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March 6, 2023

Senator Foug Hawj  
Senate Environment, Climate, and Legacy Committee  
3231 Minnesota Senate Bldg.  
St. Paul, MN 55155

Dear Chair Hawj and Members of the Environment, Climate, and Legacy Committee:

I am writing on behalf of Minnesota Trout Unlimited in support of SF 68.

We also write to urge that the Committee amend SF 68 to include a provision requiring state agencies to identify laws, rules, and regulatory practices that should be changed in order to prevent fish kills in southeast Minnesota.

Minnesota Trout Unlimited is a grassroots conservation organization working to protect, restore and sustain coldwater fisheries and their watersheds across Minnesota. Our several thousand members living and working in communities around the state understand that activities on the land determine the quality of the water in streams and lakes, and the health of trout and aquatic organisms that live in these waters. We have been improving stream habitat since the 1960s. Since 2009 we have restored habitat in and along 100 miles of Minnesota streams.

In late July 2022 a large fish kill occurred on Rush Creek, a prized trout stream in Winona County. This is the fourth major fish kill within a 15-mile radius in the past seven years: the South Branch of the Whitewater River in 2015, Garvin Brook in 2019, Trout Valley Creek in 2021, and Rush Creek in 2022. Following the 2015 fish kill on the Whitewater River, the Department of Natural Resources developed a Fish Kill Investigation Manual in 2017 to guide future investigations by the MNDNR, as well as the Minnesota Pollution Control Agency and Minnesota Department of Agriculture.

The agencies' responses to the Garvin Brook, Trout Valley Creek, and Rush Creek fish kills illustrate that the existing fish kill response protocol is not adequate. The agencies responses have been too slow, have failed to provide even basic information to the public in a reasonable timeframe, have failed to include early involvement by the Department of Health, have failed to notify nearby landowners whose drinking water might be impacted by the activities that caused the fish kill, and failed to address the systematic failures of current laws, rules, and regulatory procedures in southeast Minnesota.

Agency responses to fish kills can be improved by:

- Increasing the speed of the initial response on the ground;
- Integrating the Department of Health in investigations;

- Including a communications plan to notify downstream users and well owners;
- Requiring identification of laws, rules, and regulatory processes that should be revised to prevent future fish kills;
- Requiring periodic update of the protocol;
- Codifying internal agency guidance to ensure the protocol is followed.

For these reasons and more Minnesota Trout Unlimited urges the passage of SF 68.

### **Unique landscape and world-class fishery in southeast Minnesota.**

The southeast corner of Minnesota is a unique area dominated by karst features such as sinkholes, disappearing streams, numerous springs, and steep slopes draining to cold trout-rich waters. Fractured and dissolved limestone at or near the surface and numerous sinkholes connect the surface of the land to groundwater systems and springs. Surface water runoff can quickly enter groundwater (drinking water) and streams. Even modest rainfall events can wash manure, pesticides, and herbicides applied to the land into streams and underground waterways.

The springs that emerge in the stream valleys provide cold base flow that supports a world class trout fishery. This “driftless area” or “Paleozoic Plateau” draws anglers from around Minnesota, the region, and farther away. An economic study conducted in 2016 determined that trout angling in southeast Minnesota generates more than **878 million dollars in economic activity annually**. The number of trout anglers has grown by approximately 20% since that study and the economic boon to southeast Minnesota and the State now likely exceeds **1 billion dollars per year**.

### **Provision needed to address inadequate laws and rules in southeast Minnesota.**

The press releases and reports from investigations of devastating fish kills on the Whitewater River (2015), Garvin Brook (2019), and Rush Creek (2022) share similar conclusions and reveal persistent shortcomings:

- Applications of manure and pesticide washed off the land by rainfall were identified as the likely causes of each fish kill;
- Pinpointing the exact parcel or source of pollutants with 100% certainty is very difficult, due to the dilution effect of flowing water flushing the pollutants downstream before dead fish are discovered;
- The agencies are aware of how the karst setting accelerates polluted runoff into springs and streams;
- The agencies fail to acknowledge the continuing risk posed by applications of manure and pesticides given the karst topography and regular rainfall patterns;
- The reports fail to discuss the need to reexamine application rules and apply risk management principles to prevent future fish kills.

