

Izaak Walton League – Session 2017

Results and Reflections + The Path Forward

Note: As I complete this memo, word has come in that President Trump has taken it upon himself to oppose nearly every country in the world over Climate Change at the behest of some of his supporters. I am physically sick. May our grandchildren forgive us this arrogance.

Priority Issues

(Note Scoring Before Issues + and -)

Bonding:

+/- CREP/RIM: Support the funding of this permanent easement program seeking to establish 60,000 acres of expanded buffers, wetlands, and wellhead protection areas to protect and restore waters.

Session Goal: \$30,000,000+ in bonding to kick off the remaining \$94,000,000 state share (of \$150,000,000 total) over five years. This money will be matched by \$350,000,000 in federal funds.

Results: Bonding bill \$10 million. Plus LCCMR (Environmental Trust Fund) \$19.5 million over three years – but most of this was achieved by the legislature defunding renewable energy, climate change and other projects not popular with certain legislators. Also, funds came through the Legacy bill, many of which will qualify for CREP matching \$15 million+.

Reflection: This important and popular issue was used by the majority caucus to provide funding at the expense of other conservation priorities. (“Elections have consequences” and to gut funding of climate change.)

The Path Forward: Stay engaged in bonding bill development for 2018 – suggesting that 100% of the remainder should come from bonding. Stay in contact with BWSR, as the administration started the feeding off of other funds by proposing some of this in the Governor’s budget. The Governor in his signing letter suggested that \$17.25 million more for CREP come from the Clean Water Legacy funds, with the rest from future bonding.

++ Saint Louis River Estuary Clean Up – state funds are needed to match federal Great Lakes Restoration Initiative funds to clean up legacy pollution hot spots. President Trump keeps suggesting zero for GLRI funding, so

locking in the matching dollars while they are still there (through September 30, 2017) is vital.

Session Goal: \$25.4 million

Results: \$25.4 million

Funding

- Forever Green: A research, demonstration and education program at the U of M to investigate and develop cover crops and perennial crops to help protect water quality while supporting farm crop diversification.

Session Goal: Obtaining an on-going stream of \$5 million funding annually.

Result: Forever Green was appropriated \$1.5 million over two years – 25% less than we've been able to achieve over the past four years (\$1 million/yr.)

The Path Forward: The Department of Agriculture may be willing to allocate funds from "AGRI" a research and development fund they have: ask them to do so. Also, come back again for more money – there were no specific opponents to this, just a general unwillingness to spend.

+/- Pollinators: We seek to foster the protection, restoration and wise management of habitats for all native pollinators and honey bees across Minnesota.

Session goals – supporting Department of Agriculture proposals:

- * Establish the authority to track the use of neonicotinoid-coated seeds;
- * Establish and fund a Pollinator Protection Account (for research and education) funded by registration fees on pesticides and general revenue.

Added Goal:

- * Maintain the ability of the Department of Transportation to manage public roadsides owned by the state for pollinators.

Results:

- * The two goals of the Department of Agriculture were not achieved.
- * One million dollars over two years were provided to the U of M for pollinator research in cooperation with the Ag industry. However, half these funds were obtained by refusing to fund a Global Warming local impacts map also by the U of M.

* State ability to require “proof of need” before application of pesticides was prohibited...restricting our ability to protect pollinators from pesticides.

* MNDOT’s ability to permit mowing (or prohibit it) from state roadside right of ways is suspended for a year, (a step backwards) while the Department, in consultation with Ag and Environmental groups develops a recommendation for next year. (SF 218)

https://www.revisor.mn.gov/bills/text.php?number=SF218&version=2&session=ls90&session_year=2017&session_number=0

+ Also, the Transportation bill passed in the special session permits the formation of right-of-way beautification committees, much like Adopt-a-Highway litter control. HF 3, Article 17, Subdivisions 2 & 3.

The commissioner may enter into volunteer agreements with businesses, civic groups, or individuals to support, maintain, and make improvements to real property included in the trunk highway system. Agreements under this section are not subject to section 161.32.

Subd. 3.

Support activities.

(a) The volunteer support activities include but are not limited to:

(1) work to create, protect, and enhance pollinator habitat along highway rights-of-way;

(2) work to pick up litter along roadsides;

(3) work to install enhancements, including landscaping materials, on trunk highway property;

(4) financial support provided to the department for specific roadside improvements;

(5) financial support consisting of the sponsor hiring a professional landscape contractor to install vegetation, maintain landscape plantings, or pick up litter, or for other similar activities along a selected area of highway right-of-way; or

(6) installation of features that enhance the aesthetics of trunk highway property or the amenities available to highway users.

