



April 12, 2017

The Honorable Bob Gunther
Chair, House Legacy Funding Finance Committee
563 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Representative Gunther:

As the House Omnibus Legacy Bill, HF 707, is off the floor and awaiting conference committee, we write to share our perspectives on some of the bill's provisions as well as on a floor amendment that raises serious concerns for efficient fiscal management across all of the Legacy funds.

We appreciate your hard work and diligence in assembling this complex bill for the four Legacy funds. We have concerns, however, that the bill does not support the Governor's Clean Water Fund recommendations. This letter speaks primarily to the Clean Water Fund. The Executive Branch agencies will submit separate letters addressing HF 707's provisions specific to the other three Legacy funds.

If HF 707 as passed off the House floor were enacted, we anticipate the following negative consequences related to the Clean Water fund and efficient fiscal management across all Legacy funds:

Conservation Reserve Enhancement Program and Targeted Wellhead Protection: The Conservation Reserve Enhancement Program provides voluntary, on-the-ground conservation implementation that targets the most critical areas for pollution reduction. The Governor's recommendation is \$18 million for the Conservation Reserve Enhancement Program; this bill is now zero. Additionally, the Targeted Wellhead/Drinking Water Protection Easements provide much needed resources through the Board of Water and Soil Resources for ensuring our drinking water sources remain safe into the future. HF 707 cuts \$3.5 million - the entire program - which was to be used for the Conservation Reserve Enhancement Program wellhead protection areas. This action threatens the safety of our drinking water, especially in rural Minnesota.

These two actions cut a total of \$21.5 million for the Conservation Reserve Enhancement Program from this fund. The Conservation Reserve Enhancement Program has received strong bi-partisan support for its locally driven, targeted implementation. Shifting the Soil and Water Conservation Districts' capacity dollars from the Board of Water and Soil Resources' general fund appropriation to the Clean Water Fund has the consequence of significantly reducing the amount of on-the-ground conservation projects and landowner assistance. It means an additional \$50 million in federal Conservation Reserve Enhancement Program match would be jeopardized. In addition, continuing to fund Soil and the Water Conservation Districts' capacity through the Clean Water Fund is in clear contradiction to the plan from 2015, when use of Clean Water Fund dollars were identified as an interim measure, with Soil and Water Conservation Districts' capacity funding to come from the general fund in future years.

Riparian Aid to counties and watershed districts was in the Governor's tax bill at \$10 million per year. Now there is a \$2 million per year Clean Water Fund appropriation to the Department of Revenue. This amount is insufficient to get local governments to accept jurisdiction to ensure riparian buffers are in place.

Minnesota Agriculture Water Quality Certification Program: The proposed cut to the Department of Agriculture's Minnesota Agricultural Water Quality Certification Program will have a dramatic negative effect on rural Minnesota and Minnesota's farmers, and will result in a direct loss of more than \$5 million in federal funds.

Clean Water Funds for the Minnesota Agriculture Water Quality Certification Program serve as a match for federal dollars. In order to access \$5,288,000 in federal funds, the Minnesota Agriculture Water Quality Certification Program must receive at least \$5 million in Clean Water Funds over the next biennium. If the program is funded at less than \$5 million, none of those federal dollars will be available. Since the federal funds are distributed directly to farmers and landowners to help offset the cost of installing water quality protection practices, farmers and rural Minnesotans are those most hurt by this cut.

The Minnesota Agriculture Water Quality Certification Program is a remarkable success story. In just a little more than one year (after 2 years of piloting), 365 farms and more than 211,000 acres have become certified. Farmers have implemented more than 625 conservation practices resulting in more than 12 million pounds of sediment and 7,414 pounds of phosphorus being kept out of Minnesota's waters annually. Some 350 additional farms are awaiting certification. We support the Governor's recommendation to fund this highly effective program at \$5.5 million over the next biennium.

Watershed Restoration and Protection Strategies Program: Minnesota Statute 114D.26 requires the Pollution Control Agency to develop Watershed Restoration and Protection Strategies for each of the 80 major watersheds in Minnesota every 10 years; therefore, the Pollution Control Agency develops eight Watershed Restoration and Protection Strategies per year. Cutting more than \$1.4 million from this program means that the Pollution Control Agency will not be able to meet this statutorily required 10-year schedule.

