

April 16, 2018

The Honorable Jeff Backer
593 State Office Building
Saint Paul, MN 55155

The Honorable Jeremy Munson
421 State Office Building
Saint Paul, MN 55155

The Honorable Jim Newberger
371 State Office Building
Saint Paul, MN 55155

Dear Representatives Backer, Newberger, and Munson:

I write today in strong opposition to H.F. 2887, a bill which prohibits the Department of Agriculture's implementation of the Groundwater Protection Rule – a rule the Department has worked on since 2015, in an effort to protect the health of all Minnesotans. This proposed rule has been informed by (and significantly modified based upon) input gathered from more than 1,500 farmers and other Minnesotans at 17 public meetings around the state, and 820 formal written comments. It is now the Department's responsibility under state law to continue that process of public engagement to promulgate a rule in the best interest of all Minnesotans.

The Department has the authority and the responsibility to prevent and mitigate nitrate contamination in Minnesotan's drinking water under the Groundwater Protection Act, passed in 1989. It is critical that we work together to prevent nitrate contamination of drinking water for all Minnesotans – our farmers, landowners, families, and children. As you are well aware, high levels of nitrates in drinking water pose serious health risks to humans, especially young children.

The legislation you have proposed would undermine the Department's authority under the Groundwater Protection Act, and prevent us from working with farmers and landowners to establish standards that would responsibly protect our drinking water and safeguard the health of Minnesotans. I strongly encourage you to allow the Department to proceed with our public rulemaking process established by state law; and give farmers, families in rural areas, and all Minnesotans the opportunity to review and understand the rule and provide their comments to the Department.

From the start, I have been committed to working with all stakeholders, and providing as much transparency as possible in the rulemaking process. Under my direction, the Department released an informal draft of the Groundwater Protection Rule to solicit input from farmers and other Minnesotans to shape our approach to protecting drinking water across Minnesota. This informal draft and public engagement were not required as part of the rulemaking process, but a good faith effort on behalf of the Department to do our due diligence before even beginning the formal rulemaking process.

Representative Jeff Backer
Representative Jim Newberger
Representative Jeremy Munson
April 16, 2018
Page 2

There has been robust public engagement during the entire process. In addition to the outreach described above, I have informed the Governor that my staff and I will travel the state this summer to reach as many farmers and Minnesotans as possible to provide information about how to participate in the rulemaking process so that their voices will continue to be heard. I invite your participation as we hold meetings across the state to ensure that your constituents have opportunities to engage on this important issue.

On March 6, I joined Governor Mark Dayton in releasing the revised framework of the Rule. Since then, my staff has worked diligently to produce the required documents called for under Chapter 14, the Administrative Procedures Act. On April 13, the Department provided the Governor a copy of the Groundwater Protection Rule language and the Statement of Need and Reasonableness (SONAR) as required by statute. Without delay, the Governor signed off on the Rule and SONAR, and has released these documents to be sent to the Office of Administrative Hearings, as required by statute. I will provide the legislature with a copy of the Rule and the SONAR when it is sent to the State Register.

If the Legislature passes H.F. 2287, I will strongly recommend to the Governor that he veto the bill. The hard work my staff has put into this process should be allowed to continue. We have worked on this issue for many years, and it is time to address the challenge of nitrates in our groundwater before the problem is too far out of hand.

As leaders, representing our constituents and Minnesotans, we have the legal and moral obligation to protect Minnesota's drinking water. I look forward to working with you as the Department moves forward with the rule-making process and invite your thoughtful partnership.

Sincerely,



David J. Frederickson
Commissioner

CC:
Governor Mark Dayton
Speaker Kurt Daudt
Minority Leader Melissa Hortman
Minnesota House Legislators