Reflections: We have a long way to go to harness the strong public interest in pollinators and to channel it into meaningful policy and funding in the legislature. The agricultural lobby works powerfully behind the scenes to deflect any thought that pesticides or other agricultural products or practices

might be involved in pollinator declines. We've reached a level of interest that the legislature is using "pollinators" as a reason not to do other things, like research into global warming effects in Minnesota.

The Path Forward:

- Late in the session, Representative Bernardy who is senior on the Transportation Policy Committee expressed interest in promoting pollinator friendly roadside BMPs. She's asked us to develop these for her. Representative Torkelson may be supportive.
- Follow up with the Department of Transportation to be involved in their roadside policy-making process.
- Representative Torkelson has shown his interest in roadside pollinator habitat by including the Adopt a Roadside for Pollinators in the Transportation bill. We should follow up with him.

+ School Trust Lands: We seek to protect all 2.5 million acres of school trust lands from the pressures of economic extractive management, to assure the protection and sustainable use of the natural resources found on these lands for the benefit of current and future Minnesotans.

Session goal: seek a path to buy out the school trust interest in 11,000 parcels the trust administrator wants to sell to the DNR to sustain current uses that have current valuations: 500 acres of designated old growth forest, and 51,000 acres of peat land SNAs, as well as to provide a means to "pay rent" on the remaining 17,000 acres of designated old growth forest that overlies mineral deposits that the Trust wants to retain.

Results: we drafted and introduced with two Republican School Trust Commission leaders as lead authors a bill to do such a buy-out with a "surplus sweep." (HF 2499/SF 2258) Unfortunately, neither the School Trust Commission, nor the legislature at large had the time to hear, much less pass the bill.

Reflections: This represents the best way out of an impending "collision" next year set up by legislation passed five years ago. There will be a lot of attention focused on DNR management that restricts income on School Trust Lands, and these bills offer a way to sustain our public lands without intensifying short-term economic management.

The Path Forward: Work closely with DNR Trust Land Director and Trust Land Administrator in the next six months to be sure the bill is considered by the Trust Commission and is positioned to come between DNR land management and those who'd like to see economics drive all decisions in the next legislative session.

+ **Separation of Mineral Promotion Duties from DNR:** DNR is hindered by conflicting responsibilities to promote mining and to regulate it. They are doing a good job of the former, and have lost credibility as a mining regulator. This harms the reputation of the whole agency.

Session Goal: Reintroduce reform legislation to foster conversation; hopefully gain an informational hearing.

Results: SF 1381/HF 2200 was introduced by Senator Simonson and Representative Schultz, both of Duluth. We did not succeed in getting an informational hearing.

<https://www.revisor.mn.gov/bills/bill.php?f=SF1381&y=2017&ssn=0&b=senate>

Reflection: The power of the mining lobby is not to be underestimated. The last four years they've gotten everything they want from the legislature, no matter who's in charge. Senator Ruud, the Republican Chair of the Senate Environment Committee co-sponsored SF 1381 when introduced and promised a hearing later in the session. In late April, she took her name off the bill, and our hearing promise faded...

The Path Forward: Renew the request for a hearing in the Senate next year. The disgraceful legislation passed this year, restricting rights to a contested case hearing to affected property owners only and several other provisions "negotiated by the DNR" that directly benefit PolyMet illustrate the deep corruption of the DNR mission when it comes to mining issues and the necessity of this legislation.

+ **Prove it First** – non-ferrous mine permits not allowed to be issued unless a similar mine has been operated and closed at least ten years without pollution.

Session Goal: Get the bill introduced for discussion purposes.

Result: SF 2204/HF 2283 was introduced with metro area legislative support.

Following Up on Previous Priorities:

+Elk Reintroduction to NE MN: The Fond du Lac Band of Ojibwa, DNR and other partners are studying the feasibility of elk reintroduction into Carleton and Pine Counties, using funding obtained last year.

However, the Agricultural Policy bill from 2016 included a provision which prohibits DNR from adopting or implementing a plan which would increase an elk herd unless damage to crops or fences from elk declines two years in a row.

2017 Update: We supported the full funding of the wolf and elk depredation account via letter and testimony in the legislature this year. This gave me a chance to work with Representative Fabian on this issue, and to explain the situation in NE MN. He included a provision in the 2017 Environmental Finance and Policy bill limiting the elk herd restriction to four northwestern counties (where elk exist now.) SF 844, Article 2, Section 97.

