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EQB MONITOR

AMENDMENTS TO ENVIRONMENTAL REVIEW RULES NOW IN EFFECT

The "Phase 1" amendments to the Environmental Review program rules (chapter 4410) went into effect October 30, 2006. The amended rules may be viewed at the Website of the Revisor of Statutes at: www.revisor.leg.state.mn.us/arule.

ENVIRONMENTAL ASSESSMENT WORKSHEETS

EAW Comment Deadline: December 20, 2006

Project Title: Trillium Bay Homeowners Association, Minnetrista, MN, Halstead Bay, Lake Minnetonka

Description: Trillium Bay Homeowners Association has proposed to expand some of the slip sizes at the 17 Boat Storage Unit (BSU) multiple dock facility on Lake Minnetonka. The proposed project is located on 850 feet of continuous shoreline in Halstead Bay, and would increase the sizes of eleven 12' x 32' slips to 16' x 40'. This would make the sizes of the total 17 slips consistent at 16 feet wide by 40 feet long.

RGU: Lake Minnetonka Conservation District

The *EQB Monitor* is a biweekly publication of the Environmental Quality Board that lists descriptions and deadlines for Environmental Assessment Worksheets, Environmental Impact Statements, and other notices. The *EQB Monitor* is posted on the Environmental Quality board home page at <http://www.eqb.state.mn.us/>.

Upon request, the *EQB Monitor* will be made available in an alternative format, such as Braille, large print, or audio tape. For TTY, contact Minnesota Relay Service at 800-627-3529 and ask for Department of Administration. For information on the *EQB Monitor*, contact:

Minnesota Environmental Quality Board
658 Cedar St., 300 Centennial Office Building
St. Paul, MN 55155-1388
Phone: 651-201-2480
Fax: 651-296-3698
<http://www.eqb.state.mn.us>

Contact Person:

Judd J. Harper, Administrative Technician
18338 Minnetonka Blvd.
Deephaven, MN 55391
(952) 745-0789

Project Title: Ni Gig Wah Noe Shores Second Addition

Description: Ni Gig Wah Noe Shores Second Addition is a proposed single family residential lot development within the shoreland area of Leech Lake located in Sections 22 & 23, Township 143 N, Range 30 W (Ottetail Peninsula). The proposed plat contains 10 riparian lots and 43 non-riparian lots which range from 40,000 square feet to 217,000 square feet on 95 acres.

RGU: Cass County

Contact Person:

Paul Z. Fairbanks
Environmental Services Department
Cass County Courthouse
PO Box 3000
Walker, MN 56484
Phone: 218-547-7287
Fax: 218-547-7429
paul.fairbanks@co.cass.mn.us

Project Title: Rucker Hog Feedlot Expansion

Description: James Rucker is proposing to add a 51-foot by 328-foot, 2,000-head hog finishing barn to his existing 2,000-hog and 221-head dairy operation in Section 9 or Oronoco Township, Olmstead County. The barn will be equipped with a concrete, slatted floor, a curtain sided, naturally ventilated barn, with powered pit ventilation to a bio-filter. Manure from the proposed hog barn will be collected in eight-foot deep concrete pits located beneath the barn. The manure will be pumped from the pits once or twice per year and immediately incorporated at agronomic rates into cropland as fertilizer.

A copy of the Environmental Assessment Worksheet will be posted on the Minnesota Pollution Control Agency Website at the following: <http://www.pca.state.mn.us/news/eaw/index.html>.

RGU: Minnesota Pollution Control Agency

Contact Person:

Kevin Kain, Project Manager
Environmental Review and Operations Section
Regional Division
Minnesota Pollution Control Agency
520 Lafayette Road No.
St. Paul, MN 55155
(651) 296-7432

Project Title: Clear Lake Trail with CSAH 13 & 4 Reconstruction

Description: Waseca County Highway Department is proposing trail construction around Clear Lake along with reconstruction of portions of CSAH 13 and CSAH 4 in the city of Waseca and Woodville Township. The county is proposing 1.74 acres of fill in Clear Lake to maintain 3:1 slopes and provide opportunities for lakescaping and public access.

RGU: Waseca County Board of Commissioners

Contact Person:

Rick Morris, Board Chairman
810 No. State St.
Waseca, MN 56093
507-835—7305
rick.morris@co.waseca.mn.us

EAW NEED DECISIONS

The noted responsible governmental unit has made a decision regarding the need for an EAW in response to a citizen petition.

- Otter Tail County Board of Commissioners, Homeland Investment Company #1, for property on Fish Lake, denied.

EIS NEED DECISIONS

The responsible governmental unit has determined the following projects do not require preparation of an EIS. The dates given are, respectively, the date of the determination and the date the EAW notice was published in the *EQB Monitor*.

