

**MINNESOTA ENVIRONMENTAL QUALITY BOARD**  
**MEETING MINUTES**  
**Thursday, January 15, 2004**  
**Pollution Control Agency Board Room**

**EQB Members Present:** Robert A. Schroeder, Bruce Bomier, Jerome Deal, Art Dunn, Marcia Farinacci, Susan MacCarville, Mary Mellen, Gene Merriam, Glenn Wilson and Paige Winebarger

**Also Present:** Paul Strandberg, Department of Agriculture and Kristen Applegate, Pollution Control Agency

**EQB Members Absent:** Jonathon Bloomberg, Sheryl Corrigan, Gene Hugoson, Matt Kramer, Dianne Mandernach, and Lt. Governor Molnau

**I. Adoption of Agenda and Minutes from the December 18, 2003 Environmental Quality Board Meeting**

Commissioner Merriam made a motion that the Agenda and Minutes be adopted and Director Dunn seconded. That motion carried.

**II. Chairs Report:**

**III. Executive Director's Report:**

Mr. Sullivan summarized the handouts which consisted of two correspondences from Larkin Hoffman Law firm dealing with the Hutchinson Utilities issue. The correspondence outlines issues the City of Hutchinson is raising through the legal counsel who will deal with potential litigation. Your staff has been working with the Department of Natural Resources and the Pollution Control Agency on the issue of timber harvest and environmental review and how environmental review might be modified.

**IV. Committee Reports:**

Mr. Wells, EQB staff, said that the Water Resources Committee discussed possible LCMR projects that various agencies might be submitting. The committee has a few members that are not represented by commissioners on the Board, including the Minnesota Geological Survey, University of Minnesota Water Resources Center and the U.S. Geological Survey. The discussion that took place was very informative and should lead to better project proposals.

**V. Legal Counsel Report:**

*Legal Counsel:* Dwight Wagenius stated that the day before Christmas the Board was served with a lawsuit based upon the expansion of the Livinggood Feedlot in Renville County. The county denied the Livinggood Feedlot conditional use permit. That permit was pursued to the Supreme Court and Mr. Livinggood received the permit. Environmental review is not mandatory but a petition for an EAW was filed and the EQB then selected the appropriate responsible governmental unit, the PCA. The PCA denied the petition for an EAW and was appealed to District Court. The District Court affirmed the PCA decision in all respects. It was then appealed to the Court of Appeals which affirmed the PCA decisions as to ground water and soils issues but reversed the decision as to air

emissions and sent it back to the agency. The PCA prepared an EAW on the air emissions and put the issue on public notice in October, 2003 for a thirty day period which ended in November, 2003. There were two comments filed and both asked for preparation of an EIS. No comments or requests were filed by the petitioners.

A letter was sent to the EQB by the attorney Mr. Dunwald who represented the O'Neals who are neighbors of Mr. Livinggood. The letter asked the EQB to do something. Staff sent a letter back saying that it was inappropriate to intervene when there was no decision pending. The lawsuit was in the form of an Alternative Writ of Mandamus and what they asked for was a court to order the EQB to order the PCA to withdraw its EAW and prepare a new EAW. The court issued the order that was requested but with an additional provision that said if you don't agree that you should issue this order then you need to come to court on a date certain and show cause and that date was Friday, January 9, 2004. The original lawsuit was the O'Neal's against the PCA and its Commissioner and the EQB and its Director. So the attorney for the PCA and your legal counsel filed separate memorandums of law with the court and we had an oral argument. The judge heard us out fully, asked a lot of questions and gaveled the preceding to a close and then stated that no writ will issue on January 15, 2004. The PCA will be proceeding in its decision course and that should result in a negative declaration no EIS or yes prepare an EIS. If the decision is not satisfactory to the O'Neals, they will have an opportunity to bring a Declaratory Judgment Action to court. We expect a decision from the District Court at any moment but it has not been issued, yet.

