

Testimony of
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Huron River Watershed Council

To the

Michigan State Senate
Local Government Committee
On Senate Bill 662

February 6, 2024

Dear Chairwoman Klinefelt and Members of the Michigan State Senate Committee on Local Government, my name is Rebecca Esselman, and I am the executive director of the Huron River Watershed Council and I'm here today to provide testimony on Senate Bill 662, sponsored by State Senator Rosemary Bayer, whose district represents a portion of the Huron River watershed in Oakland County, Michigan.

For your background, the Huron River Watershed Council (HRWC) is a non-profit public interest and research organization established in 1965 in accordance with 1964 PA 253 (MCL 324.31101 – 324.31105). HRWC exists to promote holistic watershed management and to restore and protect the ecological integrity of the Huron River, its tributary streams, lakes, wetlands, groundwater, and surrounding landscapes. HRWC monitors the Huron River, its tributaries, lakes, and groundwater, and it leads programs on pollution prevention and abatement, wetland and floodplain protection, public education, and natural resource and land-use planning in support of communities, community leaders, residents, and commercial enterprises throughout the Huron River watershed.

Since 2013, HRWC has engaged with dam operators on the Huron River to improve the health of the river and public safety. The Huron River Dams Network addresses issues such as dam safety, climate resilience and river health. In partnership with HRWC, network members established environmental flow targets that would accomplish key ecosystem health goals, for example, maintaining a minimum volume of water in the river below a dam during times of drought to protect aquatic life like mussels, insects, and fish, and minimizing changes in flow below dams

during critical spawning times to ensure fish can reproduce successfully and maintain a robust fishery. A known barrier to being able to meet these environmental flow targets is the lack of support for some lake level variability in those waterbodies with legal lake levels under the provision of Part 307 of NREPA 1994 PA 451.

SB 662 is of great significance to HRWC and its constituent members, as well as other watershed conservation groups throughout the state of Michigan, because actions taken to regulate the flows of surface and groundwaters to maintain lake levels have profound and ongoing impacts to the ecological health and natural resource functions of riverine systems.

Proposed changes to Part 307 of NREPA 1994 PA 451 as indicated in SB 662 begin to address a critical shortcoming of the existing statute pertaining specifically to the definition of “normal level”. For the past week, we have been part of a legislative work group that included Senator Bayer’s office, the Michigan Department of Environment, Great Lakes and Environment, the Michigan Association of Counties, the Michigan Association of Drain Commissioners, the Michigan Environmental Council, the League of Conservation Voters, and other interested parties. Collectively, we have agreed to a definition of “normal level” for the levels of water of an inland lake around which levels can fluctuate and provides the most benefit to the general public.

Normal lake levels are naturally dynamic—not static, and “maintaining” normal lake levels for waterbodies with, or pursuing, legal lake levels through the State, must take natural variation into account in order to protect ecosystem health. Maintaining a set lake level with no variation (i.e. static) is both infeasible and detrimental to lakes, rivers, and wetlands.

The movement of water across the landscape (hydrology)—not merely the presence of water—is a primary factor that shapes the form, function, and health of rivers, as well as the lakes, deltas, marshes, and wetlands connected to them. It defines the channel configurations, habitat values, water temperatures, and species compositions of those waters and their shores. Each river system has its own unique natural flow regime, and especially for the rivers themselves and lakes

connected directly to them, that regime is in a constant state of flux as conditions continually change given precipitation events, changing temperatures, ongoing evaporation, freezing and thawing, groundwater inflows and outflows, and other such natural events.

Because of that natural state of constant flux, plant and animal life of rivers and lakes are all best adapted to, and most healthy when that variability can persist. Modifications of the natural flow regime, like those seen when dams and other control structures are put in place, take those river and lake systems out of balance, which negatively impact our natural resources.

Revisions, to the natural resources and environmental protection act proposed in SB 662, begin to make more explicit the natural resource benefits that should be considered when implementing legal lake levels. These benefits should be given as much weight as other named benefits in the bill which include public health, safety and welfare, and property value. To do so, the definition of normal lake level must allow for some water level variation.

Thus, the Huron River Watershed Council supports Senate Bill 662 as revised.

Thank you for your time and consideration. I am willing to answer any questions that the committee may have.