

**MINNESOTA ENVIRONMENTAL QUALITY BOARD**  
**MEETING MINUTES**  
**Thursday, September 16, 2004**  
**State Office Building, Hearing Room 5**

**EQB Members Present:** Robert A. Schroeder, Jonathon Bloomberg, Bruce Bomier, Sheryl Corrigan, Jerome Deal, Art Dunn, Gene Hugoson, Matt Kramer, Brian Lamb, Susan MacCarville, Gene Merriam, and Glenn Wilson

**EQB Members Absent:** Mary Mellen, Lt. Governor Molnau, Dianne Mandernach and Paige Winebarger.

Chair Schroeder wanted it noted for the record that this is Commissioner Lamb's final meeting of the Environmental Quality Board and that he will be heading the Metropolitan Transit Commission. The Chair thanked the Commissioner for his work in regard to the board.

**I. Adoption of Agenda and Minutes**

Commissioner Kramer made a motion that the Minutes be adopted and Director Deal seconded. That motion carried.

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

Mr. Sullivan reported that the Hutchinson Utilities Commission (HUC) and the Environmental Quality Board (EQB) had reached an agreement in the pipeline matter, that the Board had approved the agreement and that the HUC would mail the mutually agreed on amount to the EQB. Sometime next month we will receive the draft results from the soil investigation and those results will determine what steps the Board will proceed with in this matter. The congratulations and thanks in the negotiation between HUC and EQB go to Commissioner Hugoson.

There are three legislative initiatives that staff are working on that the Board should be aware of; 1) pipeline authority, 2) modification of the fee structure for routing transmission lines, and 3) environmental review assessment changes.

Finally, the handouts that were passed out this morning are in regard to last minute changes in the recreational trails material and a packet of information on the status of the mandatory category threshold review effort.

Member Bomier asked about the modification of the fee structure.

Mr. Sullivan responded that the fee structure modification would only be for Power Plant Siting Act fee structure which was set out about thirty years ago. Our hope is that we will have at least some support from the industry on the fee structure change.

**III. Legal Counsel Report:**

*Legal Counsel:* Dwight Wagenius stated that the Amicus Brief between the Citizens Advocating Responsible Development versus Kandiyohi County and Duinnick Brothers was filed and the procedure that Members established was followed. The input from the Board was minimal so there were minor changes made in the brief and it was filled on time. Yesterday, he received notice that October 21, 2004

would be when the oral arguments would take place. Legal Counsel Wagenius then stated that as an amicus we are not allowed to participate in the oral argument and that the panel that will hear the amicus brief would include: Judges Randy Peterson, Bruce Willis and Natalie Hudson.

#### **IV. Update on the Mandatory EAW Threshold Level Study**

Mr. Scherkenbach addressed the Board updating them on the Mandatory EAW Threshold study. The five handouts include: 1)Results Of The Responsible Governmental Unit Survey, 2)Results and Analysis of the Petitioners Survey, 3)Builders Association of the Twin Cities Environmental Review Focus Group, 4)Aggregate and Ready Mix Association of Minnesota Environmental Review Focus Group, and 5)Process Recommendation:

Mr. Scherkenbach stated that the “Responsible Governmental Unit Survey” was sent out to 191 different respondents with a response rate of 32%. The responding organizations provide a good idea of who was filling out the EAWs and is represented by cities (59%), counties (32%) consultants (5%), townships (2%) and watershed management districts (2%). Most of the respondents were located in the 25 county growth corridor which stretches from St. Cloud to Rochester.

Mr. Scherkenbach stated a majority of the respondents proposed leaving the mandatory thresholds the same. Two categories, Non-Metallic Mineral Mining and Historical Places stood out because for those categories respondents did not want to keep the threshold levels the same. In the Non-Metallic Mineral Mining area there appeared to be a strong argument for lowering the mandatory threshold levels. In the Historical Places area respondents were concerned that the review process is not an appropriate process to do historic impacts.

Mr. Scherkenbach stated that the last issue he wanted to talk about in regard t the Responsible Governmental Unit Survey was the cost and benefit of doing EAWs. The overall response from all the respondents was that the EAW process was beneficial for their communities and provided a good communication tool to help the public understand the scope of projects.

Mr. Scherkenbach moved on to the “Petitioners Survey”. There are three main environmental review stakeholders; proposers, local government units and then the public. He explained the petition process is a safety valve in the process of environmental review. The petitioner in this case is any person who filed a petition between the years 2000 and 2003. There was a 60% response rate from this survey. A question from the survey was “how did the petitioner find out about the project” and it appears that 37% of the respondents found out from official means such as the local government, proposers, newspapers, etc. An issue important in this survey was what triggered the petitioner to get involved in the overall project. Mr. Scherkenbach stated that the top three concerns addressed were water quality issues: wetland and lake impacts and stormwater run-off.