## **VI: Agency and Citizen Update:**

Chair Schroeder said that the Governor has reviewed and signed off on three Minnesota watershed proposals that the Environmental Protection Agency is soliciting from states. This is an opportunity for Minnesota to bring in some additional resources in an area that we have interest in, water quality improvement. This is work that the PCA staff took the lead on and the Clean Water Cabinet had reviewed. Each state is allowed two proposals, the third proposal is an independent proposal by a Red Lake tribal unit which is allowed under the rules.

Commissioner Merriam reported that the DNR is required by law to start a public process to classify its forest and designate its trails as they relate to off highway vehicles. The public process will begin in a few weeks but the department has been working on this issue since the end of the legislative session. The process will begin with the first six out of 50 state forests to be classified and designated as 1)closed forest – no OHV use; or 2)limited forest – use of OHV only on designated trails. The Department has to report to the legislature in 2006 but there are possible extensions of time built into the legislation. There are also some interesting dynamics in OHV use involving roadway slopes and shoulders in a few counties.

## **VII. Environmental Review Mandatory Thresholds Study Work Plan**

Tim Scherkenbach summarized how the environmental review project took form and the purpose and scope of the work plan. The work plan is going to focus on the mandatory categories for EAWs and EISs. The intention of this analysis is to evaluate the basics of the environmental review program and determine whether the elements are still effective and produce the desired effects. This study will start off with an information and data collection step that focuses on project reviews that have happened over the past five years. After identifying specific problems, we will identify the level of effort needed

and potential barriers to address the problems. The last step is to develop recommendations and supporting information to present to the EQB for their decision.

Mr. Scherkenback suggested a timeline for the data collection and analysis step of this process. He indicated that staff could report back to this Board in March about what the initial stage data shows and to have a discussion with the Board on how to focus the next stage of this process. Mr. Scherkenback also suggested that the study should benchmark what is happening in other states on environmental review.

Gregg Downing then summarized other reform activities which occurred. From 1990 to the present there have been eleven different attempts at reform on the environmental review program, most recently a 2002 special advisory committee. However, none of these previous efforts at reform focused primarily on mandatory categories or used factual information to drive the process.

Chair Schroeder then suggested that the Board take an active part in this study and that as the reform progresses, Mr. Scherkenback should involve other partners as necessary.

Ms. Applegate, PCA, stated that the data collection process will help the Board and stakeholders focus on potential problems that have been reported with environmental review. One of the ways this effort could be significantly different from historical efforts of reform is that the data could help stakeholders focus on a few key issues that may be driving the more significant concerns.

Vice Chair Bomier suggested that this is a very important job. Stakeholders really need to learn and understand how the whole environmental review process works and he further suggested that there be serious outreach to the folks that serve as responsible government units.

### **Testimony:**

Janette Brimmer, Legal Director, MCEA introduced herself and then made comments in regard to environmental review. Ms. Brimmer was pleased to hear that the Board intends to affirm the purpose intent and spirit of the environmental review statutes. Environmental review is all about good government decisions which are dependent on good information from all sources. Ms. Brimmer asked the Board and staff that as they move forward that all stakeholders are involved not only in the process but in shaping the agenda. She stated that mandatory categories are probably a good idea because they remove guess work about what needs review. Those mandatory categories allow proposers and other interested parties in the process to know and understand pretty clearly when environmental review is required and when it is not. However, she has concerns that anytime you try to assign a number to something there is a certain amount of artificiality that is being introduced to the process.

Ms. Brimmer then referred to the proposed framework worksheet prepared by Mr. Scherkenback. There are three points she would like to comment on regarding IIa. Process Characteristics. She suggested that proposers are not the only group who benefit or are burdened by the process but also citizens, local units of governments and environmental groups, etc. Regarding IIb. Projects Not in System while mandatory categories can be handy there are a lot of projects that come in just under the wire and where do you draw the line. Regarding III. Impact of the Process she indicated there are many factors that can affect the decision of why a project was or was not dropped.

