



Minnesota Center for
Environmental Advocacy

ENVIRONMENTAL POLICY PRIMER





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PART 1: MCEA'S INVOLVEMENT IN MINNESOTA ENVIRONMENTAL ISSUES

MCEA's environmental work covers a breadth of issues including Climate, Environmental Justice, Water, Toxic Chemicals, and Mining. The following section highlights our work in these areas.

CLIMATE & ENERGY

Minnesota is one of the fastest warming U.S. states and bold action is needed to protect Minnesotans and the natural beauty that defines our state. Climate change is threatening our farmers, causing flooding, and costing every Minnesotan. It is also vying with the pandemic as the top public health crisis of the 21st century. Minnesotans are seeing the health impacts right now, including Lyme disease, poor air quality, worsening allergies, extreme heat and mental health impacts.

Avoiding the worst impacts of climate change requires a coordinated, economy-wide approach to reduce greenhouse gas emissions, transition to clean technologies, and build resilience to weather the impacts that are already happening.

MCEA knows that we need to work in all areas to reduce Minnesota's contribution to global climate change, and to lessen the impacts of climate change on our state. In the electric power sector, the clean energy transition has already begun in Minnesota. Coal use is declining, and renewable energy now accounts for over 25% of our electricity.

Thanks in part to our work, coal plants across Minnesota are shutting down. Just recently, utilities serving Minnesota customers announced the early retirement of three more coal plants. MCEA will continue working to make sure that when these coal plants close

they are replaced with clean and renewable resources, not fracked gas.

Expanding access to cleaner cars and alternative modes of transportation saves households money and makes the air cleaner for all Minnesotans, particularly those living along major roadways.

Finally, we are working to start conversations about climate change across Minnesota's economy. In the agricultural sector, MCEA won a case that required the Pollution Control Agency to analyze greenhouse gas emissions from a dairy farm for the first time. This is a big deal: agriculture is a significant source of emissions in Minnesota. Now, we are working to expand this win beyond the agricultural sector by ensuring that projects of all types that undergo environmental review in Minnesota include ways to mitigate greenhouse gas pollution.

