

MINNESOTA ENVIRONMENTAL QUALITY BOARD MEETING MINUTES

**Wednesday, January 15, 2014
University of Minnesota - St. Paul Campus
Borlaug Hall**

EQB Members Present: Dave Frederickson, Kate Knuth, Mike Rothman, John Saxhaug, Erik Tomlinson, Charlie Zelle, Spencer Cronk, Kristin Duncanson, Tom Landwehr, Dr. Ed Ehlinger, Sandy Rummel (Met Council), Michelle Beeman (for John Linc Stine)

EQB Members Absent: Katie Clark-Sieben, Julie Goehring, Brian Napstad, John Linc Stine

Staff Present: Will Seuffert (EQB), Jeff Smyser (EQB), Kate Frantz (EQB), Megan Eischen (EQB), Caroline Magnuson (EQB), Beth Tegdesch (MPCA for EQB)

Chair Dave Frederickson called the meeting to order at 1:20 p.m.

I. Adoption of Consent Agenda and Minutes

A motion to adopt the Consent Agenda and approve the November 20, 2013, meeting minutes was made and seconded.

II. Introductions

III. Chair's Report

Chair Dave Frederickson acknowledged and thanked Brian Buhr, Interim Dean of the University of Minnesota's College of Food, Agricultural and Natural Resource Sciences (CFANS) and interim director of the Minnesota Agricultural Experiment Station, for allowing the Environmental Quality Board to have their Board meeting here at the University of Minnesota.

Chair Frederickson has been traveling the state to encourage folks to participate in government on a very specific issue and that is the renewable fuel standard.

IV. Executive Director's Report

Will Seuffert reminded folks that the Model Standards document comment period was extended until Jan 27th. Please send an email to silicasand.eqb@state.mn.us if you have any comments. This will be going before the board on March 19th for approval. He thanked staff from the different agencies for all the hours they put into this Model Standards document, and acknowledged that there is a lot more work ahead.

Rule making efforts: The PCA and DNR finalized the membership of an advisory panel to provide input in the rule making of silica sand operations. The EQB will also participate in panel meetings and discussions to receive advice on rules related to silica sand and environmental review. The roster is available online on the interagency silica sand website. The first meeting will be on Jan 29th from 1-4 pm in Room 300 North at the State Office Building. These meetings will continue monthly until new rules or rule revisions are proposed.

Thank you to Dr. Mark Seeley for helping to organize Board meeting today. This helps fulfill our public engagement mission to get out and be present in communities around the state.

Introduced Caroline Magnuson, EQB's new Environmental Review Planner.

V. Eminent Domain in Metropolitan Agricultural Preserves per Minn. Stat. 473H, Mississippi River Regional Trail in Spring Lake Park Reserve, Dakota County – Jeff Smyser, EQB Policy Programs Lead staff

The issue before the Board is whether or not a proposed eminent domain action might have an unreasonable effect on agriculture and agricultural resources. Dakota County requests removal of approximately 76.7 acres of land from the Metropolitan Agricultural Preserves Program within the Spring Lake Park Reserve. Removal of this agricultural preserve land will facilitate the completion of the Mississippi River Regional Trail and thus promote the completion of the master plan for Spring Lake Park Reserve.

Jeff Smyser gave a presentation and discussion followed. Mr. Al Singer, Land Conservation Manager for Dakota County, clarified some information and added input to the discussion. Staff recommends approval of the Findings of Fact, Conclusions and Order that no action need be taken by the Board. Commissioner Cronk made a motion to approve and Commissioner Zelle seconded the motion. A vote was taken and the Resolution was approved.

**RESOLUTION OF THE
MINNESOTA ENVIRONMENTAL QUALITY BOARD**

Regarding the Notice of Intent to Terminate Enrollment Status in the Metropolitan Agricultural Preserves for Certain Lands in Nininger Township, Dakota County, by Dakota County for the Purpose of Facilitating Completion of the Mississippi River Regional Trail and the Master Plan for Spring Lake Park Reserve.

BE IT RESOLVED, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order that no further action is required on the Notice of Intent to Terminate Enrollment Status in the Metropolitan Agricultural Preserves for Certain Lands in Nininger Township, Dakota County, by Dakota County to Facilitate Completion of the Mississippi River Regional Trail and the Master Plan for Spring Lake Park Reserve; and

BE IT FURTHER RESOLVED, that David J. Frederickson, Chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order.

**STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD**

In the Matter of the Notice of Intent to
Terminate Enrollment Status in the
Metropolitan Agricultural Preserves for
Certain Lands in Nininger Township, Dakota
County; by Dakota County to Facilitate
Completion of the Mississippi River Regional
Trail and the Master Plan for Spring Lake
Park Reserve.

