March 6, 2024

From: Wildlife Management Area/Aquatic Management Area (WMA/AMA) Stewardship Network

To: Honorable Rick Hansen, Chair
Minnesota Environment and Natural Resources Finance and Policy Committee
407 State Office Building
St. Paul, MN 55155

Re: HF 3455 - Citizen oversight committees modified, and report required.

Dear Chair Hansen, Committee Members,

First, thanks to you as Chair and fellow Environment and Natural Resources Finance and Policy Committee members for allowing our WMA/AMA Stewardship Network an avenue to provide citizen/user input on HF 3455.

As a brief introduction to our Network. In early 2020 a Wildlife Management Area/Aquatic Management Area (WMA/AMA) Stewardship Network was formed that consists of conservation-minded individuals and representatives of numerous outdoor groups, several of these members are also retired DNR Wildlife or Forestry employees. Initially the Network's purpose was to function as a discussion forum, advocate for and provide input to the DNR regarding concerns with WMA and AMA forest habitats and their related management. Over the last four years this has expanded into concern, input on WMA planning (need for a comprehensive system planning process, input on WMA major unit master planning efforts); discussions with and input to the U. S. Fish and Wildlife Service regarding their recent federal aid/Pittman-Robertson grant compliance monitoring efforts; and a need to address WMA forest stand life-cycle management needs and adequate funding.

Our input today is in two parts, consisting of background information followed by specific comments, input on HF3455.

Fish and wildlife as a public trust asset *(The Public Trust Doctrine - Implications for Wildlife Management and Conservation in the United States and Canada, The Wildlife Society, Technical Review 10-01, 2010, 30 pages)*
- *The Public Trust Doctrine is an essential element of North American wildlife law. The Doctrine establishes a trustee relationship of government to hold and manage wildlife, fish, and waterways for the benefit of the resources and the public.* This is noted under 97A.025 OWNERSHIP OF WILD ANIMALS. The ownership of wild animals of the state is in the state, in its sovereign capacity for the benefit of all the people of the state.
- *Within a trust relationship the trustee manages assets that belong to others. The trustee therefore must be accountable to the beneficiaries of the trust. The PTD requires accountability of government for its actions in managing publicly owned assets. The public, as beneficiary of the trust, has legal rights to enforce accountability upon its government, typically through litigation and less commonly via elections or ballot initiatives.*

- *There should be a clear mechanism to evaluate the performance of trustees, and for public beneficiaries to hold them accountable for their actions. The actions of the trustees are transparent and clearly described, thereby facilitating evaluation and accounting. Examples of accountability mechanisms include requirements for public participation and the full disclosure of accomplishments and failures.*

Game and Fish Fund importance

Minnesota has a vast wealth of fish and wildlife resources, largely supported by the Game Fish Fund (user license fees), the Outdoor Hertiage Fund (LSOHC process) and Environment and Natural Resources Trust Fund (LCCMR process). The DNR's 2023 Game and Fish Fund Report notes that $74, 061,00 (56%) of the Fund's expenditures were for personnel. While OHF and ENRTF monies provide grant , project support to fish and wildlife needs, the takeaway that needs to be stressed here is this (DNR) personnel cost is the straw that stirs the fish and wildlife drink. DNR staff provide the science, the why, field staff, etc. that provide necessary energy, connectivity to overall management of our fish and wildlife resources.

Wildlife Management Areas, Aquatic Management Areas

State Wildlife Management Areas (~1,500 unit, 1.37 million acres) and Aquatic Management Areas (~700 units, 46,000 acres, 770 miles of shoreland) comprise the second largest outdoor recreation system type in Minnesota (1st State Forest, 3rd State Parks).

This past Sunday's Star Tribune had an article titled *Selling the outdoors: It takes a team*. While this article was primarily a promotion article for Minnesota's new Outdoor Recreation Office and industry partnerships, there was a very interesting comment in this piece by DNR Commissioner Strommen that relates to WMAs and AMA's "*If we're not taking care of the lands and waters that are driving that industry, then that's going to be a problem down the road. The two have to go hand and hand. You can't just grow the industry and not grow the stewardship side.*"

HF 3455

In light of the background information noted, our role as citizens/users, and the issues we've dealt with over the last four years we respectfully offer our thoughts, suggestions on HF344 as currently written (red notes what we suggest deleting or insert).