The issue of satisfaction had more to do with whether the petition failed or was granted. When we asked regardless of the outcome, whether the petition process was worth their time and effort about 77% responded yes. On suggestions of how to improve the process there were two main responses from petitioners: 1)more education and training, and 2)there was a concern about impartiality of the decision makers. With help from the University we are working together to design some training information for the public and to develop some online training materials for local governments these two issues are a direct result of the survey.

To get a better understanding of how the project proposers felt about the environmental review and the mandatory threshold survey staff held a focus group with the “Builders Association of the Twin Cities.”

The “Builders Association of the Twin Cities” and the “Aggregate and Ready Mix Association of Minnesota” were among the primary suggestions for proposers from the stakeholders group. The feedback from these two groups gives you an idea of what proposers think about the process in regard to development.

Mr. Scherkenbach started with The “Builders Association of the Twin Cities” who said they appreciated the feedback from state agencies and that the review process may identify interesting or beneficial qualities of the development. What the proposers at the meeting wanted to improve about the process is that local governments are currently subject to a 60-day review rule and they thought the review should also apply to state agencies so that the process stays timely. The proposers also wanted a basic training program for environmental review with mandated attendance for all RGUs and commenters.

He then stated that the “Aggregate and Ready Mix Association of Minnesota” thought the review process was standardized for everyone, they thought it was good for the industry and that the review process could help identify potential issues up front. When the association was asked how to improve the process they suggested that an alternative review process, like the AUAR process, be developed for aggregate mining.

Mr. Scherkenbach stated the last handout basically explores the training issue. As a result of the work that has been completed to date and the good work of an agency student worker we have actually had a proposal come in from the Center for Urban and Regional Affairs (CURA) at the University of Minnesota. CURA’s support provides resources for a half-time student worker to address the training issue and focus on environmental review guidance materials.

Mr. Scherkenbach said that the study is running a little bit behind schedule but that he expects to come back to the Board in October with recommendations on three areas: 1)mandatory threshold levels, 2)housekeeping ideas in regard to legislative initiatives and finally 3)recommendations on future focus of the EQB as far as other areas that should be looked at that go beyond the mandatory threshold categories.

Commissioner Corrigan thanked Mr. Scherkenbach and the group that he has been working for the really fine study. She feels that any recommendations that the Board moves forward will be grounded with the good work he has accomplished.

**V. \*Reassignment of the Responsible Governmental Unit (RGU) from the MPCA to DNR for the Environmental Review of the Proposed Expansion of the Blandin Paper Mill at Grand Rapids**

Member Bloomberg asked the Chair to be recused from the next agenda item because he has in the past done work for Blandin.

Mr. Gregg Downing, EQB staff stated that the UPM Blandin Company which operates a paper mill in Grand Rapids has approached the state about expanding the capacity of their mill by adding a new publication paper machine. The project would require a mandatory EAW under the air pollution category of the EQB rules for which the Pollution Control Agency is assigned as RGU. However, the company would like to volunteer to proceed immediately to an EIS on this project. Based on the state’s experience over the past decade with previous pulp and paper and wood project expansions, we would anticipate the issues that are likely to be prominent in this EIS are really not issues that are PCA issues, such as air emission and water discharges but rather about the increased need for wood supply, timber harvesting and forestry resource management. Therefore the company has talked with those two state agencies about

reassigning the RGU from PCA to DNR, and that is the action the Board is being asked to take this morning.

Under the procedures of the EQB rules the only way to change the RGU from one agency to another is to have the full Board act on the issue. This is one of the few places in the environmental review process where Board action is necessary to move the day to day operations of the process along. Mr. Downing indicated that this is only the fourth or fifth time this issue has come up in the last twenty years. He indicated that in the packet there were: findings of fact, conclusions and order, and a sample resolution.

Mr. Downing said that a representative from Blandin was in the audience to answer any question about the project.

Commissioner Merriam stated that he and Commissioner Corrigan and staff from both agencies had spent much time talking about this matter and that they are both in accord and both agree it makes sense that the DNR be assigned to be the RGU and then he made a motion to adopt the resolution

Chair Schroeder asked for a second to the motion. Commissioner Corrigan seconded and the Chair asked for discussion and there being none asked for the roll call vote which passed 11-0.

**RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD  
Designation of a Different Responsible Governmental Unit (RGU) From The Minnesota Pollution  
Control Agency To The Department of Natural Resources For the Preparation of an  
Environmental Impact Statement For UPM/Blandin Paper Company Publication Papermaking  
Machine Expansion**

**BE IT RESOLVED**, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order designating the Minnesota Department of Natural Resources as the Responsible Governmental Unit (RGU) for the environmental review of a publication papermaking machine at the Blandin Paper Company facility in Grand Rapids.

**BE IT FURTHER RESOLVED**, that Robert A. Schroeder, chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order.

Chair Schroeder asked if there was any further discussion.

Commissioner Merriam informed the Board that it may have to decide the adequacy of the generic environmental impact statement on the timber harvest for the state.

Mr. Sullivan stated that Commissioner Merriam was absolutely correct because the procedures require that before an RGU can use information from a GEIS in the review of a specific project, the GRU must ask EQB for a determination of whether the GEIS remains adequate.

Member Bomier said it was his understanding that the Forestry Council is questioning the formulas and algorithms used in the GEIS. Members will be using that information to puzzle out what will evolve and if there is a question about the adequacy of the original GEIS then the Board will have to evaluate whether the information is adequate

Commissioner Merriam stated that was correct.

## **VI. \*Route Permit Decision for Xcel Energy's Proposed Lakefield Junction to Fox Lake 161 kV High Voltage Transmission Line**

Commissioner Merriam stated that he needed to recuse himself from this Board action. Commissioner Kramer then said that he also needed to recuse himself from this action also.

Mr. Alan Mitchell, EQB staff, stated that in March 2003 the Public Utilities Commission granted a certificate of need to Xcel Energy for new transmission lines to get wind power off Buffalo Ridge. Xcel needs a route permit from the EQB for each of these lines. The first line to come to the Board for a decision to designate a route and issue a permit is a 161 kV line that will be 26 miles long between the Lakefield Junction Substation in Jackson County on the west end and Fox Lake Substation in Martin County on the east end.

Because the line is under 200 kV in size, it qualifies under the alternative review process in the statutes. We have followed those procedures in this matter. We held a public hearing in the area to solicit public input into the environmental assessment which we were required to prepare. The Chair appointed a citizen advisory task force early on and as a result of the public process the route for the project comes down to two public corridors.

The one corridor preferred by Xcel runs along I-90 and the alternative route follows an existing Alliant Energy 161 line a couple miles north of the freeway, and this option wasn't meant to replace the Alliant line but to construct a parallel line to it. Xcel's proposed route along I-90 requires the line to go through the City of Jackson and so several alternatives were considered.

After the environmental assessment was completed, we held a public hearing presided over by Administrative Law Judge (ALJ) Allan Klein. Judge Klein compiled a record, submitted a report on July 1st and made a recommendation to the Board. Judge Klein recommended Xcel's preferred route along I-90 over the alternative route although he had a couple of specific recommendations to fine tune the route along the interstate. Judge Klein recommended the route preferred by the city through the City of Jackson and that has been included in the permit.

On the east end, Judge Klein recommended and raised the possibility of going north of the Freeway along County Highway 7 hooking up with the Alliant line about a mile north of the freeway and then double circuiting with the existing Alliant line to the Fox Lake Substation for about the last three miles. Judge Klein thought this might be preferable because it avoids some homes along the freeway on the east end of the route. He thought this might be a good thing to do but that there wasn't much information in the record about whether this was feasible or not, and if it wasn't feasible, then he recommended the I-90 route be followed. We feel that the EQB has the authority to consider going north at Highway 7 and double circuiting the last three miles but we are recommending that we follow the I-90 route because Xcel has come up with a different proposal to be further way from homes than was originally proposed. There are five homes along these last few miles on the east end along the interstate. Before, Xcel would have been on the south side of the freeway and cross to the north side, and now will be on the north side and cross to the south side to provide greater distance from the homes. That seems a reasonable accommodation and we are recommending that designation include following I-90 on the east end of that line. Xcel proposed it's line and submitted its application and did identify the side of the freeway it intended to be on but they requested that they be authorized to have 500 feet on either side of the freeway so that during final design if they decided to go to the other side of the freeway, they would have the flexibility to do that.

There was one final issue raised and that had to do with whether the Lakefield Junction Substation on the west end to the City of Jackson and whether the structures installed should be capable of handling a double circuit. There was some discussion by Great River Energy and Missouri Energy Services to construct a 69 kV line to address the local load service issue in the City of Jackson. Those utilities have since decided that they are not going to do a double circuit so the permit doesn't require structures that are capable of double circuit.