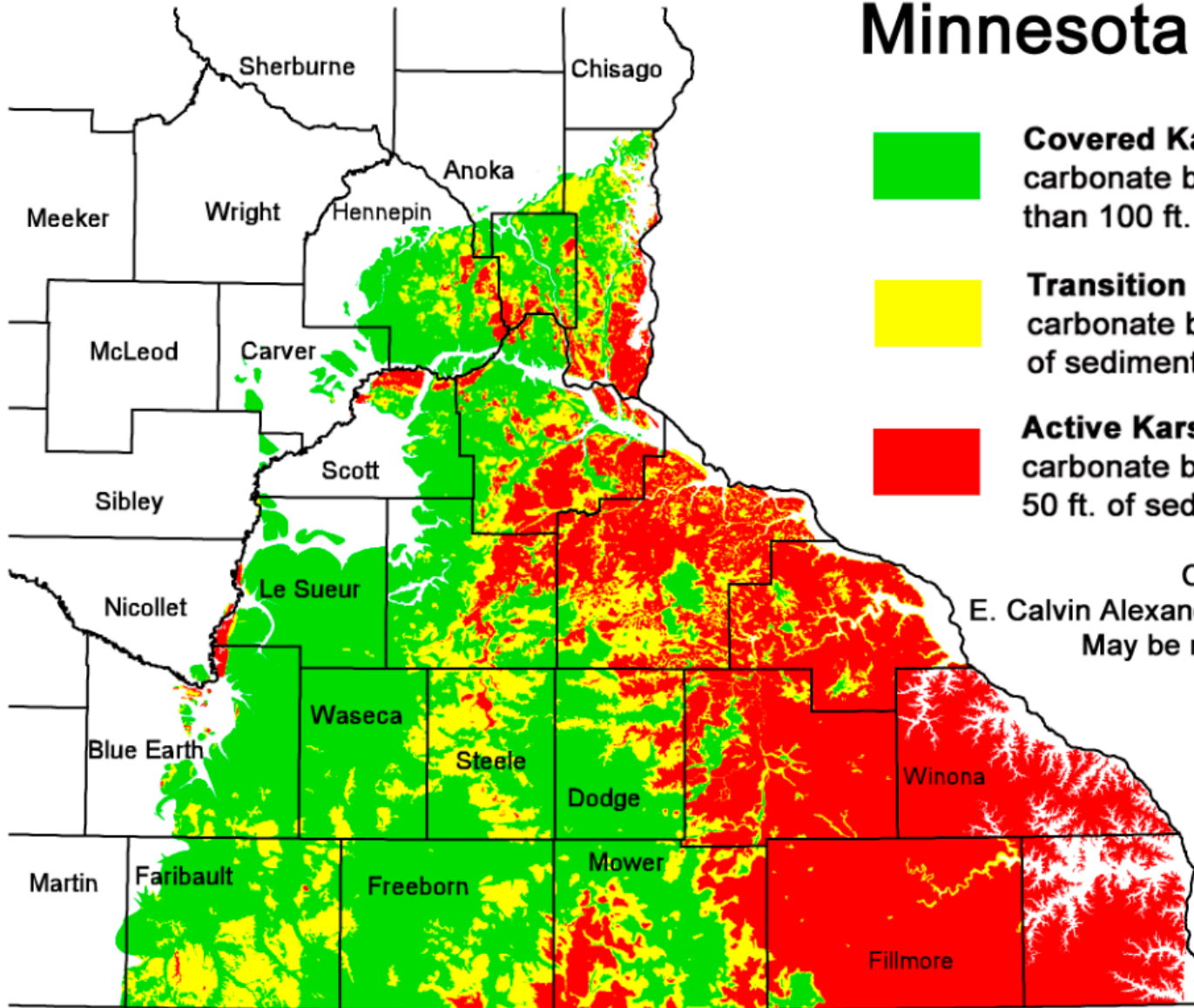
Enacting statewide fish kill reporting requirements and codifying an improved agency response protocol is important. However, in southeast Minnesota where all the major fish kills have occurred, the agencies (MDA, MNDNR, and MPCA) already know enough to identify laws, rules, and regulatory procedures that should be changed in order to prevent further fish kills in this uniquely sensitive landscape. Consequently, we urge that the Committee amend the bill to include a provision requiring that by January 2024 the state agencies recommend changes needed in order to prevent fish kills in southeast Minnesota.

