



117 South First Street • Montevideo, MN 56265

February 13, 2025

Chair Heintzeman
House Environment and Natural Resources Finance and Policy
Re: H.F. 8

Chair Heintzeman and Committee Members,

CURE is a rurally based, non-profit organization dedicated to protecting and restoring resilient towns and landscapes by harnessing the power of the people who care about them. We appreciate the opportunity to testify in opposition to H.F. 8.

As the committee is aware, the legislature already passed a “permitting reform” bill last year in an attempt to speed up the permitting process for several kinds of projects. Further erosion of environmental review and public engagement in our permitting processes, as is suggested by H.F.8, should not be considered. While we are opposed to H.F. 8 in its entirety, we are especially concerned with Sections 2, 3, 5, 7, 8, and 10.

Section 2 would establish that the failure of an agency to issue a tier 2 permit within the goal of 150 days constitutes a “final decision” for the purposes of judicial review. In practice, this would likely be unenforceable, since Minnesota courts do not reverse expert agency actions that are committed to agency discretion. Essentially, this arbitrary deadline just gets permits denied more efficiently. Section 2 also allows *anyone* to compel an agency to issue an immediate permit decision if the agency has not done so within the allotted time, regardless of the reason for the delay. If obligated to make an arbitrary choice, agencies will be forced to deny permits that they have not been able to fully vet. Allowing any person to rush a permitting decision over the best discretion of an expert agency places industry interests above those of the public and the environment.

Section 3 would require a project proposer to obtain two permits—one for construction and one for operation. Doubling the permitting and environmental review a project would need to undergo does not streamline permitting for the applicant, the public, or the responsible government unit charged with the permitting decision. It adds unnecessary complexity for all and places further stress on under-staffed and under-funded permitting bodies.

Section 5 would place indefensible restrictions on which Minnesotans can speak up about potential environmental impacts of a proposed project. A fundamental piece of our environmental laws is the ability for any person in the state to petition for an Environmental Assessment Worksheets (EAW). To protect against frivolous attempts to delay a project, the responsible government unit has the final say as to whether an EAW is necessary. Section 5 would limit the availability of the petition to only those who live in or own property in the county or a county adjacent to where the proposed action may be undertaken. These restrictions do not reflect the nature of our natural resources, which do not recognize

county lines, the realities of Treaties, or the interests of Minnesotans to enjoy those resources even if they do not live or own property nearby. This also is likely to harm our rural communities where a person may work, live and worship in three different counties. Property ownership and the arbitrary nature of only including adjacent counties will work to harm people with real connections to particular places but who don't own land there. Obviously, renters, family members and caretakers, and other people who don't own the right parcel of land can still be the most impacted individual without meeting this arbitrary standard.

Section 7 creates an ombudsman for business permitting. In the interest of increased transparency, CURE would suggest that it is the public who deserves an ombudsperson to help explain the permitting process, facilitate meaningful and timely engagement, and act as a liaison between government agencies and the public. State agency capture by regulated industries should not be further institutionalized in the structure of state government. These agencies already grant permittees considerable access and show them considerable deference, and the public deserves similar transparency and influence over the public employees that they depend on and pay for.¹

Section 8 would eliminate the requirement for a scoping EAW for projects that meet the threshold for a mandatory Environmental Impact Statement (EIS). This is an arbitrary blinding of the process that will not in any way speed or improve decision-making. A scoping EAW acts as a way to identify potential issues early in the environmental review process. It can, and does, narrow down the issues that will be addressed in an EIS, helping the applicant, the government, and the public move through the permitting process efficiently and with greater clarity. Without a scoping EAW, the scope of an EIS will, in theory, be limitless, adding to the amount of time spent completing an EIS. Alternatively, a responsible government unit might declare the topics to be considered in an EIS without gathering essential public input about the resources the project might impact, or the specific concerns a community may have. This kind of process for process's sake would almost certainly invite legal challenges. Further, without a scoping EAW, an agency will have nothing against which to assess whether an EIS is adequate. In other words, they cannot show their work and demonstrate compliance with the law. A project cannot be permitted without a positive adequacy decision from the permitting agency. Foregoing a scoping EAW will not streamline permitting and will limit the public's ability to effectively weigh in about what potential impacts should be studied.

Lastly, Section 10 creates a statement of intent that businesses come before our communities and our natural resources. It establishes business success and economic growth as the highest priorities and treats the environment and human health as an afterthought. This is antithetical to our fundamental beliefs and laws about how we protect our natural resources for the benefit of all Minnesotans and is contradicted by the policy behind both environmental review and Minnesota's environmental rights laws.

For the reasons above, CURE urges you to oppose H.F. 8.

Sincerely,

/s/ Sarah Mooradian

¹ People Not Polluters, *Agency Failures*, <https://peoplenotpolluters.com/agency-failures>.

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