Ms. Brimmer also made a final comment about outreach and certification of local government. Local government folks don't always have environmental review coming to them on a regular basis so they may need special guidance in dealing with environmental review projects.

Kristen Eide-Tollefson, a citizen and local planning commissioner in a small township in southeast Goodhue County offered a few observations. Ms. Eide-Tollefson said that there has been a shift in environmental science and natural resource management which have shaped environmental review in the past 20 or 30 years. The scope and visions of statutes don't always match the practice. Her hope is that this reform will make improvements in environmental review to get a better match between the reality, visions and practice. People at the grassroots level should be part of this review. There are remarkable changes taking place at the local level. People are becoming more active and involved in initiatives such as the Red River project, the agricultural protection program, the Green Corridor program and all up and down our river valley people are watching a film called "preservation is economic development." People at the local level are looking to grow, have their economies thrive and preserve the things that are important to them. Her hope is that the Environmental Quality Board gives all a vision and a framework for all stakeholders who are dependent on environmental review to keep our land, air, and water clean.

### **VIII. Retreat Follow-Up**

John Wells, EQB staff, gave a brief overview of what has been happening in regard to the retreat follow up. At the September 2003 retreat, the Board identified opportunities to improve EQB performance. Among the issues identified was development of a complete list of publications produced by the EQB. "Reports of the Minnesota Environmental Quality Board 1972-2003" is that list. The list shows the breadth and depth of issues that the EQB has been involved in relating to Minnesota's environment and development. The list also reveals topical and recurring issues with which the EQB has been involved, including: energy, sustainability, water, modified organisms and environmental review.

### **IX. Status of Hutchinson Pipeline**

Alan Mitchell, EQB staff, reported that members have a briefing memo which summarized activities of the past month regarding the Hutchinson pipeline. He stated that Mr. Hanson showed up at the January Tech Rep meeting and that he had talked with Mr. Hanson by phone but they had not had any meetings. Yesterday, January 14, the EQB received both letters from Chris Dietzen and apparently they have some documents to give us today. Apparently the pipeline is in operation and gas is flowing. The Dietzen letter stated that they tied into the Northern Border pipeline down in Trimont in Martin County on November 28, 2003 and he stated that the pipeline was fully operational on December 10<sup>th</sup> or 11<sup>th</sup>. We also know work has been done at Town Border Station (TBS) #2 within the city limits of Hutchinson the day after the December Board meeting and through that weekend.

Our concern has always been Hutchinson's performance under the Agricultural Mitigation Plan to restore the land. One of the ways we thought we would address their failure to restore the land was to require Hutchinson to pay compensation to the landowners for crop losses. Hutchinson is now saying that the EQB has no authority to require performance even with the Agricultural Mitigation Plan. There are a few other performance issues that concern us.

1)The appropriation and disposal of water that was used for hydrostatic testing on the pipeline. Hutchinson has a permit from DNR for 2.1 million gallons of water from the Minnesota River and a permit from the PCA to discharge the water back to the river after the testing was completed at a specific point in Brown County along the river. We are concerned about what actually took place with this issue and have little information.

2)The next issue is the river crossings that were required as part of the pipeline construction. Hutchinson does have a permit from the DNR to cross 19 streams and we are looking for information on how that work was conducted.

3)There is also a four and a half mile long pipeline that connects the Hutchinson pipeline to the City of New Ulm. We have heard that changes to the proposed route took place so we are looking for more information on that issue.

4)There are also a couple of taps that we are interested in knowing more about. At the December Board Meeting you passed a resolution that said, Hutchinson don't make a tap to the Fairfax-Winthrop pipeline without coming back to the EQB for approval.

5)There is also apparently a proposal to make another connection to the City of Brownton in McLeod County. These projects may all be fine projects but we don't have any information about the size, pressure or whether these connections are actually in the works.