This probably ranks as one of our “great achievements” this year. However, it illustrates an important lesson: never give up. Reaching out, even to strong opponents can pay dividends.

+Asian (Invasive) Carp Control – We’ve supported measures to keep invasive carp out of Minnesota, and to prevent the spread from the few locations they’ve been found in our state, as well as supporting research and implementation of control measures.

Session Outcome: Permission was granted for the DNR to “license itself” to tag and release invasive carp for purposes of research and control; so-called “Judas Fishing.” SF 844, Article 2, Section 28.

----- Defend Existing Environmental Laws: Last year, this took nearly all our time, and rose to “top priority.” We did succeed with heroic efforts by 1000 citizens at Water Action Day, presence outside the Governor’s Mansion, with thousands of letters, emails and calls in reducing the destruction and rollbacks, but in the end, we went backwards in most aspects of the environment.

+ **Buffers**: Buffers of rivers, streams and ditches is one of numerous practices needed to clean up and protect water quality statewide. Last year's law established firm deadlines to implement prior law requiring such buffers.

Session goal: Maintain existing deadlines for implementation. Prevent loosening of the requirements.

Results: The Governor allowed an enforcement holiday of eight months for buffers on Public Waters. Annual supplemental local governmental aid ranging from \$45,000-\$200,000/county for those that assume responsibility for implementation of the buffer law are funded.

Reflection: Compared to the 1991 Wetland Conservation Act, which took six years of political "kick back" to settle into local practice, I feel we've reached a good place with the passage of this law. Now, many local governments will "own" this policy, and they will be supported financially in the implementation.

The Path Forward: Expect further trash talk and efforts to repeal the buffer law next year. It's all a charade. The majority caucus will drag us through the ringer and then trade more environmental rollbacks or defunding of programs with the Governor to leave the buffer law alone.

----- Moving Backwards on Energy: See the compounding note at the head of this memo. Minnesota is backsliding on energy.

Article 10 of Senate file 1456 (The "Jobs and Energy" bill) does much to delay or forestall energy conservation and renewable energy. It ends the "Made in Minnesota" solar rebate, and reduces incentives for solar elsewhere, it removes state oversight from Municipal and Cooperative power companies (generally serving rural Minnesota) allowing them to charge whatever hook up fees they wish to residents with solar or wind installations. It rolls back mandates for energy conservation and renewable energy for these same power providers. Those of us getting power from Municipal or Cooperative power companies beware.

----- Mining Uber Alles: Mining interests control northeastern Minnesota legislators and Republicans (through the Minnesota Chamber of Commerce)

the Governor and the DNR. They got everything they wanted this year, even if it is unethical and shameful (limiting contested case appeals to affected property owners only – the other 99% of us lose our rights.) SF 844 contains:

- \$1.965 million for outside lawyers to defend DNR and PCA (mining) decisions. This is to supplement more than \$4 million they were given last year for the same reason. No lawsuits against DNR or PCA have yet been filed. Where did the million go?!? Article 1, Section 3, Subdivision 8 (a)
- Article 2, Section 58 severely restricts standing for a petition for a contested case hearing to only persons with property which may be affected by the operation and certain governments. (Directly applying to PolyMet proposal due to back dating.) **Note: last year we blocked this provision in the Senate, which was controlled by Democrats at the time.**
- Article 2, Section 59 obscures judicial review of mining permits by restricting the basis for this.
- Article 2, Section 110 immunizes DNR for mining-related wetland banking decisions that were likely illegal (based on District court ruling in Lake of the Woods County case settled last December) going back 26 years. Let me repeat: *Retroactive immunity for a quarter century of questionable wetland decisions.* Shameful!
- Article 2, Section 111 pre-approves PolyMet’s wetland replacement plan by statute, because it’s in the EIS. This short-cuts review and substitution of better options.

- Upholding DNR Rulemaking Authority to Require Non-toxic Shot: The DNR had been undertaking a deliberative rulemaking process to require non-toxic shot for hunting on WMAs in southern and western Minnesota (“Farmland Region.”) They neglected to finalize the rules when the legislature did not act to withdraw their authority last year.

Results: A provision to withdraw DNR authority to make these rules was inserted by Finance Committee chairs, without a hearing, and, in the Senate, over the objection of the Policy Committee chair, Senator Ruud. In conference, the DNR negotiated a two-year moratorium on such rules, taking this issue into the next administration. SF 844 Article 2 Section 164

+ A \$30,000 study of lead deposition on state lands was funded, which might bring specific information to bear on this issue. Article 1, Section 3, Subdivision 6 (c)

Note: last year we blocked this provision in the Senate, which was controlled by Democrats at the time.

