

March 5, 2024

The Honorable Aric Putnam  
Minnesota Senate  
3215 Minnesota Senate Bldg.  
St. Paul, MN 55155

The Honorable Athena Hollins  
Minnesota House of Representatives  
471 State Office Building  
St. Paul, MN 55155

Re. limited liability legislation for Smart Salting-certified chloride applicators

Representative Hollins & Senator Putnam,

The undersigned organizations represent diverse interests and perspectives on winter maintenance of walkways, parking lots and other impervious surfaces on private property in the state. We very much appreciate that you recognize the increasing impact on Minnesota's water from the use of chloride compounds to remove snow and ice from roads, sidewalks and parking lots, and your introduction of legislation addressing the issue.

We write in support of legislation providing liability protection to private property owners and commercial property maintenance professionals and firms who have been certified by and retain certification from the Minnesota Pollution Control Agency on best practices for snow and ice removal. We all agree that the principal features needed in law include:

- A limitation on liability exposure for certified applicators and property owners who employ or hire them, unless the property or applicant is negligent. (That is, the appropriate standard is negligence, not gross or willful or wanton negligence.)
- Designation of MPCA's existing Smart Salting program as the source of certification, with inherent administrative authority to contract with companies and individual training providers, rather than a requirement that the agency authorize third-party certification providers.
- A three-year certification term ideally; five years at the longest.

The gross negligence standard that appears in the present bills is contrary to public policy in that it would provide liability protection for negligent acts. In addition, protection from negligent acts would be inconsistent with other similar limitations in state law (e.g., Minnesota Statutes section 466.03, subdivision 4, providing for exclusion for a municipality from the liability protection when conditions are affirmatively caused by the negligent acts of the municipality). Our experience and analysis suggest that a bill providing liability relief for negligent acts (i.e., that included a gross or willful or wanton negligence standard for liability to attach) would face opposition that has scuttled prior

legislation. With this in mind, we urge consideration of revisions to the current bills to reflect the criteria outlined above.

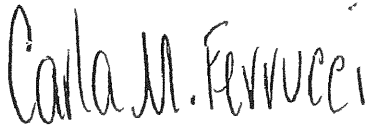
Beyond the insights into the operation of such a chloride-use certification available to you from the Minnesota Pollution Control Agency, our organizations possess significant relevant experience and would be glad to respond to any request for background, testimony or other information or support from you.

Sincerely,



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Jan Voit, Executive Director  
Minnesota Watersheds (formerly Minnesota Association of Watershed Districts)



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Carla Ferrucci, Executive Director  
Minnesota Association for Justice



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Kathryn Hoffman, Executive Director  
Minnesota Center for Environmental Advocacy



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Sue Nissen, Founding Member  
Stop Over Salting



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Michelle Stockness, Executive Director  
Freshwater Society