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EQB MONITOR

NOTICE OF EIS PREPARATION

Project Title: Perham Resource Recovery Facility Expansion Project

The Minnesota Pollution Control Agency (MPCA) will prepare an Environmental Impact Statement (EIS) on the Perham Resource Recovery Facility Expansion Project located in Perham, Minnesota. The Prairie Lakes Solid Waste Management Board is proposing to modify the facility by adding a second heat boiler, as well as a material recovery facility at the site. The expansion would increase the municipal solid waste processing capacity of the facility from 116 to 200 tons per day. The MPCA is the responsible governmental unit for this EIS.

On February 28, 2012, the MPCA Citizens' Board adopted a Final Scoping Decision Document for the EIS. The scope of the EIS includes the preparation of technical reports on air quality, an assessment of health risks related to air emissions, and solid waste management in the four-county Prairie Lakes area (Becker, Otter Tail, Todd, and Wadena Counties). This document discloses all environmental issues to be addressed in the EIS and can be found at <http://www.pca.state.mn.us/oxpg691>. This webpage will also be periodically updated as needed to reflect EIS process developments.

Contact Person: Kevin Kain, Project Manager
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Minnesota Environmental Quality Board
520 Lafayette Road – 4th Floor
St. Paul, MN 55155-4194
Phone: 651-757-2873
Fax: 651-297-2343
<http://www.eqb.state.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.

- Minnesota Pollution Control Agency, Iron Augmentation in Rush Lake, Chisago County, Petition denied
- Minnesota Pollution Control Agency, 3M Cottage Grove Incinerator, Petition denied

NOTICES

PUBLIC NOTICE: AERIAL APPLICATION OF HERBICIDES
Minnesota Department of Natural Resources
Division of Forestry

The Minnesota Department of Natural Resources, Division of Forestry is planning to aerially apply herbicides on state lands. Herbicide applications will occur on approximately 763 acres and involve 28 individual sites. These applications will be used to prepare sites for the planting of trees as well as for the release of planted trees from overtopping and competing vegetation. Aerial application will begin on approximately July 15 and end on approximately September 12, 2012.

Administrative Area	# Sites	Acres	Herbicides
Aitkin	2	53	Rodeo
Littlefork	5	63	Accord XRT, Garlon, Oust, Rodeo
Hibbing	3	62	Rodeo
Tower	11	291	Accord XRT, Garlon, Oust, Rodeo
Two Harbors	4	242	Rodeo, Oust
Warroad	3	52	Rodeo
TOTALS	28	763	

For further information regarding this project, contact:

Bill Schnell
Aerial Forest Management Coordinator
MN DNR Forestry
1201 E. Hwy. 2
Grand Rapids, MN 55744
218-999-7842

OAH Docket No. 11-2002-22803-2

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

In the Matter of the Alteration of the Course,
Current and Cross Section of Public Waters
Wetland No. 12-93W by Thomas J. Gunter.

NOTICE AND ORDER FOR HEARING

TO: THOMAS J. GUNTER and his attorneys, Steven S. Torvik, Nelson Oyen Torvik, P.L.L.P., 221 North First Street, P.O. Box 219, Montevideo, MN 56265.

NOTICE OF HEARING

THOMAS J. GUNTER, RESPONDENT, IS HEREBY NOTIFIED that the Minnesota Department of Natural Resources (“DNR”) has initiated this action pursuant to Minn. Stat. § 103G.311 (2010) to determine whether Respondent must restore Public Water Wetland No. 12-93W (hereinafter “PWW 12-93W”) following his unauthorized and complete drainage of PWW 12-93W.

ORDER FOR HEARING

IT IS HEREBY ORDERED that a contested case hearing will be held on August 15, 2012, at 10:30 a.m., and August 16, 2012, at 9:00 a.m. at the Chippewa County Courthouse, Courtroom 1, 629 North 11th Street, Montevideo, MN 56265. **All mail sent to the Administrative Law Judge assigned to this matter should be directed to P.O. Box 64620, St. Paul, Minnesota 55164-0620.**

The Chief Administrative Law Judge, Office of Administrative Hearings, has assigned this matter to Barbara Nielson, Administrative Law Judge, Office of Administrative Hearings, P.O. Box 64620, St. Paul, Minnesota 55164, telephone 651-361-7845.