- Becker County Board of Commissioners, Cormorant Township Gravel Mine, Contractors Leasing, October 24, 2006 (August 28, 2006)
- Duluth City Planning Commission, Duluth Historic Renaissance Project, October 25, 2006 (September 25, 2006)
- Minnesota Department of Natural Resources, Wisel Creek Trout Stream Habitat Restoration/Improvement Project, October 31, 2006 (September 11, 2006)
- City of Jordan, Restoration of Mill Pond, November 6, 2006 (August 14, 2006)

EIS ADEQUACY DECISION-Blue Heron Bay

Please be advised that on October 31, 2006, the Otter Tail County Board of Commissioners (Board) determined that the environmental Impact Statement (EIS), dated October 6, 2006, for the Conditional Use Permit Application of Blue Heron Land Company LLC, ("Blue Heron Bay") for property on Dead Lake (56-383) was adequate.

SCOPING DOCUMENT/DRAFT SCOPING DOCUMENT NOTICE OF AVAILABILITY

Project Title: Trunk Highway 14 Improvement Project-Dodge Center to Owatonna, Dodge and Steel Counties

Description: Improvements to the approximately 19-mile corridor of Highway 14 are necessary to address safety concerns and to provide adequate highway capacity for future traffic volumes. Alternatives will be analyzed for safety and future traffic conditions, as well as potential social, economic, and environmental impacts, such as private property impacts and effects to water resources and other natural environment features. The SD/DDD recommends which alternatives should be carried forward for further review in the Environmental impact Statement (EIS) and the degree of additional study needed to assess potential social, economic, and environmental impacts.

Public Review: Copies of the Highway 14 SD/DSDD are being distributed to those agencies on the current MEQB document review list and others. The comment period will begin on November 20 and will extend through December 22, 2006. Copies of the Highway 14 SD/DSDD are available for public review at the following locations.

- Minnesota Department of Transportation District 6 Headquarters Office, 2900 48th Street NW, Rochester, MN
- Minnesota Department of Transportation District 6 Owatonna Office, 1010 21st Ave. NW, Owatonna, MN
- Owatonna Public Works Department, 540 Hills Circle, Owatonna, MN

- Dodge Center City Hall, 35 Main St., Claremont, MN
- Claremont City Hall, 235 Front Street, Claremont, MN
- Owatonna Public Library, 105 No. Elm Ave., Owatonna, MN
- Dodge Center Public Library, 13 1st St. NW, Dodge Center, MN
- Dodge County Highway Department, 16 So. Airport Rd., Dodge Center, MN
- Steele County Public Works Department, 635 Florence Ave., Owatonna, MN
- Project Website: www.projects.dot.state.mn.us/d6/projects/hwy14

Public Meeting: To afford an opportunity for all interested persons, agencies and groups to comment on the project, a public meeting will be held on Tuesday, December 12, 2006 at the Triton High School located at 2200 813 West Highway Street, Dodge Center. An informational open house will be held from 6-8 p.m. with a brief presentation starting at 7 p.m. Copies of the Highway 14 SD/DSDD will be available for review and Minnesota Department of Transportation representatives will be present to answer questions during the open house.

RGU: Minnesota Department of Transportation

Contact Person:

Richard Augustin, Project Manager
Minnesota Department of Transportation-District 6
2900 48th St. NW
Rochester, MN 56201
Phone: 507-280-5092
richard.augustin@dot.state.mn.us

EIS PREPARATION NOTICE

Project Title: Minnesota Urban Ballpark

Description: A state Environmental Impact Statement (EIS) will be prepared by Hennepin County for the proposed construction of the Minnesota Urban Ballpark, a new, 42,000 seat open-air baseball stadium located at a site one block northwest of the Target Center between 5th Street North and 7th Street North in Downtown Minneapolis, Hennepin County, Minnesota. The purpose of the proposed Project is to build a new Major League Baseball stadium for the Minnesota Twins, with associated on-site facilities, that is close to the center of the metropolitan area fan base, maximizes the use of existing parking facilities, is in close proximity to public infrastructure investments, minimizes public investment and infrastructure improvements, and is located near a concentration of establishments that could serve fans and benefit from new customers. The Hennepin County Board of Commissioners approved the Scoping Decision for the proposed project on December 13, 2005. An Amended Scoping Decision Document was approved in November 2006. Pursuant to the Amended Scoping Decision, the proposed Project consists of the Ballpark structure itself (including an administrative building, storage area located under the 5th Street North Bridge and an area up to 64,000 square feet for potential residential, retail or office use), a 6th Street pedestrian bridge over I-394 with a width of 60 – 80 feet, improvements to the 7th Street North Bridge, a parking facility to the southwest of the ballpark containing, at most, approximately 825 parking spaces, and a field level access road with access from 3rd Avenue North. Two

alternatives to the proposed Project will be analyzed in the EIS. The first is the No Build Alternative. This alternative assumes continued use of the Hubert H. Humphrey Metrodome as the baseball stadium for the Minnesota Twins. The second Project Alternative is the Incorporation of Mitigation Measures Identified through Public Comment. This alternative allows for further Project modifications incorporating mitigation measures identified through the EIS process to the extent such measures are reasonable and prudent. Issues and Impacts requiring detailed analysis in the EIS include transportation/traffic impacts, air quality impacts, noise impacts, visual impacts/scenic views, cultural resources, cumulative impacts and site contamination.

