

MINNESOTA ENVIRONMENTAL QUALITY BOARD MEETING MINUTES

Wednesday, July 17, 2013
MPCA Room Board Room, 520 Lafayette Road, St. Paul

EQB Members Present: Dave Frederickson, Brian Napstad, Erik Tomlinson, John Linc Stine, Tom Landwehr, Julie Goehring, Mike Rothman, Kristin Duncanson, Charlie Zelle, Ed Ehlinger

EQB Members Absent: Spencer Cronk, Kate Knuth, John Saxhaug, Katie Clark Sieben

Staff Present: Bob Patton, Jeff Smyser (EQB), Kate Frantz, Beth Tegdesch MPCA for EQB

Chair Dave Frederickson called the meeting to order at 1:09 p.m.

I. Adoption of Consent Agenda and Minutes

A motion to adopt the Consent Agenda and approve the June 19, 2013, meeting minutes was made, seconded, and carried unanimously.

II. Introductions

III. Chair's Report

Chair Dave Frederickson talked about the process on the Governors' Institute on Community Design (GICD). Workshops on May 2nd included an overall discussion on how to better coordinate environmental policies and programs within the state agencies and about steps the EQB could take to better the quality of the states' environment. The June 20th workshop included a presentation of the recommendations from the GICD staff and experts. Ellen Anderson gave an overview of the nine recommendations.

1. Integrate and coordinate certain strategic and long-range planning authorities
2. Establish the EQB as the central point for implementing and tracking the State's climate change efforts
3. Manage across all the various regulations and competing priorities to have more effective and efficient management of water resources
4. Institutionalize cross-agency collaboration
5. Capitalize on citizen members
6. Add the Metropolitan Council to the EQB
7. Strengthen public and legislative engagement
8. Track and report on the State's environmental progress
9. Develop and implement an integrated, multi-agency investment strategy

Chair Frederickson acknowledged and congratulated Jeff Smyser, Kate Frantz, and their numerous colleagues for receiving the 2013 Notable Documents Award for their outstanding publication *Report on Silica Sand* from the National Conference of State Legislatures.

IV. Executive Director's Report

Thanks to the Congress for the great input received through the process which was a culmination of the executive order process. A final draft is being worked on to summarize that process. That will be coming out soon and will be posted on the website. There are videos of the Congress that will be posted as well. Thank you to MPCA and DNR staff for pulling those videos together.

V. Request for Comments on Possible Amendment of Minnesota Rules 4410 to Comply with Requirements in Legislation

Presenter: Jeff Smyser

The Minnesota Legislature directed the EQB and other agencies to amend rules to address silica sand mining and processing. This mandate can be found in Laws 2013, chapter 114 (HF976), Article 4, Section 105. When legislation is passed that requires rulemaking, a notice soliciting comments from the public on the subject must be published in the State Register within 60 days of the effective date of the legislation.

A motion was moved and seconded on the Resolution authorizing initiation of rulemaking to adopt amendments to the Environmental Review Program rules, Minnesota Rules 4410, to address silica sand activities. Roll call vote: 9 ayes. Motion adopted.

**RESOLUTION OF THE
MINNESOTA ENVIRONMENTAL QUALITY BOARD**

**Authorizing Initiation of Rulemaking to Adopt Amendments to the Environmental Review
Program Rules, Minnesota Rules 4410, to Address Silica Sand Activities**

WHEREAS, Laws of Minnesota 2013, chapter 114, article 4, section 105 requires the Environmental Quality Board to amend its rules for environmental review, adopted under Minnesota Statutes, chapter 116D, for silica sand mining and processing to take into account the increased activity in the state and concerns over the size of specific operations; and

WHEREAS, the law also requires that the Environmental Quality Board shall consider whether the requirements of Minnesota Statutes, section 116C.991, should remain part of the environmental review requirements for silica sand and whether the requirements should be different for different geographic areas of the state; and

WHEREAS, Minnesota Rules, chapter 4410, comprise the rules for environmental review adopted under Minnesota Statutes, chapter 116D; and

WHEREAS, Laws of Minnesota 2013, chapter 114 became effective with the Governor's signature on May 23, 2013; and

WHEREAS, Minnesota Statutes, chapter 14, the Administrative Procedure Act, includes the requirement at 14.101 that within 60 days of the effective date of any new or amendatory law requiring rules to be adopted, amended, or repealed, a notice must be published in the State Register to solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration; and

WHEREAS, the purposes of the Administrative Procedure Act are:

- (1) to provide oversight of powers and duties delegated to administrative agencies;
 - (2) to increase public accountability of administrative agencies;
 - (3) to ensure a uniform minimum procedure;
 - (4) to increase public access to governmental information;
 - (5) to increase public participation in the formulation of administrative rules;
 - (6) to increase the fairness of agencies in their conduct of contested case proceedings;
- and
- (7) to simplify the process of judicial review of agency action as well as increase its ease and availability.

and

WHEREAS, amendments to Minn. Rules 4410 should be conducted according to Minnesota Statutes, chapter 14, the Administrative Procedure Act.

