items to address. Since there are many sections in the A6 amendment, we will focus our written testimony on provisions of concern for the MCEA in the bill.

We hope these comments are helpful in your deliberation and believe that removing or improving these sections would create a much stronger bill.

Section 63: Prohibits common sense review of transferred water permits

Section 63 prevents DNR from requiring testing or putting new conditions in a water appropriation permit that is being transferred. DNR should be able to review the adequacy of a permit at any time, including when it is transferred, in order to protect groundwater resources. The transfer of a permit should result in administrative review of the terms of the permit, and modification as necessary to prevent depletion of water supplies.

Section 64: One-sided economic analysis of groundwater management plans

Section 64 ties DNR's hands regarding water management plans for water appropriation by requiring DNR to provide economic impact estimates before the plan is prepared. Water management plans should prioritize the protection of Minnesotans' water resources. It makes no sense to require DNR to evaluate economic interests before a plan is drafted.

Section 65: Groundwater Management gag rule

Section 65 is a gag rule that prevents DNR from providing public information about a water management plan under development by limiting the information that DNR can provide to "direct factual responses." This provision is in direct conflict with the Data Practices Act, which requires public data to be provided upon request, including drafts, and also requires state staff to explain the meaning of data. Preventing a state agency from practicing an open communication process with the public about its activities is just poor public policy. State policy should be to support greater transparency, not less transparency.

Section 66: Unsustainable water use allowed without scientific basis

Section 66 defines "sustainable" to mean a change of 20 percent or less with regard to the "August median stream flow" which has nothing to do with what is actually sustainable in terms



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of long-term Minnesota water supplies. This arbitrary figure will prevent preservation of water resources, which must be based on actual data from a particular water source and scientific evidence.

Section 67: Unfair limits for well owners damaged by well interference

Section 67 harms those hurt by well interference by forcing the DNR to consider the “condition of the impacted well,” which requirement has the intent of forcing DNR to reduce any awards to individuals harmed if their wells are older. This provision will harm low-income persons who cannot easily afford new wells in favor of irrigators who want additional water. Similarly, the legislation favors parties who are interfering with existing wells by limiting the ability to contest the commissioner’s award to parties ordered to pay an affected well owner.

Section 85: Ends MPCA authority to regulate automobile emissions

Section 85 (previously SF 450) would repeal the statutory authority of the MPCA to set air quality standards for motor vehicle emissions. Not only would this repeal the Clean Cars Minnesota rulemaking, it would prevent any future state regulations on automobile pollution. Transportation is the top source of greenhouse gas pollution in Minnesota, and the MPCA is properly using its authority to reduce that pollution.

Sections 86 & 113: Prevents common sense permit conditions that prevent manure contamination of waterways

Sections 86 and 113 (previously SF 566) would prevent the Minnesota Pollution Control Agency from requiring permittees who choose coverage under the general feedlot permit to reduce nitrogen impacts from manure when it is applied in the fall and winter. Nitrogen pollution is increasing, and fall and winter manure application is part of the problem. The Minnesota Department of Agriculture’s rules prohibit fall application of commercial nitrogen fertilizer in many areas. The MPCA general feedlot permit does not prohibit fall application of manure, but instead gives producers four options: (1) wait until the ground is cold; (2) add a nitrification inhibitor product; (3) plant a cover crop; (4) apply a portion of the allowed application in the spring. Sections 86 and 113 unreasonably restrict these best management practices, which many agricultural producers have already adopted.

Thank you for the opportunity to submit this testimony on the A6 amendment to SF 814. Our policy experts are at your disposal if you have any questions.

Sincerely,

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Minnesota Center for Environmental Advocacy