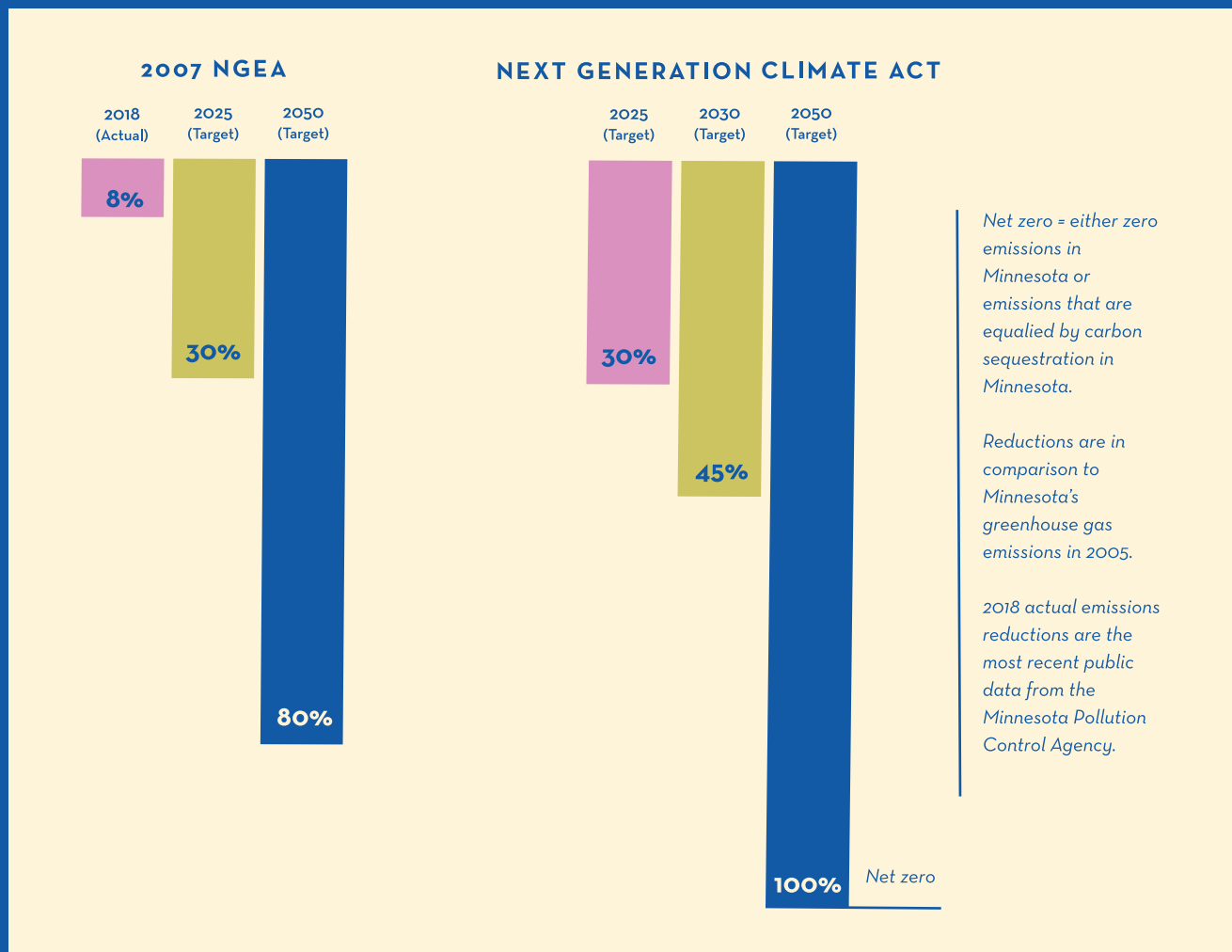


CLIMATE POLICY HIGHLIGHT: NEXT GENERATION CLIMATE ACT

The Next Generation Climate Act updates Minnesota's climate targets to match the recommendations of scientists, requires annual reporting on our progress toward these targets, and requires that governmental actions be consistent with these targets.

Setting science-based climate targets and measuring our progress is the first step toward taking the bold climate action we need. Unless science-based standards guide our actions, we will fail in our efforts to address the climate crisis. We led the nation when Minnesota set bipartisan climate standards fourteen years ago in the Next Generation Energy Act of 2007. At the time, those standards were consistent with climate science, but we have learned a lot since then. We must now update our standards to reflect the targets that scientists tell us are needed to avoid the worst climate impacts.

Representative Patty Acomb (DFL-Minnetonka) and Senator Jen McEwen (DFL-Duluth) sought to address this issue during the 2021 state legislative session by introducing the Next Generation Climate Act. This bill would update Minnesota's climate targets according to the best available science - including a target to achieve net zero greenhouse gas pollution by 2050. It would require that our government's actions are consistent with these targets, and require annual reporting on progress toward meeting these goals.





ENVIRONMENTAL JUSTICE

In Minnesota, the color of your skin and your economic status are factors that determine your risk for chronic asthma, your exposure to toxins, and a host of other environmental dangers. That is injustice. Concentrated polluting industries, as are found in North Minneapolis, unevenly impact Minnesotans along race and socioeconomic lines.

And, like around the world, communities of color are the first and hardest hit by climate change in our state. Legal actions and legislation, in addition to community-centered approaches that strengthen and uplift our most overburdened communities, are needed to address a legacy of environmental racism here in Minnesota, and across the United States.

During the 2021 regular session, Representative Fue Lee (DFL-Minneapolis) and Senator Bobby Joe Champion (DFL-Minneapolis) were chief authors of the Cumulative Impact bill with the guidance of the Frontline Community Protection Act (FCPA) Coalition, a table of environmental justice advocates.

The cumulative impacts legislation would define environmental justice areas and address cumulative impacts of pollutants from industries and large-scale infrastructures on overburdened communities, allowing for a shift in narrative and power. Additionally, cumulative impact analysis will aid decision-makers in assessing permit effects.