The staff recommendation to you is to designate a route along I-90 and follow the cities preferred route through the City of Jackson and adopt the administrative law judge's findings in their entirety with just a few additions to address a matter that have been discussed since the judge issued his report, including the feasibility of double circuiting and addressing the issue of how we will handle the matter if Xcel decides to cross to the other side of the freeway. You have a resolution before you that adopts the Findings of Fact, Conclusion and Orders designating a route and issuing a permit.

Commissioner Hugoson asked what some of the reasons were that would require Xcel to change locations from one side of the freeway to the other and then secondly how much prior to the actual construction of this transmission line would this matter be back to the Board for consideration.

Mr. Mitchell responded that Xcel might decide to change to the other side of the freeway to accommodate local landowners and that the permit provides at least 14 days notification of their final plan and specs designs and then the Chair has five days to decide on Xcel's plan.

Director Dunn asked why you would want to issue a new easement when you already have an existing one even though it is owned by someone else? Have we ever looked at corridors? Is it cheaper to condemn and purchase new easement rather than to go along an existing one even if it is owned by someone else?

Mr. Mitchell responded that the issue of following the Alliant line is not cost but in order to replace the Alliant line and put a double circuit there, the line would have to be out of service for 12 months or more and that created a serious reliability issue in the Jackson and Martin counties area. The Public Utilities Commission declared that that should not be done. So what we looked at was building the line parallel with that, and the landowners while they don't like the existing line and would prefer double circuit they didn't want a parallel line.

The Chair suggested to the Board that there was a green resolution in the members packet and that he would entertain a motion to adopt the resolution.

Commissioner Wilson moved the resolution and Member Deal seconded the resolution.

Commissioner Hugoson asked if it was feasible if members could be notified just in case there were route changes?

The Chair said that he would notify members if there were route changes.

The Chair asked for any other discussion. There being none asked for a roll call vote. The resolution passed 10-0 plus 2 abstentions.

**RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD**  
**Designation of a Route and Issuance of a Route Permit To XCEL ENERGY**

**For the Lakefield Junction-Fox Lake 161 kV High Voltage Transmission Line and Associated Facilities In Jackson and Martin Counties MEQB Docket No. 03-64-TR-XCEL**

**BE IT RESOLVED**, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order designating a specific route for the Xcel Energy Lakefield Junction-Fox Lake 161 kV high voltage transmission line and associated facilities in the Minnesota counties of Jackson and Martin and issuing a Route Permit to Xcel Energy in accordance with the recommendation of the EQB staff.

**BE IT FURTHER RESOLVED**, that Robert A. Schroeder, Chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order, and the Route Permit.

**VII. \*G. McNeilus Wind Project Site Permit Decision**

Mr. Hartman, EQB staff, stated that Grant McNeilus was in the audience and would answer any questions that members have about the project. In your packet is a memorandum and attached to that are two maps, one a USGS topographic map and the other an aerial photograph showing the location of the existing as well as the proposed turbines on the site. The Board is being asked to issue a site permit for G. McNeilus Wind (GMW) for a 16 to 18.2 megawatt large wind energy conversion system in Dodge County. The project will be comprised of 11 turbines and those turbines will either be 1.5 or 1.65 MW Micon turbines. GMW is a wind energy development company located in Dodge Center, Dodge County, Minnesota.

There are already 41 turbines on the site and these 11 will be added to that site. Other components of the project include concrete and steel foundations for each tower, pad mounted step up transformers, all weather class 5 or gravel or similar material roads, as well as an underground electrical collection system which will tie into the existing 34.5 feeder line.

The permit application has been reviewed pursuant to the requirements of the Wind Siting Rules, Minnesota Rules 4401. The application was submitted, reviewed and a draft permit was issued. Staff held a public information meeting on August 12<sup>th</sup> and we also provided a 30 day comment period on the project. We received three comment letters in regard to the project, one from DNR requesting a setback of 180 meters from nesting bird sites if present. Because the site is prime agricultural land, it is not likely that the turbines will need to be relocated to comply with the DNR request. We also received a comment from MHS just notifying us of certain review requirements if federal funding or permits are involved. We also received a comment letter regarding the proximity of the turbines to the airport. It is about 8,000 feet from the wind farm. Three of the turbines have been relocated to comply with the FAA requirements. The nearest turbines or proposed turbines being in excess of 12,000 feet.

There are no other significant issues associated with the project and essentially the test version of the permit is to determine whether the project is compatible with environmental preservation, sustainable development and efficient use of resources. The site permit is similar to other site permits the Board has issued and the findings are similar to findings from other projects. In the packet there is a resolution, Findings of Fact, Conclusion and Order which the staff recommends that the Board adopt and issue this permit.