- - - Wetlands Conservation Act Rollbacks: There were three concerning local road impacts, mining mitigation and rare calcareous fens. Sick.

- 1) Early in the session, local road authorities came to the legislature asking to rollback state (wetland conservation act) requirements, because the Board of Water and Soil Resources (BWSR) was out of money to replace the wetlands for them. With chronic underfunding of this successful state/local government partnership and the failure of the bonding bill last year, BWSR had no money to do the job they've been doing for 20 years.

Results: After much testimony and push back, we succeeded in getting \$5 million in cash to buy private wetland credits to “recharge” the bank. The bonding bill provided \$5 of the \$10 million necessary to fully restart the program. The WCA requirements were “temporarily” suspended until the program is fully funded.

- 2) SF 844 Article 2, Section 110 puts DNR Mineral Division fully in charge of all wetland replacements for mining companies – backdated 26 years. After a court decision in a suit brought by Lake of the Woods County said DNR was *not* in charge of wetland banking for mining companies, the DNR worked with the legislature to change the law, rather than appealing it.
- 3) SF 844, Article 2 Sections 112-113 weaken absolute protection that rare calcareous fens have enjoyed since 1991 in favor of "Commissioner's Choice" when it comes to irrigation: crops or fens? They may be “seasonally” damaged by irrigation. The door is open for a pro-industry commissioner to allow fen destruction. There is a single farmer in SW MN that is agitating for this – and his interests prevailed in this legislature.

- - - - More from SF 844, Section 2:

- Section 133 – Rich applicants can pay to have their pollution permits moved to the front of the line, disadvantaging average business.
- Section 140- Project proposers must be allowed to prepare their own EIS, if they wish. They can keep their data and assumptions private! **Fox in the hen house!!!**
- Section 155 Sand Dunes state forest is barred from further conversion towards natural conditions – for two years.
- Section 160 – Sixteen year “holiday” for city waste water treatment plants to meet any new water quality standards. It is not clear that this is allowed by the Clean Water Act; but that’s just another in the annual string of such laws Minnesota has passed in recent years.

- - **Constitutional funds:** Environmental Trust Fund, Clean Water Fund, and the Outdoor Heritage (habitat) fund.

Our goals: 1) Assure that funding goes to the intended purposes, 2) support the recommendations (generally speaking) of the various advisory committees, all of which have citizens on them, and 3) make sure the funds supplement, not supplant traditional environmental funding.

The results:

- HF 707 **Legacy Funding bill** shifts \$22 million in Legacy Funds to pay SWCD staff - cutting 10% of Clean Water project funds. The bill did not, in the end allow "no net gain" counties to block all public land acquisitions: **Senate blocked inclusion of this in bill: thanks are warranted to Senator Ingebrigtsen**; Rep. Green in House is leading this charge, with a lot of support from Reps Fabian, Torkelson and many others.
- SF 550 – Environmental Trust Fund (LCCMR) – projects were politically edited by the House, which then provided the cut funds to Pollinator research (\$500k) and CREP (\$13.5 m additional)

Here are the details of the changes wrought by the House, and reduced by the Senate to SF 550:

The final bill compromised the House/Senate positions by cutting fewer projects out completely (eight vs. 22) - not all from the Global Warming/Energy section. A further four projects were given reduced funding. They softened their directions for future year fundings to “suggestions.”

Cut completely:

- * U of M Climate Data Mapping (funding went to U of M Pollinators \$500k)

- * Climate Generation Youth Outreach
- * U of M workshops to conduct outreach around lead ammunition impacts to raptors
- * U of M Solar cell research
- * U of M Community-scale energy storage for renewable energy
- * U of M Solar power weed control robots
- * Minneapolis River habitat restoration

Reduced funding:

- * County geological atlas
- * DNR increasing diversity in their workforce
- * SNA acquisition and restoration (cut from \$4.5 m to \$2.5 m)
- * Native Prairie Bank (cut from \$3.5 m to \$2.675 m)

Also Dropped from the bill was:

- * \$5 million transfer to counties for buffer aide
- * Mandate to provide up to 25% in future to CREP, substitute language is commission "Shall give priority" to any RIM-related program and activities that protect, restore or preserve natural resources under threat.
- * Mandate to provide funds to small city wastewater needs, substitute an order to LCCMR to consider recommending loans to small cities for wastewater from the corpus of the trust. (This is allowed up to 5% of the corpus in constitution.)

Added was a total of CREP funding (over three years) = \$13,500 million + \$6 million (in LCCMR recommendation).