ALLEGATIONS

1. PWW 12-93W is a public water wetland of the State of Minnesota as defined in Minn. Stat. § 103G.005, subd. 15. PWW 12-93W was identified and inventoried pursuant to Minn. Stat. § 103G.201, subd. 1 and is listed on the Chippewa County Protected Waters and Wetlands Inventory dated June 20, 1984.
2. DNR has jurisdiction over PWW 12-93W. DNR's jurisdictional boundary for PWW 12-93W is defined by Minn. Stat. § 103G.005, subd. 14 as the ordinary high water ("OHW") level. The OHW for PWW 12-93W was determined by the average extent of wetland vegetation reflected in aerial photos ranging between 1991 and 2008, as all evidence of the OHW was eliminated as a result of Thomas Gunter's unauthorized and unlawful drainage activity.
3. PWW 12-93W is located in the SE 1/4 of the SE 1/4, Section 29, Township 119 North, Range 37 West, Chippewa County, Minnesota. Thomas J. Gunter and Sandra Gunter are the owners of the real property described as the SE 1/4 of the SE 1/4, Section 29, Township 119 North, Range 37 West, Chippewa County, Minnesota.
4. In the fall of 2008, DNR staff learned that Thomas Gunter performed or caused construction activity in the bed of PWW 12-93W, including the placement of drainage tile and associated surface water intakes, which completely drained PWW 12-93W and changed the course, current, and cross section of PWW 12-93W in violation of Minnesota law.
5. Upon observing the unauthorized construction activity in the bed of PWW 12-93W, DNR staff issued Cease and Desist Order No. 831415 to Thomas Gunter on December 12, 2008, and issued Cease and Desist Order No. 831416 to Thomas Gunter's contractor Kevin Van Heuveln on December 18, 2008.
6. On July 21, 2009, DNR Area Hydrologist Ethan Jenzen accompanied the DNR Division of Waters Survey Crew to the site. The Survey Crew performed a hydrographic and topographic survey of the drained public water basin and located various tile intakes on the property. The Survey Crew intended to conduct an OHW survey on the basin area, but all natural markers had been destroyed as a result of the

complete drainage of the basin and its conversion to agriculture. Despite the cease and desist order in place, Thomas Gunter had planted the basin with small grain.

7. Thomas Gunter, through counsel, provided information to DNR staff on November 10, 2009, which documented that 15,832 feet or three miles of subsurface tile had been installed in the basin and surrounding watershed, including five surface tile intakes.

8. Thomas Gunter's excavation and placement of tile in the bed of PWW 12-93W violates Minn. Stat. §§ 103G.221 and 103G.245, and violates Minn. R. 6115.0200 and 6115.0270. Thomas Gunter's unauthorized excavation and installation of structures in the bed of public waters resulted in the unlawful elimination of PWW 12-93W and conversion to upland uses.

9. Thomas Gunter's unauthorized drainage of PWW 12-93W has resulted in the loss of a critical ecosystem and the benefits it provides to downstream receiving waters, including Shakopee Creek, the Chippewa River, and the Minnesota River.

10. The Department's decision to issue the restoration order is proper for reasons including but not limited to the remediation of environmental impacts attributable to the unauthorized and unlawful draining of PWW 12-93W.

11. Gunter made a timely request for a contested case hearing pursuant to Minn. R. 6115.0255, subp. 5(b) (2009).

ISSUES

Was the Department staff's decision to issue a restoration order consistent with the applicable Minnesota statutes and rules?

The relevant laws and rules include, but are not limited to, Minn. Stat. §§ 103A.201, 103G.221, 103G.245, 103G.311 and 103G.315 (2008), and Minn. R. 6115.0150-6115.0280 (2009).

For a complete copy of the Notice and Order for Prehearing Conference and Order for Hearing, contact Kimberly Middendorf, 445 Minnesota St., Ste. 1800, St. Paul, MN, (651) 757-1279.

Dated this 1st day of May, 2012.

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

/s/ Tom Landwehr
TOM LANDWEHR
Commissioner of Natural Resources