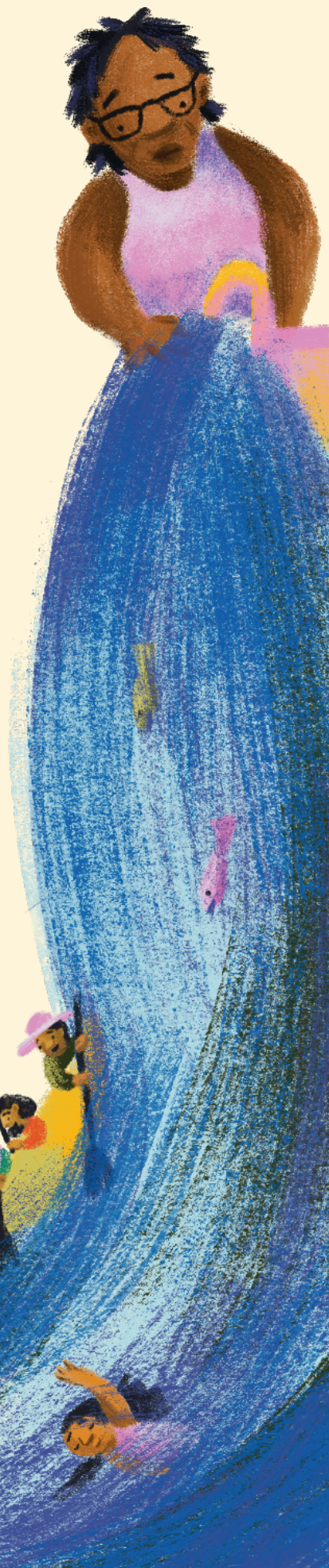
As we continue to work alongside the Frontline Communities Protection Act coalition both during and outside of the legislative session, the coalition engages with other organizations and campaigns to build power across movements. In addition to bringing campaigns together to form a collective power, the FCPA coalition is brainstorming ways to further engage community members through public information sessions in this call for justice and fairness for all Minnesotans, especially overburdened communities.

WATER & TOXIC CHEMICALS

Minnesota is the land of 10,000 lakes, but thousands of them are not drinkable, fishable, and swimmable. Despite our current laws and millions of dollars of investments, 40% of our lakes, rivers and streams are impaired, and this number is growing. The groundwater that three of four Minnesotans depend on for drinking water is increasingly polluted with nitrates. Agricultural drainage projects and urban and suburban development are speeding water off the land, creating erosion and reshaping our waterways. In short, Minnesota is squandering our clean water heritage, and unless we act, we may lose it.

MCEA is taking action in the courts, at the Legislature, and in state and local governments to defend our clean water. We scrutinize pollution permits, work with local residents to identify and prevent threats to drinking water, and push for targeted investments in clean water at the Minnesota legislature. As the only conservation group regularly participating in Minnesota's Drainage Work Group, we work with agriculture and local units of government to shape drainage policies that prevent erosion and keep water on the land. All of this work is informed by a simple principle: everybody deserves clean water.

One of the ways MCEA protects clean water is by pushing Minnesota to be a national leader in identifying toxic chemicals and ending their use in favor of safer alternatives. MCEA relies on the best science to identify toxic chemicals, find out where the impacts are heaviest, and create policies that reduce their use and public exposure. In 2020, MCEA was part of a coalition that successfully lobbied for and passed a ban on toxic trichloroethylene (TCE) at the Minnesota Legislature. MCEA also works to address the harmful effects of perfluoroalkyl substances (PFAS) by supporting legislation to establish water quality standards for PFAS.



REGIONAL ENVIRONMENTAL POLICY HIGHLIGHT: NORTHEASTERN MINNESOTA

The natural resources located in Northeastern Minnesota are globally significant - the largest freshwater lake in the world, the largest wilderness east of the Rockies and north of the Everglades, and millions of acres of treasured public land.

MCEA recently expanded its presence in northeastern Minnesota to work with a wide array of partners and to build strong relationships across the region.

Northeastern Minnesota is also the site of deeply contested copper-sulfide mine proposals that threaten the clean water of Lake Superior and the Boundary Waters. MCEA is actively engaged on the PolyMet and Twin Metals mine proposals. One of the most important things we do is educate the public and to ensure that the public viewpoint--especially from those who would live with the long term impacts-- is heard on proposals in permitting and environmental review, especially people who live downstream and would be directly affected. But when that input is ignored, we have the legal tools to enforce it.

