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Senate
State of Minnesota

June 2, 2010

The Honorable Satveer S. Chaudhary
State Senator
205 Capitol
St. Paul, MN 55155

Subj: Advisory Opinion on Conflict of Interest

Dear Senator Chaudhary:

Your letter of May 27, 2010, requested that the Subcommittee on Ethical Conduct give you an advisory opinion on whether you had a conflict of interest when you proposed and voted for passage of an amendment that became § 54 of article 1 of S.F. No. 2900, the Game and Fish Omnibus Policy Bill, during the 2010 legislative session.

At your request, the Subcommittee held a public meeting on June 2, 2010, at which you explained your request and responded to questions from the Subcommittee.

The Subcommittee determined that you did not have a conflict of interest. This letter serves as a public record of the Subcommittee's advice to you.

1. **Facts**

The facts you have presented to the Subcommittee are as follows:

You were chief author of S.F. No. 2900, the Game and Fish Omnibus Policy bill, which passed the Senate on May 5, 2010. Its chief author in the House was Representative David Dill.

Sometime after April 1, 2010, but before May 12, 2010, you approached Representative Dill with a proposal to impose special fishing regulations on Fish Lake Reservoir. Representative Dill understood that you owned a cabin on the reservoir. You have owned the cabin for more than three years, but it sits on land leased from Minnesota Power. Your lease payment to Minnesota Power is included in your mortgage for the cabin.

You told Representative Dill that the proposal came from your fellow residents of Fish Lake, and that if he wished to know more about it he should contact Senator Bakk. You did not

give Representative Dill any proposed language at that time.

On May 12, 2010, as Representative Dill was presenting S.F. No. 2900 on the House floor, you kneeled beside him at his desk and whispered to him that one of his constituents, St. Louis County Commissioner Dennis Fink, was outside the House Chamber and was available to speak with him about the proposal for special regulations for Fish Lake, if he desired. Representative Dill said he was in the middle of presenting the bill and that he did not desire to leave the floor to speak with Commissioner Fink.

You left the House floor and relayed that information to Commissioner Fink. Commissioner Fink gave you a copy of his letter to you dated April 1, 2010, which said that the "overwhelming majority" of the 30 people who had attended a March meeting convened by the Department of Natural Resources to discuss the walleye fishery on the lake had "agreed that slot limits may be a viable solution."

You returned to the House floor, gave Representative Dill the letter, and suggested to him language that would direct the Commissioner of Natural Resources to adopt special regulations for the lake. You did not give him, or ask anyone else to give him, the language in writing.

You then left the House floor to speak with Commissioner Fink. He hand-delivered to you a letter from him dated May 12, 2010, which said the DNR saw no reason to move forward with plans to implement slot limits on Fish Lake and that you and he should discuss the issue. You discussed it with him at that time. He did not tell you he was withdrawing his support for special regulations or that the residents of Fish Lake no longer supported them. You did not give Representative Dill a copy of Commissioner Fink's May 12 letter, either at that time or later.

Meanwhile, back on the House floor, Representative Dill directed House staff to draft the amendment, which he offered as follows:

Page 19, after line 23, insert:

"Sec. 47. SPECIAL REGULATIONS; FISH LAKE RESERVOIR; ST. LOUIS COUNTY.
By March 1, 2011, the commissioner of natural resources shall adopt special regulations for Fish Lake Reservoir in St. Louis County under Minnesota Statutes, section 97C.005. The special regulations shall be effective beginning with the 2011 fishing season."

The amendment was adopted. JOURNAL OF THE HOUSE 12740 (103rd Day, May 12, 2010).

Differences between the bill as passed by the Senate and the bill as passed by the House were resolved by a conference committee, chaired by you and Representative Dill.

b. **Conduct That Violates Accepted Norms of Senate Behavior or Betrays the Public Trust**

Senate Rule 56.3 says that "Improper conduct includes conduct that violates a rule or administrative policy of the Senate, that violates accepted norms of Senate behavior, that betrays the public trust, or that tends to bring the Senate into dishonor or disrepute." The rules and policies of the Senate provide no further definition of what " violates accepted norms of Senate behavior, that betrays the public trust, or that tends to bring the Senate into dishonor or disrepute." That is left to be decided by the Subcommittee on Ethical Conduct and the Senate on a case-by-case basis.

3. **Opinion**

a. **Conflict of Interest**

You did not have a conflict of interest when you suggested and voted for passage of the Fish Lake Reservoir amendment that became § 54 of article 1 of S.F. No. 2900, the Game and Fish Omnibus Policy Bill, during the 2010 legislative session.

A conflict of interest relates to an action or decision by a member of the Senate that substantially affects the member's personal financial interests. The amendment directed the Commissioner of Natural Resources to adopt special regulations for Fish Lake Reservoir, but it did not say what those regulations must provide. Depending upon the regulations adopted, they might, or might not, improve the walleye fishery in Fish Lake Reservoir and they might, or might not, improve property values around the lake. If the regulations had the effect that you intended, and did improve the walleye fishery, any personal financial benefit to you would be pure speculation. In any event, the bill has been vetoed, and will not become a law.

b. **Violate Accepted Norms of Senate Behavior, Betray the Public Trust**

The Subcommittee is of the opinion that, while your conduct did not violate any rule or policy of the Senate, it did violate accepted norms of Senate behavior and threaten public confidence in our legislative institution and its processes.

Senators should at all times conduct their legislative actions in an open, honest, forthright manner, especially when they may be perceived to have a financial or personal interest in that action.

The proposal for special fishing regulations on Fish Lake Reservoir was not a last-minute issue. Having surfaced in March and April, there was plenty of time for you to have introduced

it as a separate bill and held a hearing on it in your committee, even if it was ultimately considered as an amendment to the omnibus bill on the floor. A hearing would have permitted the committee to hear the arguments, not only of lake residents who supported or opposed it, but also of the DNR and others whose concerns with the issue transcended this one lake.

A senator is expected to speak truthfully when describing a proposed amendment: who wants it, who supports it, and who is opposed to it. When you told the members of the conference committee that the amendment had been added by the House, you should have disclosed your role in suggesting the amendment to Representative Dill.

The Subcommittee appreciates your willingness to bring this matter before it, to answer the questions of the Subcommittee, to acknowledge your errors, and to attempt to correct them.

Your conduct in supporting passage of the Fish Lake Reservoir amendment may have been well intentioned, but it was not what the Senate expects of one of its members.

Sincerely,

James P. Metzen, Chair
Subcommittee on Ethical Conduct

JPM:PSW

cc: Senator Dennis R. Frederickson
Senator Linda Scheid
Senator Bill G. Ingebrigtsen
Peter S. Wattson, Senate Counsel