SENATE COUNSEL, RESEARCH, & FISCAL ANALYSIS

MEMO

To: Members of the Senate Committee on Environment, Climate, and Legacy

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RE: Effect of Recognizing the Inherent Right of Wild Rice to Exist and Thrive

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This memorandum responds to questions that have arisen regarding the effect of bill language that would "recognize the inherent right of uncultivated wild rice to exist and thrive in Minnesota."

Please note that this memo is not binding or conclusive. It is solely an informed interpretation based on a review of prior precedential decisions issued by Minnesota appellate courts. Issues regarding statutory interpretation are ultimately decided by the judicial branch.

The language at issue originally appeared in S.F. 1247 as part of a proposed statute that would set the state's wild rice policy. Since the bill's introduction, amendments have been proposed, including amendments that would recognize the "innate significance" of uncultivated wild rice or its "importance" as opposed to its "inherent right" to exist. Our analysis makes no distinction between the exact wording used because we believe that the legal analysis remains the same no matter which words are used.

For the reasons stated below, we do not believe that this language creates a private cause of action. However, we note that litigants and courts may rely on statutorily codified legislative findings, purpose, or policy statements in other limited ways.

I. RECOGNIZING THE RIGHT OF UNCULTIVATED WILD RICE TO EXIST AS PROPOSED IN S.F. 1247 DOES NOT CREATE A NEW CAUSE OF ACTION.

Courts are reluctant to recognize a statutory cause of action without express language providing one.[1] Since there is no language in S.F. 1247 that expressly creates a cause of action for the protection of wild rice, the question is whether language recognizing the inherent right of wild rice to exist creates an implied cause of action.

The Minnesota Supreme Court has held that an implied cause of action exists only where one is created "by clear implication"[2] and the court has traditionally been reluctant to find that this requirement is met. As recently as 2021, for example, the court held:

[1] *Becker v. Mayo Found.*, 737 N.W.2d 200, 207 (Minn. 2007).
[2] *Id.*

> "In determining whether a private cause of action is clearly implied, we look to the language of the statute in question and its related sections. We cannot add words to the statute that the Legislature did not supply."[3]

In 2023, the court further held that including language purporting to confer a "right" does not alter this analysis:

> "We have never adopted the interpretive principle that the stand-alone fact that a statute expressly identifies the class that the Legislature intended to benefit, or uses the term "right," means that the Legislature implicitly intended to create a private right of action to secure that right…."[4]

This holding is notable not only because it squarely refutes the notion that language purporting to confer a right is sufficient, by itself, to create an implied cause of action, but also because the statute at issue was one designed to protect the rights of human beings in the healthcare setting[5] and not merely natural resources.

For these reasons, we do not believe that language recognizing the inherent right of wild rice to exist creates a new cause of action.

II. A STATE POLICY RECOGNIZING THE INHERENT RIGHT OF WILD RICE TO EXIST MAY BE USED FOR OTHER PURPOSES RELATED TO LITIGATION.

Although we do not believe that language recognizing the inherent right of wild rice to exist creates a cause of action, it is nonetheless possible that statutory language recognizing the inherent right of wild rice to exist may be cited in litigation as support for another proposition. For example, generally courts look at the relevant statutory language to interpret its plain and ordinary meaning.[6] However, when a statute is susceptible to more than one interpretation, courts may look beyond the specific statutory language.[7] In doing so, a litigant may use a statutorily recognized purpose, policy, or findings statement to persuade a court to rely upon one interpretation over another. Attempting to anticipate how exactly this may transpire would be speculation on our part, but we want to be clear that although the language at issue does not create a cause of action, the language may be cited in court filings for purposes separate and apart from the issue of whether the language creates a cause of action.

[3] *Halva v. Minnesota State Colleges & Universities*, 953 N.W.2d 496, 504 (Minn. 2021) (internal quotations and citations omitted).
[4] *Findling v. Group Health Plan, Inc.*, 998 N.W.2d 1, 21 (Minn. 2023).
[5] The Minnesota Health Care Bill of Rights (Minnesota Statutes § 144.651).
[6] *State v. Struzyk*, 869 N.W.2d 280, 284 (Minn. 2015).
[7] *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017)