Commissioner Hugoson asked what a grassland nesting area is.

Mr. Hartman said that a biological survey is completed that determines whether any birds or nesting birds are in the area. There are some incidences based on the avian studies that have been conducted on Buffalo Ridge that indicate certain nesting ground birds avoid turbines.

The Chair asked for questions and there being none there is a resolution in your packet and he will entertain a motion to adopt that resolution.

Director Dunn moved the resolution and Commissioner Corrigan seconded the motion.

The Chair asked for discussion. Commissioner Wilson stated that he had been to the McNeilus wind farm and their cooperation with the Department of Commerce has been outstanding. They have taken a professional attitude and been very cooperative with our Department.

The Chair asked for a roll call vote which passed 12-0 and the resolution is adopted.

**RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD  
G. McNEILUS WIND, LLC 18.2 MEGAWATT LARGE WIND ENERGY CONVERSION  
SYSTEM SITE PERMIT EQB DOCKET NO. 04-84-LWECS-GMW**

**BE IT RESOLVED**, that the MEQB approves the proposed Findings of Fact, Conclusions, and Order and issues a Site Permit to G. McNeilus Wind, LLC, for up to a 18.2 Megawatt Large Wind Energy Conversion System to be located in Dodge County, Minnesota;

**BE IT FURTHER RESOLVED**, that the Chair of the MEQB is authorized to sign the Findings of Fact, Conclusions, and Order and the Site Permit.

**VIII. \*Site Permit Decision for Mankato Energy Center, LLC. 655 MW Facility and Pipeline Routing Permit**

Mr. Johnson, EQB staff, summarized the Mankato Energy Center project as including two permits. There are two clusters of material, one for the site permit for the power plant which includes the report of the Administrative Law Judge (ALJ) Allan Klein, proposed findings of fact, conclusions and order issuing a site permit, a resolution adopting those findings of fact, a proposed site permit, and a site map. There is also a cluster of material for the routing permit which include the findings of fact, conclusions and order issuing a pipeline routing permit and granting a partial exemption, a resolution adopting those findings of fact and order, a proposed pipeline routing permit, an agricultural impact mitigation plan, and a pipeline routing map.

Staff is requesting the Board to do three things; first to issue a site permit to Mankato Energy Center identifying a site for a new 650 megawatt power plant to be located in Blue Earth County, Minnesota. Number two is to issue a separate pipeline routing permit establishing a route for the pipeline, tapping into the existing Northern Natural Gas Line east of Mankato. Number three is to find that the environmental assessment report prepared for this project is adequate. Each of the proposed permits before you contains certain customized conditions designed for environmental protection. These conditions which Mankato Energy Center agrees with are based on the information in the application and in the environmental assessment. Mankato Energy Center is a limited liability corporation fully owned by the Calpine Corporation and there are members of the company in the audience today.

In March 2004, Mankato Energy Center (MEC) applied for a permit to construct a new power plant north of the City of Mankato. That plant will burn natural gas as its primary fuel and is capable of using low sulfur fuel oil for backup. The plant is a high efficiency combined cycle combustion turbine plant which will provide continuous base load power and also intermittent power as needed. The facility is expected to be operational in summer of 2006. The selected site is 25 acres located in Lyon Township,

immediately north of the City of Mankato in an area that is zoned for industrial use. The selected site is a former limestone quarry that has been mined to completion and currently acts as a demolition landfill.

The site permit application was reviewed under the procedures set forth under Minnesota Rules Chapter 4400. Those rules require the preparation of an environmental assessment on a power plant. The report was published and available for public review on July 2, 2004. In the EA scoping process a number of public concerns were presented including: 1) potential air quality index from burning fuel oil as a backup fuel, 2) the desire to more fully integrate wind and gas fired electricity production, 3) concern about the impact of the new power source on the limited transmission capacity of existing power lines especially concerns about the possibility this plant will exclude new wind generated power from the Buffalo Ridge area due to current transmission grid limitations, and finally, 4) there was a desire to use Minnesota produced biodiesel fuel as a component to the backup fuel oil.

All of these issues were addressed adequately in the environmental assessment in the ALJ's report of the public hearing on the project, or at the certificate of need hearing by the Public Utilities Commission on September 9, 2004. In addition to the facility a 4.3 mile – 20 inch diameter gas pipeline will be needed to connect the proposed plant to the Northern Natural Gas mainline that runs three miles east of Mankato. Most of the pipeline route will run parallel to an existing Xcel Energy 115 kV transmission line right of way. The application for the pipeline route permit was submitted in April, 2004 and reviewed under the procedures of pipeline rules, Minnesota Rules Chapter 4415. No separate environmental review is required for the pipeline although the pipeline was discussed in the environmental assessment. All documents related to this project were made available on the EQB website.