Most of northeastern Minnesota is treaty land, and Minnesota Chippewa Tribe bands have rights to hunt, gather and fish across ceded territory. Critical resources such as manoomin (wild rice) are threatened by water pollution. We are informed by, and strive to, take the lead of tribal partners in our work and partner with them if they desire.

Our work in northeastern Minnesota is about far more than mining proposals. We work to retire coal and gas plants and replace them with clean energy, maximize carbon sequestration in our forests, and foster sustainable economic development that will ensure a just transition for workers.



PART 2: MINNESOTA'S FOUNDATIONAL ENVIRONMENTAL LAWS

MCEA's environmental work is dependent on protecting and strengthening Minnesota environmental laws. The laws most critical to our work include the Minnesota Environmental Policy Act (MEPA), the Minnesota Environmental Rights Act (MERA), laws protecting the water quality of public waters, and constitutionally dedicated environmental funding. This section provides an overview of what these laws do, and how MCEA uses them to protect our environment.



MEPA: MINNESOTA ENVIRONMENTAL POLICY ACT

Environmental
Assessment
Worksheet

Environmental
Impact
Statement

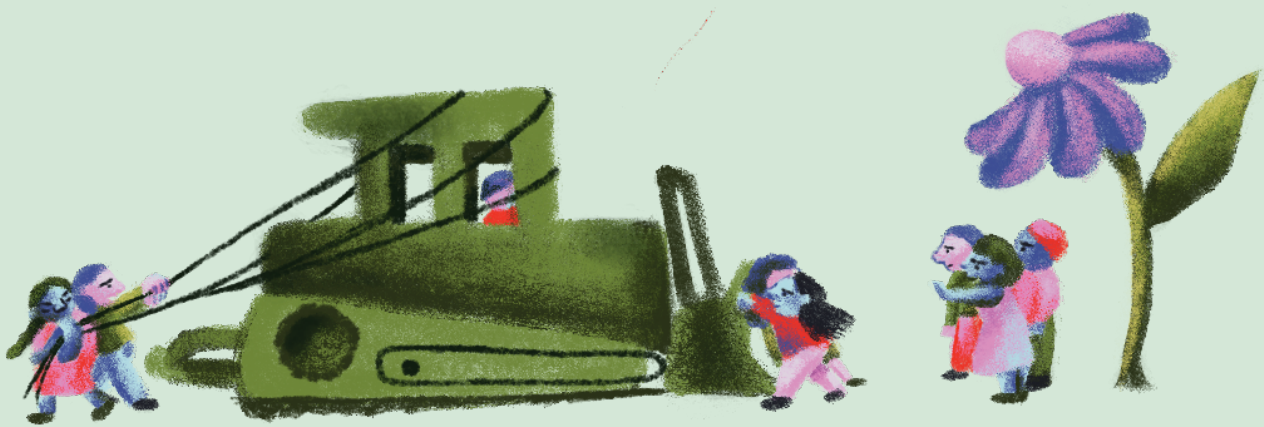
Final
Decision

MEPA requires that governments take a hard look at proposals that could have a significant effect on the environment by completing an environmental review of a proposal's environmental impact. Some projects require a shorter study called an Environmental Assessment Worksheet ("EAW"), and some require a bigger study called an Environmental Impact Statement ("EIS"). Which project requires what kind of review is determined by how great of an impact the proposed project may have.

Environmental review generally has three main components: (1) The Environmental Assessment Worksheet ("EAW") or Environmental Impact Statement ("EIS"), (2) the public comment period, and (3) the final decision. By engaging in the environmental review process, community members can suggest specific improvements to proposals and ensure the government is held accountable to the people. Engagement is a powerful tool to push back on unfavorable project proposals, and make projects better.

MCEA uses MEPA in a variety of contexts. Recently, MCEA used MEPA to challenge the issuance of a permit to a large hog farm to ensure that a rare wetland--a calcareous fen--would not be drained by the farm's high-capacity wells. MCEA also recently used MEPA to challenge a county decision to allow a substantial section of the last natural stream in Renville County to be ditched without proper consideration of environmental impacts.