FINDINGS OF FACT,
CONCLUSIONS AND
ORDER

The above-captioned matter came before the Minnesota Environmental Quality Board (EQB) at a regular meeting on January 15, 2014, pursuant to a Notice of Intent by Dakota County to cause early termination in enrollment in the Metropolitan Agricultural Preserves of approximately 77 acres in Nininger Township by eminent domain action, for the purpose of securing a site for a public trail within Spring Lake Regional Park.

Based upon all of the proceedings herein, the Minnesota Environmental Quality Board makes the following:

VI. FINDINGS OF FACT

1. The EQB received a Notice of Intent from Dakota County on December 24, 2013, notifying the EQB of the intent of Dakota County to take by eminent domain approximately 77 acres of land in Nininger Township, Dakota County. This 77 acres of land are enrolled in the Metropolitan Agricultural Preserves under Minnesota Statutes Chapter 473H.
2. The Metropolitan Agricultural Preserves program under Minnesota Statutes Chapter 473H gives the landowner certain tax relief and protections in exchange for using the land for agricultural purposes through enrollment of the land into an Agricultural Preserves covenant. Enrollment is for at least eight years and continues indefinitely, or until eight years after the landowner applies for termination of the Agricultural Preserves status.
3. The purpose of the Dakota County action is to terminate the land's Agricultural Preserve status to facilitate the completion of the Mississippi River Regional Trail and completion of the master plan for Spring Lake Park Reserve.
4. Metropolitan Regional Recreation Open Space System established in accordance with Minnesota Statutes 473.147. Dakota County is one of ten implementing agencies and Spring Lake Park Reserve is a designated element of the Metropolitan Regional Recreation Open Space System.
5. The Metropolitan Council's 2030 Framework Planning Areas map includes Spring Lake Park Reserve as Regional Park.
6. Spring Lake Park Reserve has been included in Dakota County's and Nininger Township's comprehensive plans and updates since the Park Reserve was established by the Metropolitan Council as part of the Metropolitan Regional Recreation Open Space System.

7. Minnesota Statutes, Section 473H.15, reads:

473H.15 EMINENT DOMAIN ACTIONS.

Subdivision 1. Follow procedures here. Any agency of the state, any public benefit corporation, any local, county or regional unit of government, or any other entity possessing powers of eminent domain under chapter 117, shall follow the procedures contained in this section before (1) acquiring any land or easement having a gross area over ten acres in size within agricultural preserves; or (2) advancing a grant, loan, interest subsidy or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve nonfarm structures within agricultural preserves.

Subd. 2. Notice of intent to EQB. At least 60 days prior to an action described in subdivision 1, notice of intent shall be filed with the Environmental Quality Board containing information and in the manner and form required by the Environmental Quality Board. The notice of intent shall contain a report justifying the proposed action, including an evaluation of alternatives which would not require acquisition within agricultural preserves.

Subd. 3. EQB review. The Environmental Quality Board, in consultation with affected units of government, shall review the proposed action to determine the effect of the action on the preservation and enhancement of agriculture and agricultural resources within the preserves and the relationship to local and regional comprehensive plans.

Subd. 4. EQB order. If the Environmental Quality Board finds that the proposed action might have an unreasonable effect on an agricultural preserve or preserves, the Environmental Quality Board shall issue an order within the 60-day period for the party to desist from such action for an additional 60-day period.

Subd. 5. Hearing. During the additional 60-day period, the Environmental Quality Board shall hold a public hearing concerning the proposed action at a place within the affected preserve or otherwise easily accessible to the preserve upon notice in a newspaper having a general circulation within the area of the preserves, and individual notice, in writing, to the municipalities whose territory encompasses the preserves, the agency, corporation or government proposing to take the action, and any public agency having the power of review of or approval of the action, in a manner conducive to the wide dissemination of the findings to the public.

Subd. 6. Joint review. The review process required in this section may be conducted jointly with any other environmental impact review conducted by the Environmental Quality Board.

Subd. 7. AG may sue to enjoin. The Environmental Quality Board may request the attorney general to bring an action to enjoin any agency, corporation or government from violating the provisions of this section.

Subd. 8. Does not apply to emergency. This section shall not apply to an emergency project which is immediately necessary for the protection of life and property.

Subd. 9. EQB suspension. The Environmental Quality Board shall be empowered to suspend any eminent domain action for up to one year which it determines to be contrary to the purposes of sections 473H.02 to 473H.17 and for which it determines there are feasible and prudent alternatives which have less negative impact on the agricultural preserves.

Subd. 10. When agricultural preserve ends. The agricultural preserve designation and all benefits and limitations accruing through sections 473H.02 to 473H.17 for the preserve and the restrictive covenant for that portion of the preserve taken, shall cease on the date the final certificate is filed with the court administrator of district court in accordance with section 117.205.