6)Finally there is a stipulation agreement regarding repair of drain tile. Hutchinson was obligated under the stipulation agreement to send a letter to all the landowners who had drain tile cut during the construction of the pipeline to advise them that Hutchinson would come out and slot the pipe if the landowner elected to do that. We think the letter that went out, imposes obligations on the landowners that go beyond the stipulation agreement. Hutchinson was told but the letter went out anyway and we did not receive a copy of that letter.

Vice Chair Bomier asked about the letters from Mr. Dietzen and what they mean.

Legal Counsel Wagenius responded that the tenor of the letters seems to be that the Board doesn't have authority to impose any obligations upon Hutchinson for restoration of the right-of-way. The statute and rules say that the EQB should include in their permits the responsibility to restore the land as near as possible to the condition that the land was in immediately prior to construction. The Agricultural Impact Mitigation Plan which was incorporated into the permit was negotiated by the EQB staff and HUC and because it was a negotiated document, it reflects compromises. That element of the letter is really puzzling.

Commissioner Merriam reported that the route for the four mile spur for New Ulm was changed by Hutchinson without permission. There was no permission for the new route, they just dug the trenches and laid pipe. They had permission and authority to go through the wild life management area and avoid a wetland but went a different route and through a wetland. They had the authority to go through an area but changed the route and again went through a wetland. This was blatant and outrageous. They also failed to notify us when they did their trenching.

Vice Chair Bomier noted that the EQB received authority in rules and statutes after people were killed in a pipeline accident. The legislature determined that the state does have an interest in where and how pipelines are laid.

Testimony:

Mr. Bruce Hanson, Attorney for HUC, stated that he wanted the Board to be aware that the spur from New Ulm is an entirely separate project and that it is unfair to the City of Hutchinson to think that this project is part of the Hutchinson pipeline. A separate permit was applied for, an information booklet was prepared, and a separate hearing was held in regard to that project.

Mr. Christopher Dietzen, Special Litigation Counsel for HUC in regard to the Hutchinson pipeline said that the reason that we are here is a two tier opposition to the EQB permit suspension and to request that the EQB rescind the suspension. We believe that the EQB lacks authority to suspend the permit. Mr. Dietzen handed out a corrected copy of the two letters faxed January 14, 2004 to the EQB and a copy of a letter from Nicollet County. Mr. Dietzen then started to summarize his letters saying that there are four points he wanted to make.

1)The HUC pipeline is operational and is flowing gas and we don't understand the purpose of the suspension order. On page 3 of the letter, we make the argument that the EQB has no authority to suspend a pipeline routing permit. Under 116C, there is clearly authority under that act to suspend the pipeline permit but there is no similar authority under 116I, the pipeline act. The legislature didn't give you the authority to suspend or revoke pipeline routing permits, and the statute has no standard on which to revoke or suspend a permit.

2)As we read the statutes, EQB has no authority to regulate agricultural impacts. In statutes 116I.06 Subdivision 1 under agricultural protection standards, it states that the county board establishes by ordinance reasonable standards and conditions for pipeline construction which are necessary to protect and restore cultivated agricultural land crossed by a pipeline and to mitigate the adverse impact of the pipeline construction on the productive use of the land. The standards may include but shall not be limited to standards and conditions concerning restoration of drainage tile and drainage patterns, soil compaction and removal of rocks and debris after construction. We don't think that the EQB has the authority to determine whether there has in fact been a violation. Further, we have contacted county inspectors and they have told us that they have complied with the amended permit.

3)It is our position that EQB's suspension order is moot. The line is fully operational and providing gas to the City of Hutchinson. We have flowed gas since approximately December 10 or 11, 2003 and we don't think that the EQB has the authority to say stop flowing the gas. If there is hostility or animosity it doesn't matter, from a legal perspective. You either have the authority or don't have the authority. We again don't think you have the authority to suspend the permit.

