

May 3, 2021

Senator Torrey Westrom
Co-Chair, Agriculture Conference Committee
3201 Minnesota Senate Building
95 University Avenue
St. Paul, MN 55155

Representative Mike Sundin
Co-Chair, Agriculture Conference Committee
417 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Re: SF 958 Agriculture Conference Committee

Dear Senator Westrom and Representative Sundin,

As we enter the final weeks of the 2021 Legislative Session, I write with concerns about language now before the Agriculture Conference Committee that will impede the Minnesota Pollution Control Agency's ability to protect public health and the environment.

Senate language would void key components of the newly-issued Feedlot General Permit pertaining to manure application and prohibit MPCA from requiring such components into the future. Under the agency's delegated authority from the federal government, the MPCA must revise the Feedlot General Permit every 5 years and base revisions on the most recent data and scientific research. The most recent iteration of this permit was based on data from Discovery Farms in both Minnesota and Wisconsin and from the University of Minnesota and was designed to combat elevated nitrate levels that have been documented in Minnesota's groundwater, drinking water, and surface water.

As important context, these permits only address the largest feedlot facilities in Minnesota, those with more than 1,000 animal units. Facilities of this size generate about 1/3 of the state's manure, so the Feedlot General Permit plays a big role in helping ensure manure is used as a resource to help agriculture thrive by providing nutrients to crops and building soil health, while not contaminating the waters of Minnesota.

There are three specific problems with the Senate language:

- It bars MPCA permits from prohibiting application of solid manure on frozen ground in March and February, which data show are the most likely times for spring runoff due to frozen soils. Thus the bill leaves open the possibility of manure runoff into lakes and streams.
- It prohibits MPCA permits from requiring cover crops be established for manured fields in September, a practice which research has shown prevents nitrogen leaching into soils and groundwater.

- It excludes MPCA permits from requiring manure application via nitrogen Best Management Practices in October, another practice proven to reduce nitrogen leaching into soils and groundwater.

For all three of the above issues, the MPCA during its yearlong public engagement process for the most recent Feedlot General Permit, met multiple times with agricultural groups and modified permit conditions based on requests of agricultural producers.

In summary, the MPCA opposes this Senate language because it voids necessary human health and environmental protection provisions of the new Feedlot General Permit and because it removes long-standing and federally-delegated authority. If the language were to become law it could jeopardize the MPCA's Clean Water Act delegation and the state's ability to issue feedlot and other Clean Water Act-required permits. If the MPCA was not able to issue permits for these types of activities Minnesota entities would have to obtain permits from the U.S. Environmental Protection Agency.

A change that would arguably inject uncertainty in the process and result in a slower permitting process. For these reasons, I respectfully request you not include these provisions in your final conference committee report.

I am available to meet with you at any time and hope we can work through the conference committee process to produce legislation that protects drinking water, public health and the environment.

Sincerely,

A handwritten signature in blue ink that reads "Laura Bishop". The signature is fluid and cursive, with the first name "Laura" and last name "Bishop" clearly distinguishable.

Laura Bishop
Commissioner

cc: Alexis Donath, Policy Advisor to Governor Tim Walz
Brandon Hirsch, Policy Advisor to Governor Tim Walz
2021 Agriculture Conference Committee members