Schedule: The Draft EIS is expected to be available for public review in January 2007.

RGU: Hennepin County

Contact Person:

Chuck Ballentine, Deputy Project Coordinator
Hennepin County Ballpark Project Office
525 Portland Avenue South
Minneapolis, MN 55415
612-543-7274
chuck.ballentine@co.Hennepin.mn.us

PETITIONS FILED

The following petitions have been filed with the EQB requesting preparation of an EAW. The EQB has assigned the indicated unit of government to review the petition and decide on the need for an EAW.

- City of Afton, Steam Boat Landing
- City of Afton, Afton Center Development
- City of Duluth, Billman development
- Cass County, Boulder Ridge on Girl Lake project

NOTICES

Minnesota Forest Resources Council

Public Meeting Notices

- The Northeast Regional Landscape Committee of the Minnesota Forest Resources Council (MFRC) will meet on Wednesday, December 6, 2006 from 10 a.m. to 2 p.m. in Duluth at the Natural Resources Institute (NRRI) building. For more information, please contact Lindberg Ekola at 320-256-8300 or go to the calendar on the MFRC Website at <http://www.frc.state.mn.us>.

- The East Central Regional Landscape Committee of the Minnesota Forest Resources Council (MFRC) will meet on Friday, December 8, 2006 from 9 a.m. to 2 p.m. in Mora at Freddie's Restaurant on Highway 65. For more information, please contact Lindberg Ekola at 320-256-2112 or go to the calendar on the MFRC Website at <http://www.frc.state.mn.us>.
- The Northern Regional Landscape Committee of the Minnesota Forest Resources Council (MFRC) will meet on Wednesday, December 13, 2006 from 9 a.m. to 2 p.m. in International Falls at the Holiday Inn. For more information, please contact Lindberg Ekola at 320-256-8300 or go to the calendar on the MFRC Website at <http://www.frc.state.mn.us>.

OAH DOCKET NO. 15-2000-17579

STATE OF MINNESOTA

**OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF NATURAL RESOURCES**

In the Matter of the Public Hearing Demand
of Tim Landborg, Rabbit Lake

**NOTICE AND ORDER FOR
PREHEARING CONFERENCE**

TO: Tim Landborg and his attorney Nicholas J. Eugster, Messerli & Kramer, 1800 Fifth Street Towers, 150 South Fifth Street, Minneapolis, MN 55402.

TIM LANDBORG IS HEREBY NOTIFIED that the Department of Natural Resources ("DNR") has initiated this action as a result of Tim Landborg's appeal from the Commissioner's Order dated July 22, 2005, requiring him to remove unauthorized fill from the bed of Rabbit Lake.

IT IS HEREBY ORDERED that a contested case prehearing conference will be held on December 11, 2006, at 1:30 p.m., at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN.

The Chief Administrative Law Judge, Office of Administrative Hearings, has assigned this matter to Beverly J. Heydinger, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401-2138, telephone (612) 341-7606.

The prehearing conference will be conducted pursuant to the contested case procedures set out in chapter 14 of Minnesota Statutes, the Rules of the Office of Administrative Hearings, Minn. Rules 1400.5100 - 1400.8500, and Minn. Stat. §§ 103G.301 - 315 (2004). A copy of these materials may be purchased from the Minnesota Book Store, telephone 651-297-3000, or are available at www.revisor.leg.state.mn.us. Copies of the rules are also available at www.oah.state.mn.us.

The attorney for the DNR, Jill Schlick, Assistant Attorney General, 445 Minnesota Street, Suite 900, St. Paul, Minnesota, 55101-2127, (651) 296-2377 may be contacted to discuss discovery or informal disposition of this matter.

ALLEGATIONS

1. Tim Landborg (“Landborg”) owns real property in the Southeast Quarter of Section 19, Township 47 North, Range 28 West, Crow Wing County, Minnesota. Landborg constructed a private road to an island in Rabbit Lake.

2. DNR issued Landborg a Commissioner’s Order dated July 22, 2005, requiring him to remove all fill placed below the ordinary high water level of Rabbit Lake, including logs, wood chips and any other fill material (the “Restoration Order”). The issuance of the Restoration Order was appropriate for the following reasons:

A. Minn. R. 6115.0190, subp. 3 (2005) prohibits placement of fill for construction of pathways from shorelands to islands.