Lines 1.6-1.7 Subd. 4b. ~~Citizen oversight committees~~ <u>Fish and Wildlife Advisory Committee</u>. (a)

The commissioner shall appoint ~~committees~~ <u>a committee</u> of ~~at least~~ 15 ~~affected persons~~ of which <u>four must be from fish related interest groups, four must be from game related interest groups, and seven may be from other affected persons. The commissioner shall also engage fish and game related interest groups for nominations to be considered for this committee. Duties of this committee are to:</u> Comment: Set the committee size at 15, otherwise committee size could vary above that based on a commissioner whim. Thought on the fish and game related interest groups is that revenues to the Game and Fish Fund is virtually all game and fish license fees or federal aid gathered from federal excise taxes and hunting and fishing equipment. Affected persons implies a fishing or hunting license, but is not specific enough.

Lines 1.12-1.18 Subd. 4b. (3) make recommendations to the legislature and the commissioner for desired outcomes related to:

- (i)   ~~protecting habitat~~ fish and wildlife habitat protection, restoration and enhancement;
- (ii)   fish and wildlife population management;
- (iii)   fish and wildlife monitoring and research;
          wildlife management area and aquatic management area stewardship;
- (iv)   fish and wildlife ~~communications~~ outreach and public engagement; and
- (v)   improvements in the management and use of money in the game and fish fund.

Comments: (i) protecting habitat is to general of a statement, consistently use "fish and wildlife" in these headings. The use of "protection, restoration and enhancement" follows terminology noted in the DNR 2023 Game and Fish Fund Report. The specific request to insert wildlife management area and aquatic management area stewardship as a desired outcome level recognizes the importance WMAs and AMAs provide as the 2nd largest outdoor recreational system type in the state, that they deserve their own desired outcome level, and were recently provided an assist by the Commissioner's recent Star Tribune article which noted "You can't just grow the industry and not grow the stewardship side."

Lines 2.24-2.25 Subd. 4b. (b) The chair ~~and the vice-chair~~ of the Fish and Wildlife Advisory Committee ~~are~~ shall be appointed by the commissioner, the vice-chair shall be chosen by the committee.

Comment: We would like to suggest that to at least allow the committee to choose a vice-chair from amongst the members appointed by the commissioner allows some balance in the citizen user, legislative, DNR management public trust paradigm.

Line 2.26-2.32 Subd. 4b. (c) (c) By August 15 each year, the committee must submit a report to the commissioner and to the chairs and ranking minority members of the legislative committees with jurisdiction over natural resources finance and policy. Each even-numbered year, the report must focus on biennial budget outcomes achieved from game and fish fund expenditures. Each odd-numbered year, the report must focus on outcomes related to ~~protecting habitat~~ fish and wildlife habitat protection, restoration, and enhancement, fish and wildlife population management, fish and wildlife monitoring and research, wildlife management area and aquatic management area stewardship, and fish and wildlife ~~communications~~ outreach and public engagement.

Comment: This comment just notes that whatever changes under Subd. 4b (3) is repeated here.