EQB rules also require a number of procedural steps in administering these permit applications, including publish notices, public information meetings and hearings. Several public meetings were held in Mankato mainly in April and May 2004. The joint public hearing on the site permit and the certificate of need application was held in Mankato on July 12 and 13, 2004. The hearing was presided over by ALJ Allan Klein and his report is included in the Board packet and his recommendation was that the permit be issued for the site selected by MEC and the certificate of need be issued by the PUC. A public meeting on the pipeline was held in Mankato on June 15 by EQB staff. There were no public comments or opposition to the proposed pipeline route. The issuance of the site and pipeline routing permit will authorize MEC to proceed with construction on the entire project.

There are some future issues that the Board needs to be aware of and they include; Xcel Energy will need to build two short 115 kV and one short 345 kV high voltage transmission lines (HVTL) to connect the MEC facility to the adjacent Xcel Wilmarth Substation. The application for the HVTL was not submitted until August 2004 and so it was not possible to satisfy the procedural requirements of the HVTL in time to include that item in the packet before the Board today. A public meeting, environmental assessment and hearing are required on the HVTL and EQB staff expects to bring this matter before you in November, 2004.

The City of Mankato will annex the property in Lyon Township where the generation facility is located and is strongly in support of the project. No public objections have been received that have not been adequately addressed. The PUC made a final decision unanimously approving the Mankato Energy Center certificate of need at their September 9, 2004 meeting. The EQB staff recommends the Board take the following actions; 1) issue the site permit to the MEC for construction of a large electric power generating facility at the selected site, 2) issue a pipeline routing permit and partial exemption requested for construction of a 4.3 mile, 20 inch natural gas pipeline to fuel the facility, and 3) find that the environmental assessment completed for this project adequately addresses the issues raised in the scoping document and authorized by the Chair.

Commissioner Corrigan asked if the site is now serving as a demolition landfill and composting site and she has two questions regarding those facts; 1)will those uses be discontinued as this project moves forward and 2)in the environmental assessment was there any evaluation of the site as a result of those previous uses?

Mr. Johnson responded that the demolition landfill and compost site is a much larger area and only a portion of that area is being converted to this use. The demolition landfill area will still exist and the compost activities there are a very small percentage of their operation. To the second question MEC and SMC which is the current owner of the property did complete a phase 1 and phase 11 environmental assessment and the demolition landfill is going to be properly monitored and does not appear to present any major environmental risk.

Director Dunn asked if the facility is going to be built on top of the completed demolition landfill so it in essence will be built on garbage or demolition material?

Mr. Johnson responded that part of the facility will be on a portion of completed landfill. The engineers from Calpine have indicated that there is no problem of slope stability. This is a demolition landfill so there is less volatility than building the facility on garbage.

Director Dunn asked if the pipeline that serves the facility will be constructed through the fill material?

Mr. Johnson responded that there are members from Calpine who might be able to give you an answer to your question. Mr. Morton, Calpine, responded that the pipeline would not go through the fill, that the pipeline will come from the southeast part of the site and cross over to other land.

Mr. Dunn asked if his engineers were satisfied that you would be able to build a facility of this magnitude on top of fill material and not worry about footings or stability or methane gas which will be generated even though it is demolition material and that has all adequately vented so that you will not have inadvertent explosions.

Mr. Morton responded that the facility will be located on the southernmost portion of the landfill site which was filled with concrete rubble and other construction debris and his company will process the area to a grade and firmness that our engineers say is safe. The portion of the site we will be located on has not been actually used for demolition waste, just for the construction debris that allows for a base of operation. There is no concern for any landfill methane production.

Director Dunn asked whether long term care and liability would be Calpine's.

Mr. Morton responded yes that long term care and liability are Calpine's.

Commissioner Hugoson asked what experience his company has had with the construction of pipelines.

Mr. Morton responded that his natural gas pipeline group from Calpine Natural Gas that constructs practically all of the lateral pipelines, a total of 25,000 megawatts throughout the United States to the intra or interstate pipeline facility where we get our natural gas. He thinks they have a tremendous amount of experience building pipelines.

Commissioner Hugoson asked if all the landowners affected by this pipeline have been contacted and in agreement with the process on how you plan to proceed?

