

Minnesota
STATE PLANNING AGENCY

Room 100 Capitol Square Building
550 Cedar Street St. Paul, MN 55101

February 19, 1985

Bob Dunn, Chairman
Minnesota Waste Management Board
7323 58th Avenue, North
Crystal, Minnesota 55428

Dear Bob:

Attached is the letter which I have transmitted to the Governor summarizing the work of the Superfund Task Group.

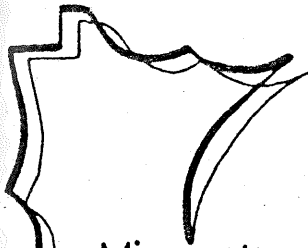
We received a number of comments on the proposed letter to the Governor which we previously sent to you for review. From those comments, it became clear to me that the most appropriate method of communicating the results of our work was in a letter such as the one which I have forwarded to the Governor.

I firmly believe that the task group made excellent progress in addressing the major issues. While we were not able to arrive at a consensus on a package of recommendations to the Governor, we made progress beyond what many of you indicated to me you believed would be possible. We have agreed to continue to explore ways in which an agreement can be reached. I thank you for the effort which you have put toward resolving issues surrounding MERLA to date, and look forward to continuing to work with you in the future.

Please contact me or Jack Ditmore of my staff if you have further comments or advice on this important issue.

Sincerely,

Tom Triplett, Director
(612) 297-2325



Minnesota
STATE PLANNING AGENCY

Room 100 Capitol Square Building
550 Cedar Street St. Paul, MN 55101

February 14, 1985

The Honorable Rudy Perpich
Governor of the State of Minnesota
State Capitol
St. Paul, Minnesota 55155

Dear Governor Perpich:

At your request, in December 1984, a task group was formed to review the personal injury liability provisions of the Minnesota Environmental Response and Liability Act ("MERLA" or "Superfund").

I chaired the 17-member task group which met six times between the end of December, 1984 and February 1, 1985. The task force was composed of an equal number of representatives of the business community and environmental interests. It also included representatives of state and local government and a representative of trial lawyers. The roster of members is attached. If you are interested, I can supply you with the minutes and working papers of the group.

The task group identified five major issues with respect to the personal injury liability provisions of MERLA. These were (1) municipal liability limits, (2) causation, (3) strict liability, (4) joint/several liability, and (5) retroactive application of strict and joint/several liability.

I am pleased to report that the task group made excellent progress in addressing the major issues. However, the task group agreed from the outset that any amendments to MERLA must be considered as a package, with changes in one section contingent on considerations in another. At this time, the task group has not been able to agree on a total package. The discussion which follows reflects the progress of the task group.

In respect to the issue of municipal liability caps, the task group concludes that the general issue of local and state government tort liability should be referred to your newly created Advisory Council on State-Local Relations for study during this next year. The consensus of the group was that amendments to MERLA's liability limits should not be made prior to the completion of this review.

The issue of causation generated much interest within the insurance and business communities. In order to help improve the availability of environmental liability insurance for Minnesota businesses, the task group concludes that the causation section of MERLA can be repealed without significantly changing the ability of victims to

recover damages for their injuries in a court of law. However, any proposed MERLA amendments to this section should include a "savings clause" noting this intended reliance on common law.

In a package proposal, the task group would recommend no change in the MERLA language relating to the imposition of strict liability. This language is the essence of the personal liability coverage of the Act.

The task group further concludes that the MERLA language relating to joint and several liability, and limitations on recovery if joint and several liability are determined, can be repealed as part of a package of MERLA amendments without significantly altering the thrust of the law. The task group believes that the existing statutory and common law is adequate on this point. Again, any proposed MERLA amendments should include a "savings clause" noting the intended reliance on common law.

The task group was unable to finally resolve the retroactivity issue. Task group members generally agree that MERLA could be made effective after July 1, 1983 (the effective date of the original MERLA legislation), but the environmental and governmental representatives to the task group believe that alternative protection (e.g., a victims' compensation fund or other compensation mechanism) is necessary if the retroactivity provision of the current law is removed. The business representatives to the task group are not now prepared to accept this need.

Although the task group was not able to reach consensus on the latter issue, all members have agreed to continue working toward agreement. The groups represented on the task group have appointed persons who will work to assess the need for a special means of providing compensation to victims of releases of hazardous substances which were deposited prior to July 1, 1983. If a need is determined, we will submit to you recommendations on how this need can best be met.

In summary, we will continue to work toward a package of MERLA amendments. In the interim, each group will respond to legislation as it is introduced in its own way.

I am encouraged that the task group made progress beyond what many of its members believed was possible. Please call on us if you need additional comment or advice.

Sincerely,



Tom Triplett, Director
(612) 297-2325

cc: Task group members

SUPERFUND TASK FORCE

Jon Seltzer
Super Valu, Inc.
P.O. Box 990
Minneapolis, MN 55440

William Faulkner
1800 Amhoist Towers
St. Paul, Minnesota 55101

Sue Robertson, Director
Legislative Commission on
Waste Management
Room B46, Capitol Building
St. Paul, Minnesota 55155

John Tunheim
Office of the Attorney General
Room 102, Capitol Building
St. Paul, Minnesota 55155

Mike Rhyner /Natalie Haas (Anoka Co. Comm)
Association of Minnesota Counties
555 Park Street
St. Paul, Minnesota 55155

Mike Robertson, Assistant Executive
Director
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Bob Dunn, Chairman
Minnesota Waste Management Board
7323 58th Avenue, North
Crystal, Minnesota 55428

Reynard Harp, Deputy Commissioner
Minnesota Department of Commerce
5th Floor, Metro Square Building
7th and Robert Street
St. Paul, Minnesota 55101

Joseph Grinnell
930 Lumber Exchange
10 South 5th Street
Minneapolis, Minnesota 55401

Andrew Mitchell
Larkin, Hoffman
1500 NFC Building
7900 Xerxes Avenue, South
Minneapolis, Minnesota 55431

Erika Sitz, President
Izaak Walton League
Minnesota Division
3255 Hennepin Avenue, Suite 109
Minneapolis, Minnesota 55408

Peggy Ladner, State Director
Clean Water Action Project
2395 University Avenue
St. Paul, Minnesota 55114

Joel Jamnik
League of Minnesota Cities
183 University Avenue
St. Paul, Minnesota 55101

Ralph Marlatt, President
Insurance Federation of Minnesota
1310 Pioneer Building
St. Paul, Minnesota 55101

Winston Borden, President
Minnesota Association of Commerce
and Industry
200 Hanover Building
480 Cedar Street
St. Paul, Minnesota 55101

John Carey
Minnesota Trial Lawyers Association
906 Midwest Plaza East
Eighth and Marquette
Minneapolis, Minnesota 55402

Tom Triplett, Director
State Planning Agency
Room 100, Capitol Square Building
St. Paul, Minnesota 55101