NOW THEREFORE BE IT RESOLVED, that the EQB hereby authorizes the Chair to publish a Request for Comments on possible amendment of Minnesota Rules, chapter 4410, to address issues related to silica sand activities.

VI. Environmental Assessment Worksheet (EAW) Form Revision

Presenter: Kate Frantz

The EQB is responsible for creating and updating the form used for an Environmental Assessment Worksheet (EAW). Based on past work and the new legislation, a new EAW form is proposed for adoption to address several goals.

Amending the EAW form, as proposed, accomplishes a number of things with one action:

1. Improving the EAW process by making it more efficient and effective
2. Implementing a recommendation of the Executive Order 11-32 work
3. Fulfilling the mandate in HF976 to require a water resources assessment for projects that may require groundwater appropriation permits
4. Fulfilling the mandate in HF976 to require a hydrogeologic investigation of effects on groundwater and surface water on silica sand projects
5. An action that accomplishes all these things with one stroke is an example of better government

Kate went over the proposed new form with the Board.

A motion was moved and seconded on the Resolution supporting amending the Environmental Assessment Worksheet form to improve its effectiveness in accordance with Minnesota Rules 4410. Roll call vote: 10 ayes. Motion adopted.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD

Supporting Amending the Environmental Assessment Worksheet Form to Improve Its Effectiveness in Accordance with Minnesota Rules 4410

WHEREAS, Minnesota Rules, chapter 4410, comprise the rules for environmental review adopted under Minnesota Statutes, chapter 116D; and

WHEREAS, Minnesota Statutes, chapter 116D.04, requires that the environmental review rules establish the form and content of environmental assessment worksheets (EAWs); and

WHEREAS, Minnesota Rules 4410.1300 state, in part, that “The EQB chair shall develop an EAW form to be used by the RGU”; and

WHEREAS, Minnesota Rules 4410.1300 also state, in part, that “The EAW form shall be assessed by the EQB chair periodically and may be altered by the EQB chair to improve the effectiveness of the document”, and

WHEREAS, the EQB has developed an amended EAW form with the assistance of professionals with experience with environmental review who represented local governments, state agencies, and private firms; and

WHEREAS, the amended EAW form improves the effectiveness of the EAW form and efficiency of the preparation and review of EAWs.

NOW THEREFORE BE IT RESOLVED, that the EQB hereby supports the Chair amending the EAW form as represented by the July 2013 form, in accordance with Minnesota Rules, chapter 4410.

VII. Minnesota River Integrated Watershed Study Update

Presenter: Kate Frantz

John Linc Stine reporting – A subcommittee was formed a couple of months ago to go over the project. There were internal conversations and we met with the Corps and their staff and went over the project and expected outcomes; the schedule, the anticipated needs of the project. The subcommittee met this week and agreed that there is significant interest in the project moving forward and we see the potential for some very good useful products that would assist us managing water quality and water quantity issues that could scale between a very small watershed up to a larger basin scale that might be a very helpful tool in characterizing efforts statewide and nationally.

Kate's update – Jason Smith, from the Corps is the project manager. The objectives and main products out of the study are twofold: the Watershed Basin Plan, part of the Corps project and the second one is the Decision Support System.

Since April, four new work groups were created:

1. Social and economic workgroup
2. Environmental workgroup
3. Communications and public engagement process
4. Decision support system framework

Update on funding: in the process of updating our state inkind accounting. Federal side: \$350,000 for Fiscal Year 13 was available and an additional \$300,000 was made available as well. Institute of Water Resources has offered an intra-agency grant.

VIII. Silica Sand Projects Update

Presenter: Jeff Smyser

Jeff's update (HF 976) – Silica Sand projects required by the new legislation:

1. Library of local government ordinances and permits: will be constructed using the MPCA database platform
2. Model standards and criteria: will be based primarily on the best elements of the local government ordinances
3. EAW categories: local government is the RGU for smaller mining projects and MPCA is the RGU for projects crossing storage and throughput thresholds
4. Rule amendments: the initial comment period will run through August 23
5. Technical assistance team: we are learning what might be needed and will hear more advice at two meetings on August 2

IX. Adjourn