In closing, our Network considers citizen oversight a cornerstone to fish and wildlife management as a public trust asset. We thank all for the opportunity to comment, hopefully have provided useful insights, comments.
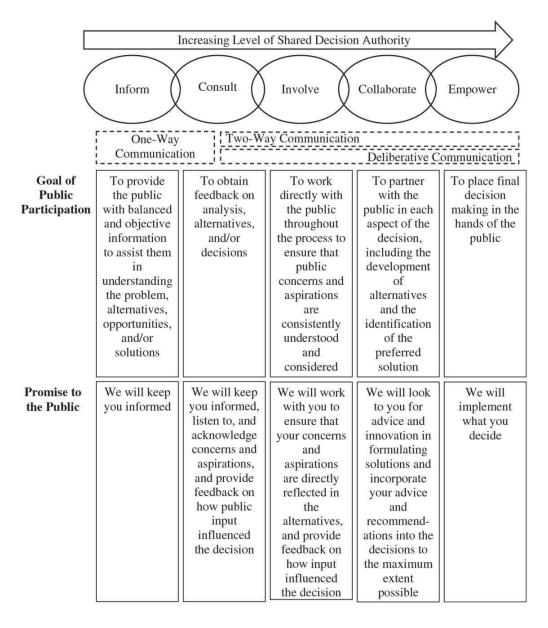
Respectfully,

On behalf of review and input by the WMA/AMA Stewardship Network
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The Public Participation Spectrum

Due to its simplicity and descriptiveness, the Spectrum of Public Participation is particularly useful for those who are new to civic engagement and participation. The framework was developed to "help groups define the public's role in any public participation process," and therefore it can be applied in diverse engagement processes and contexts. Presented in a table format, the spectrum describes five general modes of public participation that fall on a progressive continuum of increasing influence over decision-making in a given civic-engagement process. Importantly, the model not only describes the goals of a given mode of public participation, but also the "promise" that each mode communicates—whether implicitly or explicitly—to the public.

Readers should note, however, that the Spectrum of Public Participation presents only a positive view of public participation at its most constructive, meaning that it does not consider ineffective, inauthentic, or deficient participatory practice—i.e., how a particular "promise" to the public may be broken or what consequences may result. For this reason, a brief discussion of negative forms of public participation has been included below to help readers understand both the beneficial and harmful applications of public participation.

Increasing Level of Shared Decision Authority →

	Inform	Consult	Involve	Collaborate	Empower
	One-Way Communication	Two-Way Communication	Two-Way Communication / Deliberative Communication	Deliberative Communication	Deliberative Communication
Goal of Public Participation	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities, and/or solutions	To obtain feedback on analysis, alternatives, and/or decisions	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered	To partner with the public in each aspect of the decision, including the development of alternatives and the identification of the preferred solution	To place final decision making in the hands of the public
Promise to the Public	We will keep you informed	We will keep you informed, listen to, and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives, and provide feedback on how input influenced the decision	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommend-ations into the decisions to the maximum extent possible	We will implement what you decide

This modified version of the Public Participation Spectrum, adapted by Tina Nabatchi in 2012, includes the modes of communication—one-way, two-way, and deliberative—that attend each form of public participation. As the image illustrates, the potential for deliberative communication increases with greater participant involvement, collaboration, and empowerment. Source: Tina Nabatchi, "Putting the "Public" Back in Public Values Research: Designing Participation to Identify and Respond to Values," *Public Administration Review*

The five modes of public participation:

1. Inform

The goal of an *informing* process is to "provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities, and/or solutions." In an informing process, participants are largely passive recipients of information, though they may use the information they receive at a later time (e.g., when considering how to vote on a referendum issue or whether to become involved in a participatory process). At its most effective and beneficial, the information shared with the public is as objective, accurate, and fact-based as possible, and an informing process keeps the public apprised of the rationales motivating the decisions being made by leaders such as school administrators, public officials, or elected representatives.

An informing process can become problematic, however, when leaders are not fully transparent and withhold important or essential information, or when they provide biased information for the purposes of misrepresenting an issue and manipulating public perception. In its most potentially harmful manifestation, an informing process can be used as a manipulative tactic for mollifying legitimate public concerns or deceiving the public into supporting a decision or policy that is not in their interest.

2. Consult

The goal of a *consulting* process is to "obtain public feedback on analysis, alternatives, and/or decisions." In a consulting process, participants contribute their viewpoints, opinions, or preferences, and leaders then use this information to inform their decisions. At its most effective and beneficial, a consulting process improves the outcomes of a decision-making process by giving public officials or school administrators a more accurate understanding of the beliefs, needs, concerns, or priorities of those who will be impacted by their decisions.