MERA: MINNESOTA ENVIRONMENTAL RIGHTS ACT

MERA allows citizens to file lawsuits to protect Minnesota's clean water, air, land, and other natural resources from pollution. It is an important and powerful law because it gives every person the right to protect the environment in court. In the 1970s, shortly after it was enacted, the Minnesota Supreme Court described MERA as giving Aldo Leopold's "Land Ethic" the force of law.

MERA is significant in part because of its breadth. It can apply to any kind of conduct by any person or entity, including the government. (The one exception is that MERA does not apply to family farmers.) If someone acts without a permit or authorization and pollutes or destroys our natural resources, they can be sued under MERA and the court can halt the conduct. Similarly, if a state agency issues a permit or rule that is inadequate to protect our natural resources from pollution, Minnesotans can challenge the state agency under MERA and courts can require more protective permits and rules.

Over the years this law has helped to preserve important wetlands, protect nesting eagles, prohibit disposal of toxic wastes, safeguard lakes, defend quietude, save historically significant buildings and much more.

"MERA is one of Minnesota's bedrock environmental laws. By providing citizens the power to hold polluters accountable, MERA gives each of us the opportunity and responsibility to protect our treasured environment and resources."

**- Kevin Reuther,
Chief Legal Officer**

PUBLIC WATERS LAW

Minnesota's waters are held in trust for the people. In 1979, Minnesota applied an expansive "public waters" definition, which provides protection for Minnesota's lakes, rivers, and streams.

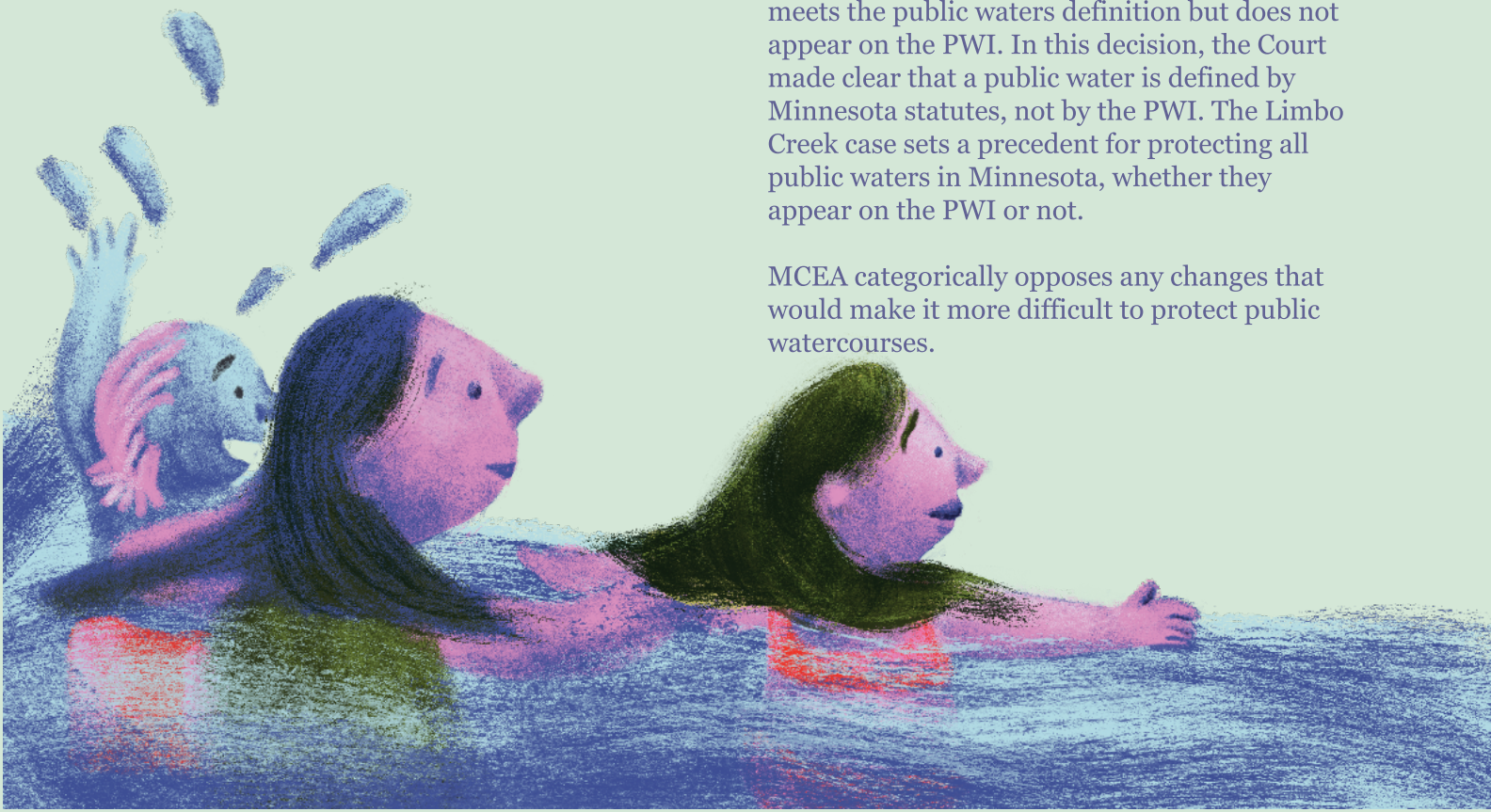
Protections include the requirement of permits to fill, drain, dam, or alter a public water because public waters provide benefits to the public. Permits protect downstream users from being adversely impacted by upstream actions. The Legislature also created the Public Waters Inventory (PWI) as an informational tool designed to provide the public with a catalog of public waters. The PWI in its current form is inaccurate, and DNR must take actions to correct errors that currently appear in the inventory and include all public waters that fit the definition of public water.

