Chair Hawj and the Members of the Committee,

Thank you for the opportunity to testify in opposition to SF 3677. MCEA is a non-profit advocacy and law organization that has been defending Minnesota's environment and people for over 50 years. MCEA has been involved as a stakeholder in the ongoing rulemaking process on the Minnesota Wetland Conservation Act (WCA) currently being undertaken by the Minnesota Board of Water and Soil Resources (BWSR).

2024 changes to the WCA in statute changed the language of the agricultural exemption to be based off the Natural Resources Conservation Service (NRCS) certifications of lands as being prior converted cropland. These certifications are based around federal wetland rules around agriculture commonly referred to as "swampbuster".

MCEA does agree with the bill author that there are feasibility concerns around this new NRCS determination exemption, and we also see the potential for poor environmental outcomes. A chief practical issue in this case is that NRCS certifications are not public data, and there is little ability for local government units or BWSR to sufficiently determine if a certification provided by a landowner meet the requirements that it has been consistently used for agricultural purposes. This could lead to outcomes where a parcel certified as prior converted cropland historically has been subsequently abandoned for agricultural uses without an updated wetland certification. It could be eligible for the exemption nonetheless.

MCEA opposes this bill because this small carve-out approach is not the right fix. It retains the NRCS-based agricultural exemption statewide and sets up individual exemptions for districts represented by legislators, all while active rulemaking on this issue is occurring.

There are numerous issues with tying state law to determinations made by a federal program, especially in a time when the federal government is stepping back in its responsibility to protect natural resources. The issue of NRCS-based agricultural exemptions to WCA merits more discussion about possible legislative improvements, not a quick band-aid fix. We need to better understand what the future impacts of the transition to an NRCS-based standard for this exemption are and take a wholistic approach to improving statutory language on this issue.

Sincerely,

Andrew Hillman
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