Watershed Restoration and Protection Strategies provide essential water resource information that our local government partners find invaluable for the development of their local water management plans. As we transition to the Board of Water and Soil Resources' 1 Watershed/1 Plan program, if Watershed Restoration and Protection Strategies development is slowed down, then meaningful data and information will not be available for our local partners to use in their own specific plans. Effective targeting of Clean Water Fund implementation dollars where they can do the most good to reduce pollution and enhance protection of Minnesota's water and soil will be diminished. We support the Governor's recommendation to fund this program at \$20.463 million over the next biennium.

Floor Amendment Pertaining to Overhead Costs: The House floor amendment pertaining to overhead costs is of concern to agencies that receive Clean Water Fund dollars and to Minnesota Management and Budget. As pointed out in the recent Legislative Auditor report, and as indicated in a 2014 OLA report, the "directly related to and necessary for" language is not well defined in statute. Thus, it has been confusing and difficult to administer. We agree that clarifying this language would be helpful. However, this amendment does not solve this problem and in fact creates even more problems for the agencies and for grantees. There are many complexities of federal and state rules and practices involved, but briefly, the overarching problems with this amendment include:

- Exempting Legacy Funds from paying Statewide Indirect Costs charged by MMB would result in an approximately \$1 million cost to the General Fund in FY18-19 by reducing forecasted non dedicated receipts. This cost should be tracked.
- The federal government recognizes overhead costs are directly related to and necessary for the operations of federally funded programs at the state. Therefore, federal rules require equitable

allocation of these costs across all funds. This amendment would prohibit Legacy Funds from paying their fair share of the overhead costs, so the General Fund and other state funds would have to pay more. These additional costs to state funds should also be tracked.

- This language was not properly vetted in committee so that the public, grantees, agencies and all stakeholders could weigh in.

Thus, while we agree with the desire to add clarity regarding "direct and necessary," this amendment does not solve the problem and instead creates new problems. We believe a broader dialogue is needed, including a thorough public vetting, to resolve the "direct and necessary" issue for all Legacy funds.

We would like to discuss all of the above concerns with you, so we can together achieve a solid Legacy bill this year to the benefit of all Minnesotans.

Sincerely,



John Linc Stine
Commissioner
Minnesota Pollution Control Agency



David Frederickson
Commissioner
Minnesota Department of Agriculture



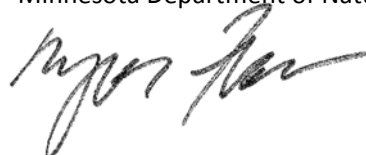
John Jaschke
Executive Director
Minnesota Board of Water and Soil Resources



Thomas Landwehr
Commissioner
Minnesota Department of Natural Resources



Edward Ehlinger
Commissioner
Minnesota Department of Health



Myron Frans
Commissioner
Minnesota Management and Budget



Adam Duininck
Chair
Metropolitan Council

cc: Majority Leader Paul Gazelka, MN Senate
Minority Leader Tom Bakk, MN Senate
Speaker Kurt Daudt, MN House of Representatives
Minority Leader Melissa Hortman, MN House of Representatives
Members of the House Legacy Committee:
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Rep. Dario Anselmo Rep. Paul Torkelson
Rep. Mike Freiberg Rep. Dean Urdahl
Rep. Steve Green Rep. Jean Wagenius
Rep. Mary Murphy Rep. Anna Wills
Rep. Paul Thissen Rep. Jim Knoblach, ex-officio
Anna Henderson, Governor Mark Dayton's office
Stephanie Zawistowski, Governor Mark Dayton's office
Clean Water Council Chair Frank Jewell, St. Louis County Commissioner
Clean Water Fund Interagency Coordination Team:
Chris Elvrum, Minnesota Department of Health
Jeff Freeman, Public Facilities Authority
Barb Naramore, Minnesota Department of Natural Resources
Sam Paske, Metropolitan Council Environmental Services
Dan Stoddard, Minnesota Department of Agriculture
Susan Stokes, Minnesota Department of Agriculture
Doug Thomas, Minnesota Board of Water and Soil Resources
Rebecca Flood, Minnesota Pollution Control Agency