B. The placement of fill is inconsistent with the goals of the public waters regulations to minimize encroachment, change or damage to the environment, to regulate the quantity and quality of fill based upon the capabilities of the waters to assimilate the material, and to maintain consistency with shoreland standards. *See* Minn. R. 6115.0190, subp. 1 (2005).

C. The placement of fill does not comply with Minn. R. 6115.0190, subp. 5.A (2005) or 6115.0230, subp. 5.A (2005), which state that a permitted project must not exceed “more than a minimum encroachment, change, or damage to the environment, particularly the ecology of the waters.”

D. The placement of fill is inconsistent with Minn. R. 6115.0190, subp. 5.B (2005), which prohibits the placement of fill into public waters that does not consist of clean inorganic material free from pollutants.

E. The placement of fill is inconsistent with Minn. R. 6115.0190, subps. 5.C and 5.F (2005) which require a stable supporting foundation that will not be susceptible to the actions of wind, waves and currents.

F. The placement of fill is inconsistent with the requirements of Minn. R. 6115.0190, subp. 5.E (2005) which states that a proposed public waters project must represent the minimal impact solution to a specific need with respect to all other reasonable alternatives.

G. The placement of fill is inconsistent with Minn. R. 6115.0230, subp. 3.D (2005) which prohibits issuance of a public waters work permit that is “detrimental to . . . significant fish and wildlife habitat.”

H. The placement of fill violates Minn. R. 6115.0230, subp. 3.F (2005) which prohibits the construction of crossings that provide private access to an island.

I. The placement of fill is inconsistent with Minn. R. 6115.0190, subp. 5.H (2005) and Minn. R. 6115.0230, subp. 5.C (2005) which require that the fill comply with applicable floodplain, shoreland and wild and scenic rivers ordinances.

J. The project is inconsistent with Minn. R. 6115.0230, subp.5.E (2005) which provides that crossings are only allowed when there is no feasible alternative.

3. Pursuant to Minn. Stat. § 103G.251 (2004), Landborg appealed from the Restoration Order.

ISSUES

1. Whether the placement of fill in Rabbit Lake is consistent with the applicable Minnesota rules, specifically Minn. R. 6115.0150 through 6115.0280 (2005).

2. The relevant laws and rules include, but need not be limited to, Minn. R. 6115.0190 (2005); Minn. R. 6115.0230 (2005); Minn. R. 6115.0255 (2005); and Minn. Stat. § 103G.311 (2004).

ADDITIONAL NOTICE

1. The Respondent's failure to appear at the prehearing conference may result in a finding that the Respondent is in default, that the allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld.

2. If any party has good cause for requesting a delay of the hearing, the request must be made in writing to the Administrative Law Judge at least five days prior to the hearing. A copy of the request must be served on the other party.

3. Any party intending to appear at the prehearing conference must file a Notice of Appearance form and return it to the Administrative Law Judge within 20 days of the date of service of this Notice and Order. A copy must be served on the attorney. A Notice of Appearance form is enclosed.

4. At the prehearing conference, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. The parties are entitled to the issuance of subpoenas to compel witnesses to attend the prehearing conference. The parties will have the opportunity to be heard orally, to present evidence and cross-examine witnesses, and to submit evidence and argument. Ordinarily the hearing is tape-recorded. The parties may request that a court reporter record the testimony at their expense.

5. Persons attending the prehearing conference should bring all evidence bearing on the case, including any records or other documents. Be advised that if data that is not public is admitted into the record, it may become public data unless an objection is made and relief is requested under Minn. Stat. § 14.60, subd. 2.

6. Requests for subpoenas for the attendance of witnesses or the production of documents at the prehearing conference shall be made in writing to the Administrative Law Judge pursuant to Minn. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at www.oah.state.mn.us or by calling 612-341-7600.

7. This case may be appropriate for mediation. The parties are encouraged to consider requesting the Chief Administrative Law Judge to assign a mediator so that mediation can be scheduled promptly.

8. The Office of Administrative Hearings conducts contested case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court. A Guide to Participating in Contested Case Proceedings at the Office of Administrative Hearings is available at www.oah.state.mn.us or by calling 612-341-7600.

9. Any party who needs an accommodation for a disability in order to participate in this prehearing conference process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, including a foreign language interpreter, the administrative law judge must be promptly notified. To arrange for an accommodation or an interpreter, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401, or may call (612) 341-7610 (voice) or (612) 341-7346 (TTY).

Dated this 7th day of November, 2006.

MINNESOTA DEPARTMENT OF NATURAL
RESOURCES

Gene Merriam
Commissioner