Mr. Morton responded that all the landowners in a 300 foot radius of where the pipeline is going have been contacted and all of the landowners knew about the process. He said they either have agreements or have offers and are in the process of finalizing them.

Commissioner Hugoson asked if he found the procedures that have been negotiated in terms of Calpine's ability to follow them, unreasonable or unusual.

Mr. Morton responded that he does not find them to be unreasonable or unusual.

Commissioner Hugoson asked why the pipeline depth of 7 feet 2 inches was chosen.

Mr. Johnson responded that it was in the original plan and it was translated proportionately. The consultants deemed 7 feet 2 inches was reasonable.

Mr. Morton responded that he was not sure why that depth was chosen.

Commissioner Hugoson stated his concern was that any tile line 8 feet or less would require the pipeline to go under it rather than allow it to go over it. But in terms of soil separation, replacing and taking care of compaction his company is experienced in the whole process.

Mr. Morton responded yes.

Chair Schroeder offered EQB help with questions or problems that might arise so that his company would be compliant in all fronts. The Chair then asked if his company had condemnation authority?

Mr. Morton responded that his company did not have condemnation authority and that he expected to be working closely with the landowners.

Chair Schroeder asked if there was any other discussion and seeing none he said there are two resolutions before the Board. The first resolution is for site permit and the second is a pipeline routing permit to MEC. He will entertain a motion.

Member Deal said that he would move the resolution and Member Bomier seconded the resolution.

The Chair asked for discussion and there being none he called for a roll call vote on the site issuance. The resolution was adopted 12-0.

**RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD**  
**Designation of Site and Issuance of a Site Permit to Mankato Energy Center, LLC**  
**For the Mankato Energy Center Large Electric Power Generating Plant**  
**MEQB Docket No. 04-76-PPS-CALPINE**

**BE IT RESOLVED**, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order designating a site in the southeast quarter of the southwest quarter of Section 31, Township 109 north, Range 26 west, Lime Township in Blue Earth County, Minnesota, for a 655 megawatt large electric power generating plant and issuing a Site Permit for the Mankato Energy Center Large Electric Power Generating Plant to Mankato Energy Center, LLC.

**BE IT FURTHER RESOLVED**, that Robert A. Schroeder, Chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order, and the Site Permit.

The Chair then said he would entertain a motion for the pipeline routing permit and Member Bloomberg moved that resolution with Commissioner Merriam seconding the motion.

Commissioner Hugoson asked what the difference was between the partial exemption and the full pipeline routing process.

Mr. Johnson responded that the partial exemption allows the company to expedite the process without the consideration of alternative routes and it allows the process to move more quickly. The pipeline rules are written a little differently from the other power plant rules in that many of the environmental requirements are built along the way before submission.

Mr. Sullivan suggested that the regular process is considerably extended. In the full routing process, alternative routes are considered and a more specific focus on the environmental review process takes place.

Commissioner Hugoson said that he has an aversion to partial exemptions but he does think the process here has been handled much better than in the past.

Commissioner Corrigan suggested that the Board sees more partial exemption pipelines and maybe EQB staff should look at why we keep seeing partial exemptions and not the full process of pipeline routing.

Mr. Sullivan suggested that part of the reason that we keep seeing these partial exemptions is that these gas plants are located close to existing pipelines so that the distance involved tends to be short.

Chair Schroeder said he would entertain a motion on the site permit resolution. Member Bloomberg moved the motion and Commissioner Merriam seconded.

Chair Schroeder then asked for discussion and there being none asked for the roll call vote which passed 12-0.

**RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD  
Pipeline Routing Permit Issued to Mankato Energy Center, LLC for a 4.3 Mile Natural Gas  
Pipeline MEQB Docket No. 04-77-PRP-Calpine**

**BE IT RESOLVED**, that the Minnesota Environmental Quality Board adopts the EQB staff's proposed Findings of Fact, Conclusions and Order granting the Mankato Energy Center, LLC a partial exemption from pipeline route selection procedures and issuing a pipeline routing permit for a 4.3 mile long natural gas pipeline within the designated route through Blue Earth Counties and incorporating into the Permit the Agricultural Impact Mitigation Plan developed for this pipeline project.

**BE IT FURTHER RESOLVED**, that Robert A. Schroeder, Chair of the Board, is authorized to sign the Findings of Fact, Conclusions and Order and the Pipeline Routing Permit.

**IX. \*Authorization to Initiate Formal Rulemaking Process on Mandatory EAW and Exemption Categories for Recreational Trail Projects**

Mr. Downing, EQB staff stated that the Board may recall that the 2003 Legislature directed the Board to adopt rule amendments that would establish mandatory review and exemption categories for recreational trails. Staff is now asking the Board to authorize moving to the formal part of the rulemaking process where we would hold public hearings before an Administrative Law Judge (ALJ).