4)The EQB's suspension is arbitrary, capricious, unsupported by substantial evidence. Given what the counties have said, we don't believe there is enough evidence of substantive violations. The documents you have requested under the Data Practices Act that HUC has in their possession we will transmit after this Board Meeting. Whether or not we have complied with the Data Practices Act request by EQB is not a basis to suspend a permit. There is nothing in your statutes that gives you authority to suspend a permit for failure to produce documents. We think we have complied under the Data Practices Act. We have asked all the counties for their notes and inspections reports and will forward those to you when we receive them. We have specifically asked for documents from the

consultant that you requested us to produce. We can't force the consultant to give us the documents. However, that is not germane to whether you can suspend the permit.

Chair Schroeder asked whether the consultant was the contractor?

Mr. Dietzen replied that there are two entities, one is the consultant (Phil McLain and Associates) and there is the contractor (Joe Maxx). On the issue of expenses, our position is suspending a permit for the possible incurrence of future expenses is not a legitimate reason to suspend a permit. Whether or not the expenses that have been incurred are legitimate and specifically things that we may be obligated to pay, we are certainly willing to talk about that but if we can't agree about the expenses, we will take it to the courts and let them decide. The next issue is the additional stipulation that requires the City to pay for all possible crop losses that may be incurred. Our position is very clear, the EQB doesn't have the authority to adjust claims or disputes between the property owners and the City and HUC. The EQB is indirectly being sucked into and being used in a dispute that is legitimately resolved in a condemnation hearing. It is not the EQB's role to adjust those claims. If there is a dispute of damages on crop losses that is something that gets decided in a condemnation hearing in the courts. And you certainly don't have the authority to suspend the permit based on crop losses.

If we cannot resolve these suspension issues today, then we are required to commence legal action in court tomorrow. We ask the Board to act on this today because we have a court imposed deadline. In summary, we request that the EQB rescind the suspension.

Mr. Dietzen then apologized to Commissioner Merriam for only hearing about ten percent of what the commissioner said. He said he is sorry he is not able to respond to his concerns in regard to the DNR related issues and whether or not there were permits issued. Mr. Dietzen said he thought Commissioner Merriam made a statement like there were so many transgressions that it is hard to know where to start. He said he would like to challenge that statement and that he didn't believe that there is anything in the record other than some comments by staff. He said on behalf of his client, this is a very serious matter and it is unfair not to have a full evidentiary hearing and airing of these issues. It is my opinion that you certainly would not rely on a newspaper as a basis for you to take action.

Vice Chair Bomier stated that he drove the grade and took photographs of what in his view were violations of the stipulation and then turned them over to Mr. Mitchell. He asked if Mr. Dietzen's interpretation was correct and whether the EQB has the authority to issue a permit but doesn't have the authority to revoke the permit. Could EQB Legal Counsel please tell us what is going on here?

Legal Counsel Wagenius responded that he is not prepared to give a point by point response here today. You all made a decision at the December Board Meeting and a week ago HUC hired counsel to respond to that decision. The EQB rules provide for a motion for rehearing or motion for reconsideration, those were not taken. The City has not formally asked for a contested case hearing which they could do, so that has left them with only one alternative. Going to the Court of Appeals for review so what you have heard today is a rehearsal of an argument that the City will be making before the Court of Appeals. There is nothing before you for decision today. You are bound by your own law to not consider this for decision today. There are rules for getting matters on the agenda and to get a decision by this Board. There were avenues for the City to pursue to get items on the agenda and they were not pursued.

On the positive side, we now have communication from the permittee who the record shows has pretty much stonewalled the EQB and now we have correspondence from Mr. Dietzen with facts that have been asked for several times. The line is completed, is it operational and apparently it was functional the week before you considered this for a suspension order in December and we discovered all that from Mr. Dietzen. Would that have made a difference in your decision, we can't say that now, but wouldn't that have been interesting to know that at the time. Apparently, we are going to get a response to the data requests made by your staff. Regarding the litigation that is promised tomorrow, be aware that the litigation that is being referred to is judicial review in the Court of Appeals. That is a pretty lengthy process. First you need to compile the administrative record upon which the decision was based. When we certify that record with the Court of Appeals, that triggers the petitioner's brief period.

