



# Minnesota Pollution Control Agency

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March 30, 2017

The Honorable Dan Fabian  
Chair, House Environment and Natural Resources Policy and Finance Committee  
359 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Dear Representative Fabian:

As the House Omnibus Environment and Natural Resources Budget bill (HF 888) comes to the House Floor, I want to outline provisions I support and provisions which are of concern.

Thank you for the work of your committee in assembling this bill. Thank you also for including in it the MPCA's Business-Friendly Data Services funding, the MPCA's policy language that extends the ban on construction of new open-air swine manure pits for five years, and partial funding for legal services for the DNR and MPCA NorthMet PolyMet mining permits. We appreciate your support for these important initiatives.

Aside from these provisions, however, there are many other budget provisions and policy items contained in this bill that would have long-term negative impacts on the environmental and public health services we provide to Minnesotans.

If HF 888 were enacted, Minnesotans would feel the impact in several ways:

- **For Businesses:** Permits will take longer, due to provisions from HF 1291 included in HF 888, as well as the significant cuts due to lack of an operational increase. Small business assistance, including MnTAP, would be reduced due to funding cuts for our Environmental Assistance and Cross Media work.
- **For Counties:** Counties that own one of the 42 construction and demolition landfills leaking contamination into the groundwater will need to deal with cleanup on their own. The MPCA would not have funding, under HF 888, to assist counties and others with addressing this contamination. Counties will need to look to their local taxpayers to cover these costs. Further, County recycling and composting efforts will have minimal support due to having few remaining technical staff.
- **For all Minnesotans:** The risk of indoor air contaminated vapors near 110 potential Superfund sites statewide will not be addressed under this bill, leaving homeowners without the information they need to protect the health of their children and families. Again, the response to help remedy this problem is not addressed in HF 888.

HF 888 makes numerous budgetary allocation changes to the Environmental Fund. These include transferring \$4.35 million to the General Fund for other uses. The proposed budget additionally uses the Environmental Fund to cover \$5.8 million of ongoing agency services that were previously funded from the General Fund. These two changes alone will put pressure on the Environmental Fund going forward, the agency's main funding source. This pressure would be greatly exacerbated in the coming years by the proposed removal of \$20 million per biennium of Motor Vehicle Title Transfer Fee revenue, beginning in FY20, from the Environmental Fund (per HF 861, the House Omnibus Transportation bill).

In addition, I am concerned about the following “unintended consequences” of HF 888 that would have the same effect as budget cuts:

- **Agency absorbs more than \$ 11 million over the biennium in operational increases.** By framing the agency’s budget against FY16-17 spending – and not against FY18-19 projected costs – HF 888 requires the Agency to absorb significant biennial operational increases of more than \$11 million, including the projected increase in our MN.IT service rates. This will negatively affect our service levels across the agency, as we leave potentially 35+ positions (4%) unfilled.
- **Trading \$5 million over the biennium in new SCORE grants for MPCA employees that provide important solid waste management and pollution prevention work.** While MPCA supports SCORE grants to counties and the important solid waste outcomes they bring, this level of cuts (20+ staff) to our solid waste management units and pollution prevention work is unprecedented and shortsighted. This would eliminate staff addressing toxicity research, electronics recycling, solid waste reduction, recycling, GreenStep Cities, as well as the very staff local governments would contact to assist with their new SCORE funding.
- **An overly restrictive cap on the Remediation Fund cuts into our cleanup work.** Because by law we must respond to emergencies or unexpected expenses to protect human health, resources needed for these cases cannot be supplemented from the Environmental Fund because of the cap, forcing us to reduce equally necessary ongoing pollution cleanup at active Superfund and landfill sites. During these situations, we cannot wait until the Legislature is back in session to raise the cap. This is a problem in both HF 888 and SF 723.

At the same time this bill threatens service cuts across the agency, the Trump Administration is looking at a 45 percent reduction in US EPA grants to states for core services such as permits, compliance, and inspections. HF 888 neither recognizes nor accommodates any forthcoming federal cuts. Because HF 888 will slow down our work and eliminate funding for scores of positions, it would compound the impact of federal cuts.

The policy bills contained in HF 888 are also of concern. As a whole, they will add layers of procedural requirements that will slow down permitting and will introduce politics into the use of scientific facts. We oppose the following policy provisions of HF 888:

- **Delay the identification of polluted waters (HF 766)** Right now, 40 percent of our waters are impaired, or polluted. Minnesotans expect us to keep track of polluted waters and clean them up. This bill makes it harder for the state to do both. By allowing contested case hearings for *draft* lists of impaired waters (current law allows such hearings on *final* lists), this bill will delay the public’s ability to know which Minnesota waters are polluted. Repeated hearings will stall important clean water work statewide. This bill also adds new requirements to permit notification that impede reaching the 150-day permitting goals set in 2011.
- **Set a dangerous precedent for landfill cleanups at Freeway Landfill (HF 2212)** This language indemnifies the responsible parties in the federal Superfund process underway at Freeway Landfill. This bill brings us no closer to cleaning up Freeway landfill and thus to protecting the Minnesota River and drinking water for cities of Burnsville and Savage. Instead of addressing the source of the problem, which is lack of cooperation from the landfill owner, it only shifts additional costs to all Minnesota taxpayers, instead of directing them towards the cause of the delays, price increases, and uncertainty the non-owners/operators are experiencing. In doing

so, it sets the dangerous precedent of rewarding a responsible party for **not** cooperating with the cleanup of a contaminated site. In addition, the proposal is funded by draining the Closed Landfill Investment Fund that was designed to help take care of all 113 eligible landfills into perpetuity, not just one.

- **Threaten Minnesota's eligibility for \$47 million Volkswagen settlement funds** (HF 1355) By restricting granting of the estimated \$47 million Minnesota is slated to receive from the national Volkswagen settlement until spending is legislatively approved, HF 888 could render Minnesota ineligible for these funds. Faulty engines from VW's cheating polluted our air equivalent to having 300,000 more cars on the road over seven years. Minnesotans expect that our state will get its fair share of settlement dollars to make up for this pollution. This bill puts our settlement at risk by clouding the state's authority to receive and disburse these funds.
- **Slow down permitting** (HF 1291) This bill adds new requirements in the permitting process that will serve to slow down our permitting work, and cost taxpayer dollars. Language in this bill violates federal law, and is redundant of both state and federal law. This bill overturns a longstanding judicial precedent for burden of proof with no evidence to document the need for such a fundamental change. Most troubling, this bill makes the 150-day permitting efficiency goal into a requirement if we are to avoid re-posting incomplete permits as required by federal law. All of these changes are being made when there has been no evidence presented that there is a problem or what the nature of the problem is.

It is unfortunate that budget reallocations and cuts are being made in a time of surplus, especially since MPCA's FY18-19 budget came in slightly lower than FY16-17. However, I remain open to working with committee leadership in the coming weeks to forge a budget that meets Minnesotans' expectations for clean air, land and water that promotes health for all Minnesotans.

Sincerely,



John Linc Stine  
Commissioner

cc: Stephanie Zawistowski  
Anna Henderson