August 25, 2017

Larry Gunderson
Minnesota Department of Agriculture
625 Robert Street North
St Paul, MN  55155

Submitted via email to: larry.gunderson@mn.state.us

Dear Mr. Gunderson:

The North Star Chapter of the Sierra Club has reviewed the proposed Nitrogen Fertilizer Rule. We appreciate the efforts of the Minnesota Department of Agriculture (MDA) to address nitrate pollution in groundwater and the opportunity to provide input on this rule. We believe that growers are up to the challenge to clean up groundwater in Minnesota, but major adjustments to land use practices and the rule may be needed. Our comments are as follows:

1. The proposed best management practices (BMPs) are the same as those that have been recommended on a voluntary basis for a number of years while groundwater contamination continues to increase. In fact, those BMPs were developed to maximize profit, not restrict nitrogen in the groundwater. The MDA, with its science and evidence based approach, should be promulgating rules based with BMPs based on controlling the nitrogen that goes into groundwater. Further research is needed on BMPs that may be more effective and adapted to Minnesota’s geology and environment. Research on cover crops and their effectiveness has been ongoing, but much more is needed. Other methods to prevent nitrogen fertilizer contamination in groundwater need to be tested.

2. The voluntary approach proposed in the draft rule will not provide the degree and timeliness needed to prevent further groundwater contamination. We understand the majority of growers have already implemented voluntary BMPs and the problem continues. Increased escalation of alternative management practice implementation and commissioner enforcement should be required. The BMPs that are advocated and already being used are not working. It is time for MDA to use its full authority under the statute to test and enforce other approaches.

3. Are there funds proposed or available to support implementation of BMPs and development of the alternative management practices proposed in the draft rule for land purchase of vulnerable areas, well head protection areas, cost of treatment of groundwater with high nitrate concentration used for drinking water?
4. The use of nitrogen fertilizer has increased by 15 percent over the last five to ten years and most is used on corn (approximately 70%). Regulating types of crops planted or amount of crop types per area and encouraging increased crop diversity are other approaches the MDA could consider. There is a need to reduce fertilizer application rates in order to reverse nitrogen groundwater contamination trends.

5. Nitrate contamination in groundwater includes inputs other than nitrogen fertilizer such as manure, tile drains, and surface water contributions. Are these inputs being addressed and regulated in a rigorous manner? If you are serious about meeting the requirements of protecting groundwater as required by statute, the MDA must coordinate with other agencies to develop and enforce a truly effective plan to reduce nitrogen influxes to groundwater.

6. We are concerned that groundwater monitoring will not demonstrate change for a significant period of time after BMPs have been implemented. We need a full bore monitoring and testing approach to obtain a clearer picture of the threat to Minnesota’s groundwater and any progress that is being made. We understand that the MDA has many conflicting pressures that it must respond to, but the draft rule that is being proposed to protect groundwater from nitrate pollution is almost guaranteed to fail. The citizens of Minnesota deserve better, and MDA should develop a rule that meets its statutory requirements.

Thank you for the opportunity to submit these comments. Please feel free to contact us for questions or further information needed.

Sincerely,

Margaret Levin
State Director
Sierra Club North Star Chapter

Steve Ring
Water and Wetlands Committee
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