Litigation counsel in the modern sense, means that you attempt to work out a resolution and the first inkling we have gotten from this counsel is that he is providing information. Maybe now they will actually sit down and talk with your staff, wouldn't that be nice, and we have received an indication that this counsel may be willing to do that.

Commissioner Merriam said just to clear up the issue about observations of transgressions of constructing the trenches and laying pipe outside the permitted area. The transgressions were on the New Ulm spur not the HUC pipeline. Your client is not involved with the New Ulm spur and in fact that matter is not under the jurisdiction of the EQB.

Mr. Dietzen responded to the comments of Mr. Bomier. The preliminary information that he has suggests that there are other situations where allegations have been made that might be related to activities of our consultant or contractor but things are not always what they appear. My opinion is that we will find out that Hutchinson did comply with the amended permit. In response to what Mr. Wagenius said. I do not agree with his conclusion that you are unable to take any action today. It is certainly an agenda item and certainly published as a status of Hutchinson Pipeline and a Board member can certainly bring a motion at this meeting to take action. If you do not take action today, we will go forward with the litigation. We don't understand what the effect of the suspension order is. Are you telling the city that it needs to terminate the flow of gas to the residents. If this is the meaning of the order, we will need to seek emergency relief. There is a public interest here that is significant. Let me renew our request that the order be rescinded.

Citizen Member McCarville asked if he could clarify what his stance is regarding the agricultural mitigation plan. Would you have not agreed to sign it in the first place or are you opposed to the enforcement of it and the imposition of damages for the failure to meet this standard.

Mr. Dietzen said what he is arguing at this point is that there was an agricultural mitigation plan but it was signed. Mr. Hanson said it was not signed originally, Hutchinson tried to develop an agricultural mitigation plan with each of the counties per the statute. That process was then taken over by the staff and the Department of Agriculture and that plan was developed without our ability to comment on the plan. The plan was attached to an earlier permit which had been issued and approved in that form. We didn't sign anything but we were consulted. The process usurped earlier discussions we were having with each of the counties.

Mr. Dietzen said the crop loss issue is not a proper legal basis to suspend a permit. The property owners certainly can raise the crop loss issue at the condemnation proceeding and the landowners can

certainly bring a separate lawsuit alleging crop loss to district court. The jurisdiction of the EQB is not to determine claims to property owners based on some potential for crop loss. My understanding is that over 60 percent of property owners have signed these agreements where these issues have been resolved.

Chair Schroeder stated that if the EQB doesn't have the authority to suspend the permit and if gas is already flowing and operation is underway, what is the point of revoking the suspension order?

Mr. Dietzen responded the short answer is that the suspension is moot and has no effect and the City is continuing to flow the gas and has expressed its willingness to reasonably discuss the issues that are still unresolved. It grieves me greatly that two units of government that are spending thousands of dollars in court fighting over something like this when at least in my view we have not exhausted other avenues.

Chair Schroeder said and to that point, until 25 minutes ago, we had no idea that the gas was flowing. We asked direct questions of Mr. Hanson, who was at that time unable to tell us.

Citizen Member McCarville stated that it grieved her that individual farmers might have to spend money to recoup damages and file suit.

Mr. Dietzen said that his intent all along was to deal reasonably with the property owners. We still intend to deal reasonably with the property owners. Our concern is that you are not the judicial branch of government and it is not your function to determine who gets what damages and that is what you are essentially being sucked into doing. There are remedies and we are going to meet with all the property owners to resolve the claims just like any other responsible business would do.

Commissioner Merriam again asked if the dispute is somewhat academic, why you want the suspension order rescinded?

