

# WATER LEAGUE

*Water League engages the public  
in water stewardship.*

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**In Memoriam**  
John L. Gardiner

April 26, 2025

To: House Committee on Agriculture, Land Use, Natural Resources, and Water

Representative Ken Helm, Co-Chair  
Representative Mark Owens, Co-Chair  
Representative Sarah Finger McDonald, Vice-Chair  
Representatives Court Boice, Annessa Hartman, Bobby Levy, Pam Marsh,  
Susan McLain, Anna Scharf

RE: Water League supports SB 74 A, which allows the state to assert ownership of the current locations of submerged and submersible lands of a waterway that was determined to be navigable at the time of statehood, or is otherwise navigable-for-title, and if challenged by landowners, to revert to the process of determining ownership based on common law accretion and avulsion principles.

Dear Co-Chairs Helm and Owens, Vice-Chair Finger McDonald, and committee members,

SB 74 A acknowledges that the state has not regularly mapped the geomorphological changes in waterways that were navigable-in-fact at the time of statehood, and that the state has difficulty in understanding whether those boundaries changed by avulsion or accretion. To correct for not sufficiently tracking changes in river locations since 1859, the state has proposed a voluntary process that includes the possibility of all relevant parties accepting the current locations as the locations of the rivers.

The bill assumes that the state holds title to the submerged and submersible lands of waterways that were navigable-in-fact at the time of statehood and streamlines the process for recording deed claims to clarify current ownership boundaries that resulted regardless of whether by avulsion or accretion. The logic

of SB 74 A is that it makes sense to track ownership of submersed and submersible lands if, indeed, those lands have been continuously tracked; but when they have not, then it is also sensible for the state to establish waterway locations by simply accepting the current river locations as the locations of the rivers with the consent of private property owners.

SB 74 A addresses the conflict between the Public Trust Doctrine's requirement that the state hold title to submersed and submersible lands of navigable waterways and the conflicting common law standard that avulsion does not relocate private and public ownership boundaries. SB 74 A does not change the avulsion standard; rather, it concedes to it only when private property owners request the application of the avulsion standard. In fact, the state is willing to take a loss in trade to ensure ownership of the submersed and submersible lands when seeking a trade in deeds.

SB 74 A attempts to reset public and private property locations through voluntary participation as a new starting point. Going forward, after the proposed land ownership resolutions that SB 74 A envisions, avulsions will be more easily tracked using modern satellite technology. Water League supports this common sense approach to resolving the question of public and private ownership of submersed and submersible lands associated with navigable waterways.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Hall", with a stylized, cursive script.

Christopher Hall  
Executive Director