In 2020, DNR began a process to start making the PWI more accurate in Renville County. Renville County has challenged this process in district court, which has quickly halted progress. MCEA supports steps taken to give DNR the authority to improve the PWI's accuracy.



In 2021, MCEA won a lawsuit regarding the need to perform environmental review on a project that would ditch a watercourse that meets the public waters definition but does not appear on the PWI. In this decision, the Court made clear that a public water is defined by Minnesota statutes, not by the PWI. The Limbo Creek case sets a precedent for protecting all public waters in Minnesota, whether they appear on the PWI or not.

MCEA categorically opposes any changes that would make it more difficult to protect public watercourses.



DEDICATED ENVIRONMENTAL FUNDS

Minnesotans care so deeply about the environment that they have twice voted to establish constitutionally dedicated sources of funding for environmental protection, water quality, and parks and trails.

In 1988, Minnesota voters approved the Minnesota Lottery and the Environment and Natural Resources Trust Fund (ENRTF). The ENRTF was funded by a portion of the lottery profits. That trust fund currently holds approximately \$1 billion in assets, and spins off over \$60 million per year for projects approved by the Legislative-Citizen Commission on Minnesota Resources (LCCMR).

In 2008, the Legacy Amendment was approved by Minnesota voters. Despite an economic crisis, Minnesotans overwhelmingly approved a tax increase that would create dedicated funds to protect and enhance Minnesota's outdoor heritage, clean water, parks and trails, and arts and cultural heritage. These funds are supposed to "supplement, not supplant" existing funds for these purposes, in other words, to provide additional resources above the current level.

MCEA is a watchdog that guards these funds. In 2018, MCEA instituted litigation to prevent the ENRTF from being raided to pay for projects that were not consistent with its constitutional purpose by using the ENRTF to fund bonds.

We delayed the sale of these bonds and, in 2019, the Legislature revoked the legislation raiding the ENRTF and funded the projects with general obligation bonds. This preserved \$167 million in the fund for constitutionally-approved projects.

MCEA also protects the Legacy funds. We evaluate spending from the Clean Water Fund, for example, to ensure that it supplements existing spending, and is not used as a replacement for traditional sources of funding. MCEA staff frequently testify before the legislature and funding bodies, such as the Clean Water Council.

Both the ENRTF and the Legacy funds are successful and popular. Since 1991, the ENRTF has provided approximately \$700 million to over 1,700 projects around the state, and even more funding comes from the Legacy amendment. But both will expire in the coming years, and will need to be reauthorized by the Legislature and the voters. The ENRTF will expire in 2024, and the Legacy Amendment in 2034. MCEA strongly supports reauthorization of these funds by the Legislature.





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