Mr. Dietzen responded that the reason you are presented with this litigation on the order of suspension is that someone may argue what this order means is that we need to stop the flow of gas and that we are in violation of this order.

Citizen Member Winebarger asked whether Mr. Hanson told the EQB at the December Meeting if the pipeline was in operation or not.

Mr. Hanson stated that he thought what he said was that the pipeline was full of gas and flowing and what needed to be done on the pipeline was to attach the gauges, valves and that sort of thing.

Citizen Member Winebarger said so you believe the record will indicate that you told us that the pipeline was in operation. My recollection was that the pipeline could not be operational until after the valves were installed at Town Border Station #2. That is a significant difference from what the Board was told by Mr. Hanson.

Citizen Member Bomier commented on this situation as being very strange. Mr. Chairman, if we are not allowed to set stipulations and enforce them, if we are not allowed to rescind permits or the authority to issue permits, what are we doing here.

Mr. Deal stated that at this time and with such short notice, the Board should wait and see what our legal counsel advises. Maybe we should receive a court opinion on this particular issue and proceed from there.

Mr. Dietzen stated that he still didn't understand what the order of suspension means. If the Board is not inclined to answer the question, we will move forward with the litigation.

Legal Counsel Wagenius responded that Mr. Dietzen has raised a valid question here which you may choose to entertain or not. My reading of the law is that the effect of this order is to stop the flow of gas. In response to his question, the law isn't perfectly clear and I will concede that. That is the position we have taken and we think it is correct but that is an issue that you may want to discuss and take further advice from your staff and me. This may be an opportunity to have your authority clarified by a court, like Mr. Deal suggested. But litigation is expensive and the Board needs to bear that in mind.

Citizen Member Bomier asked Mr. Mitchell whether there is human risk or safety associated with this issue, are people in danger.

Mr. Mitchell responded that safety is not within the EQB jurisdiction but staff have been in contact with the Office of Pipeline Safety and that office responded to me that there are no issues of safety associated with the pipeline.

Citizen Member Mellen stated that it seems that someone turned the gas on regardless of what was said. Did Mr. Dietzen say something about the condemnation of the property?

Mr. Dietzen responded that his client acquired all the property for the pipeline either by direct purchase or condemnation. The governing body provides for the just compensation for the losses arising out of the taking of property. The issue of future crop loss is a relevant issue to be presented to the governing body.

## **X. Annual Hearing Report**

Mr. Mitchell, EQB staff, stated that the Power Plant Siting Act requires the EQB to hold an annual hearing where the public can ask about pending projects and any other matters related to the siting of large power plants and high voltage transmission lines. We held that hearing on December 3, 2003. After the hearing the staff provides a summary of the proceedings and a brief report with the major topics of discussion that occurred at the meeting. There was no one issue that rose to the forefront or involved most of the discussion. One major point that should be passed on to the Board is that there is a lot of work coming your way in May through August of this year. There is a list of the pending projects in your packet. One issue that was discussed at the annual hearing was the issue of compensation for landowners whose property is taken for transmission lines. There is sentiment growing that landowners whose property has power poles on it should get an annual payment rather than a one time payment for an easement. There may be legislation drafted this year to address the issue of compensation for landowners.

Other issues that were raised: 1)the public wants an environmental review of these large energy projects and want access to the information 2)wind turbine data, there is information sheet in your packet showing those permitted and those in operation. Those statistics may be incomplete at this

point in time but it gives you a good sense of the wind turbine data.

We will hold another annual hearing in December, 2004 and you are all invited.

Commissioner Wilson added that the Energy Group from the Department of Commerce met with the EQB staff about the workload in front of them. We are in the process of putting together a timeline for each of the project so that we can meet the public's expectation of those timelines. When we get this timeline prepared, I would like to ask my fellow commissioners to all work together and cooperate in every way.

Chair Schroeder asked if there were any questions.

Commissioner Wilson made a motion to adjourn, Citizen Member Mellen seconded.