8. The EQB finds that an entity with eminent domain authority given to it under Minnesota Statutes chapter 117 may terminate Agricultural Preserves status of land that it desires to acquire by following the procedures set out in Minnesota Statutes 473H.15.
9. The EQB finds that the proposed action by Dakota County affects a parcel greater than 10 acres in size and is subject to EQB review under Minnesota Statutes section 473H.15.
10. The EQB finds that the EQB has a duty under Chapter 473H.15, subdivision 3, to review the proposed action to determine the effect of the action on the preservation and enhancement of agriculture and agricultural resources within the preserves and the relationship to local and regional comprehensive plans.
11. The EQB finds that the EQB is empowered to suspend any eminent domain action for up to one year which it determines to be contrary to the purposes of sections 473H.02 to 473H.17 and for which it determines there are feasible and prudent alternatives which have less negative impact on agricultural preserves.
12. The EQB finds that the Notice of Intent and the included report show that:
 - a. approximately 76.7 acres across are intended to be removed from Metropolitan Agricultural Preserves status;
 - b. no cropland is affected;
 - c. the proposed acquisition boundaries have been designed to permanently protect high quality natural and archaeological resources and exclude the land being used for agricultural purposes;
 - d. the boundary of the regional park reserve is proposed to be moved so that approximately 18.8 acres currently used for pasture will no longer be within the regional park reserve, which will allow continued use of the acreage as pasture;
 - e. Dakota County received comments from the public on the trail at open house events on March 6, 2013, and April 17, 2013;
 - f. the purpose of Dakota County in securing this site for a trail in a regional park is supported by the Dakota County Comprehensive Plan and the Spring Lake Park Reserve Master Plan, part of the Metropolitan Regional Recreation Open Space System.

13. EQB finds that the Notice of Intent contains a report that justifies the proposed action and there are no feasible and prudent alternatives which have less negative impact on the agricultural preserves.

Based on the foregoing Findings of Fact, the Minnesota Environmental Quality Board makes the following:

CONCLUSIONS OF LAW

1. Any of the foregoing Findings of Fact more properly designated as Conclusions of Law are hereby adopted as such.
2. The EQB has jurisdiction over the subject matter of this proceeding pursuant to Minnesota Statutes chapter 473H.
3. The EQB finds that the proposed action does not have an unreasonable effect on the preservation and enhancement of agriculture and agricultural resources and is consistent with local and regional comprehensive plans.
4. The EQB concludes, based upon examination of the Notice of Intent and the report contained therein that the action is consistent with the aims of the Metropolitan Agricultural Preserves.
5. The EQB concludes it has no need to take further action.

Based on the Findings of Fact, Conclusions and the entire record of this proceeding, the Minnesota Environmental Quality Board hereby makes the following:

ORDER

In the matter of the Notice of Intent to terminate enrollment status in the Metropolitan Agricultural Preserves for approximately 77 acres of land in Nininger Township, Dakota County to facilitate completion of the Mississippi River Regional Trail and the Master Plan for Spring Lake Park Reserve, the EQB hereby affirms no action need be taken in this matter.

Approved and adopted this 15th day of January, 2014.

David J. Frederickson, Chair
Minnesota Environmental Quality Board

VII. Next Generation Environmental Congress Update – Natalie Hoidal and Katie Lederman from the U of M Morris, and Patty O’Keefe from the U of M Twin Cities

Dr. Mark Seeley, U of M, introduced the students who will give an update on continuing activities of the Next Generation Environmental Congress.

The students would like to continue the relationship with the EQB and provide youth perspective. They gave some ideas on how to make this happen.

Kate Knuth, Citizen Board Member, moves that the EQB recognizes the work done on the Next Generation Environmental Congress and the potential for productive relationships moving forward and work to figure out how to do that effectively. Commissioner Rothman seconded; all in favor.

VIII. Review of Environmental and Sustainability Initiatives on the St. Paul Campus

Hosted by the College of Food, Agricultural, and Natural Resource Sciences (CFANS)

- A. Dean Brian Buhr shared a few thoughts and a brief “tour” about the work on the St. Paul campus.
- B. Update on Priorities and Future Plans for the Minnesota Aquatic Invasive Species Research Center (MAISRC) – Dr. Peter Sorensen, Director
- C. Report on the Twin Cities Household Ecosystem Project (TCHEP) – Dr. Kristen Nelson, Professor in the Department of Forest Resources
- D. Review of the Regional Sustainable Development Partnerships (RSDP) Program – Dr. Kathy Draeger, Statewide Director

IX. Adjourn

The meeting was adjourned at 4:15 pm.