Sincerely,

John Lenczewski

Attachments (2)

# Minnesota Karst Lands



**Covered Karst.** Areas underlain by carbonate bedrock but with more than 100 ft. of sediment cover.

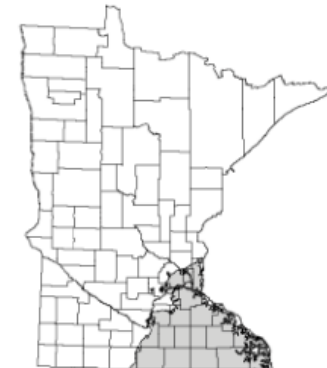


**Transition Karst.** Areas underlain by carbonate bedrock with 50 - 100 ft. of sediment cover.



**Active Karst.** Areas underlain by carbonate bedrock with less than 50 ft. of sediment cover.

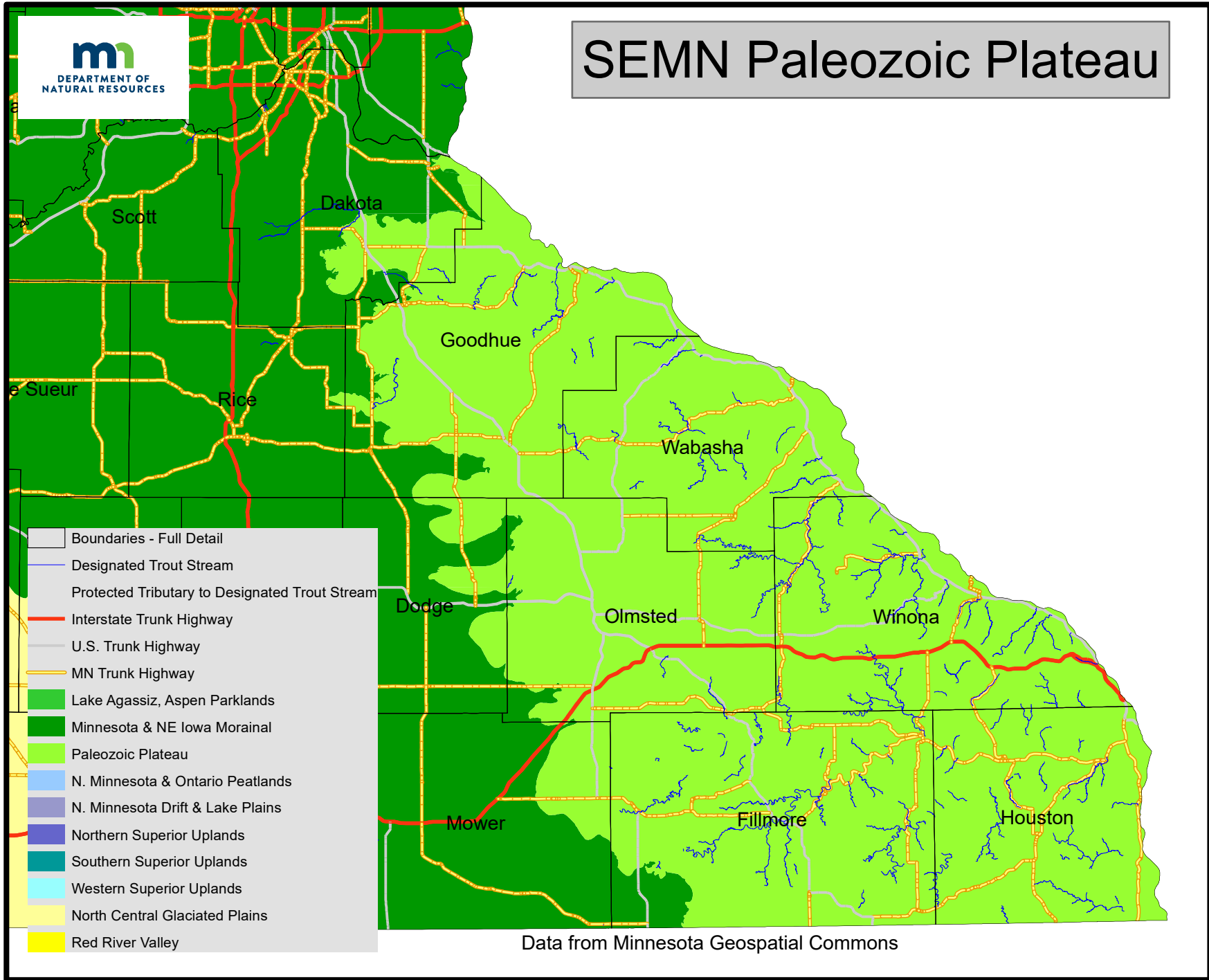
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50 0 50 100 150 Kilometers

50 0 50 100 Miles

# SEMN Paleozoic Plateau



Data from Minnesota Geospatial Commons