The Board initiated the informal part of the rulemaking process in July of last year by sending out a request for comments document to several hundred persons interested in EQB rulemaking or recreational trail activities. The notice invited comments on what these recreational trail categories might be like. Staff hoped that comments would be in by October 2003, but a number of parties asked for additional time and didn't receive final comments until March 2004. At the May Board Meeting the staff presented a document that included a number of options for possible mandatory categories for EAWs, EISs and exemptions. That document was sent out for further public review and we received comments through mid-July.

Mr. Downing indicated that the EQB was facing a time deadline in this process. The Administrative Procedures Act under which rules have to be adopted state that for any rulemaking which is authorized by the legislature the notice of hearing within 18 months of the day the legislation became effective or the authority expires. In this case, the notice of hearing would have to be sent to the State Register for publication by mid-November. Staff is asking the Board to authorize action at this meeting because other administrative steps must be taken before notice can be given including review by the Governor's Office, the Revisor's Office and the Department of Finance.

Mr. Downing then went through the proposed rule, revised version, explaining each item. He noted the proposed rule would establish four Mandatory EAW categories and 6 exemption categories.

He stated that staff is not proposing any mandatory EIS categories as part of this rulemaking. He also noted that the mandatory categories proposed are to a considerable extent based on the recommendations from the DNR although they are not identical. He also noted that in the Board packet there is a draft Statement of Needs and Reasonableness (SONAR) in which the staff explained the rationale for all categories and specifically for the choices of the various thresholds. Mr. Downing explained the rulemaking procedures that would be followed assuming that the Board authorizes rulemaking. Staff would anticipate coming back before the Board in April or May for action adopting final rules.

Mr. Downing said he would be happy to answer any questions and noted there is a revised resolution for Board action. .

Member Bloomberg asked if there would be value in proposing a definition for recreational trails as part of this rulemaking.

Mr. Downing responded that no one has proposed a definition for recreational trails, and that staff experience has shown that proposing as few definitions as possible often works the best, but if there is a good reason to have a defined term, staff could do that. The defined term might be suggested by the ALJ and might even suggest what that definition would include.

Member Deal stated that he had a question about the sentence "if a project is not sponsored by a unit of government the RGU is the local government unit." He wondered if that meant we are assigning a governmental unit either county or local, and does that leave the door open for assigning both governmental units?

Mr. Downing responded that if there is a question about which local unit of government to assign, the rules specify that you assign it to the unit with the most responsibility or approval authority over the project. In almost all cases it is pretty obvious who that will be. But every now a then we run into an ambiguous situation where it is a little more difficult to determine, but this practice would be consistent with those used in the past 20 years and work quite well.

Director Dunn asked if when the legislation passed in the 2003 session, was the EQB or DNR both supportive of this rulemaking?

Commissioner Merriam responded that the DNR was supportive of this legislation.

Chair Schroeder asked for additional questions and seeing none, he asked for a motion to adopt the resolution. Commissioner Wilson moved the resolution and Commissioner Merriam seconded. Chair Schroeder then asked for a roll call vote which passed 12-0.

**RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD  
Authorizing Initiation of Rulemaking to Adopt Amendments to the  
Environmental Review Program Rules, Minn. Rules, parts 4410.0200 to 4410.7070,  
Adding Mandatory EAW and Exemption Categories for Recreational Trails**

**WHEREAS**, Laws of Minnesota 2003, chapter 128, article 1, section 167, subdivision 3, directs that “the Environmental Quality Board shall adopt rules providing for threshold levels for environmental review for recreational trails;” and

**WHEREAS** the Environmental Quality Board staff has proposed a set of draft rule amendments labeled “Staff proposed draft rule amendments – dated 9-8-04;”

**NOW THEREFORE BE IT RESOLVED**, that Robert Schroeder, Chair of the Environmental Quality Board, is hereby granted the authority and directed to sign and to give notice of the Board’s intent to adopt rule amendments adding mandatory review and exemption categories for recreational trails to the environmental review program rules after holding a public hearing to all persons who have registered their names with the Board for that purpose and publish the notice and rules in the State Register, and to perform any and all acts incidental thereto.

**AND BE IT FURTHER RESOLVED** that Michael Sullivan, Executive Director of the Environmental Quality Board, is hereby granted the authority and directed to supervise the Board’s presentation at the hearing and to perform any and all acts incidental thereto.

Chair Schroeder asked for a motion to adjourn and then adjourned the meeting.