A consulting process can become problematic, though, when leaders collect public feedback but do not take it into consideration, or when they leave important constituencies or stakeholder groups—such as youth or

communities of color—out of the process. At its most harmful, a disorganized consulting process can take up a large amount of the public's time or resources, but produce few tangible results, or it can be manipulatively designed to make the public feel it has been heard, when in fact leaders ignore (or perhaps never intended to act on) the public's recommendations. When consulting processes are inauthentic or unproductive, they can undermine public trust and confidence in a decision-making process or in public institutions generally.

3. Involve

The goal of an *involving* process is to "work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered." In an involving process, participants are actively involved in a decision-making process organized by leaders such as school administrators and public officials. At its most effective and beneficial, an involving process includes members of the public in meaningful roles (e.g., by training them to be facilitators or giving them some degree of leadership authority, such as chairing a committee), and the public is included from the beginning stages of the process (e.g., during the identification of a problem and the development of a proposed process to tackle the problem) through its conclusion (e.g., reflecting on the process—what worked well, what didn't work well—and evaluating the outcomes of the final decision).

An involving process can become problematic, however, when leaders and organizers do not provide the training, education, encouragement, or other forms of support that public participants may need to fully or competently participate, or when the opportunities provided for public involvement are inauthentic—e.g., when leaders are "forced" by policy to involve the public in a decision-making process, and then they merely go through the motions for the purpose of compliance, or when leaders unilaterally overrule participant decisions they disagree with. At its most harmful, an involving process can be intentionally and selectively exclusionary for the purpose of empowering some members, groups, or viewpoints over others, or it can be so mismanaged, disingenuous, or even fraudulent that the public begins to distrust those in

leadership positions, lose faith in their public institutions, or question whether any participatory process can be genuine.

4. Collaborate

The goal of a *collaborative* process is to "partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution." In a collaborative process, leaders such as school administrators and public officials work in partnership with members of the public to identify problems and develop solutions. At its most effective and beneficial, genuine collaborative processes and partnerships give leaders and participants equal status, and those who hold the power share some degree of control, management, or decision-making authority with participants.

A collaborative process can become problematic or harmful, however, when leaders use their position, authority, influence, or power to exploit or disempower their partners. For example, leaders may take advantage of partner's network of supporters to win an election or vote, but then refuse to the honor promises they made during the campaign, or leaders may ask partners to do most of the work on a project while the leaders derive most of the benefits, funding, or accolades.

5. Empower

The goal of an *empowering* process is to "place final decision making in the hands of the public." In an empowering process, leaders such as school administrators and public officials may partially or entirely turn over control, management, or decision-making authority to public participants, or the public may mobilize to develop a decision-making process in lieu of institutional leadership or action on an important issue. At its most effective and beneficial, an empowering process entrusts the public with decision-making authority, and thereby *builds greater trust* among the public, and it provides the necessary resources (e.g., political education, social connections, training, funding, interpreters, transportation, etc.) to members of the public who may

be disadvantaged or unable to participate without accommodations or assistance.

An empowering process can become problematic or harmful, however, when organizations or individuals are entrusted to manage a process they may not have the capacity or resources to manage competently, or when institutional leaders, professionals, and experts remove themselves from a decision-making or problem-solving process that requires institutional leadership, specialized expertise, or professional skills to achieve a successful conclusion or resolution. While "empowerment" is often represented as the apex of public participation in models such as the Public Participation Spectrum, many academics, researchers, and practitioners have advised against viewing empowerment, or any other mode of participation or engagement, as universally or unequivocally *good*, given that all modes of participation entail both compromises and potentially abuses—as the above examples of negative forms of participation illustrate.

Acknowledgments

References

International Association for Public Participation Australasia. (2016). *__Quality Assurance Standard for Community and Stakeholder Engagement__*. Victoria, Australia.

Nabatchi, T. (2012). __Putting the public back in public values research: Designing participation to identify and respond to values__. *Public Administration Review*, 72(5), 699–708.