



Minnesota Environmental Quality Board

Publication Date: November 23, 2015
Vol. 39, No. 24

Next Publication: December 7, 2015
Submittal Deadline: November 30, 2015
Submit to EQB.Monitor@state.mn.us



The EQB has transitioned to a new electronic notification system called GovDelivery. Add MNEQB@public.govdelivery.com to your address book or safe sender list.

Check the [EQB Calendar](#) for Monitor deadlines and Board meetings. Meeting minutes, agendas and additional notices are also posted on the [EQB website](#).

- [Environmental Assessment Worksheets](#)
- [Environmental Impact Statement Need Decisions](#)
- [Environmental Assessments](#)
- [Petitions](#)
- [Notices](#)

Environmental Assessment Worksheets

The following EAWs have a comment deadline of December 23, 2015

Project Title: Goose Prairie Marsh Enhancement Project

Project Description: The Goose Prairie Marsh Enhancement Project proposes changes to improve management of surface waters near Goose Prairie Marsh in Clay County. The project would include installation of a water control structure, raising 115th Ave N, realignment of CD 18 from the marsh to the water control structure, and selective repair of CD 18 downstream of the new control structure. This is a joint project between the Minnesota Department of Natural Resources (MN DNR) and the Wild Rice Watershed District (WRWD). The agency will accept written comments on the Environmental Assessment Worksheet during the public review and comment period, which concludes Wednesday, December 23, 2015, at 4:30 p.m.

Written comments should be submitted to Caroline Magnuson, EAW Project Manager, Environmental Review Unit, Division of Ecological and Water Resources, Department of Natural Resources, 500 Lafayette Road, St. Paul, MN, 55155-4025. Electronic or e-mail comments may be sent to Environmentalrev.dnr@state.mn.us with "Goose Prairie Marsh EAW" in the subject line. If submitting comments electronically, include name and mailing address. Written comments may also be sent by fax to (651) 296-1811.

A copy of the EAW is available for public review at:

- MN DNR Library, 500 Lafayette Road, St. Paul, MN 55155-4025
- MN DNR Northwest Region, 2115 Birchmont Beach Road NE, Bemidji, MN 56601-8669
- Minneapolis Central Library, Government Documents, 2nd Floor, 300 Nicollet Mall, Minneapolis, MN 55401-1992
- Fergus Falls Public Library, 205 E Hampden, Fergus Falls, MN 56537

The EAW is also posted on the MN DNR's website at <http://www.dnr.state.mn.us/index.html> (Click on "Public Input", then select "Goose Prairie Marsh EAW" from the scroll-down list under "Environmental Review").

Additional copies may be requested by calling (651) 259-5130.

RGU: Minnesota Department of Natural Resources

Contact Person:

Caroline Magnuson
Planner
500 Lafayette Road, Box 25
Saint Paul, MN 55155
651-259-5130
caroline.magnuson@state.mn.us

Environmental Impact Statement Need Decisions

The noted responsible governmental unit has determined the following project does 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.

- Lake Minnetonka Conservation District, Bean's Greenwood Marina, 11-4-2015 (9-28-15)
- Otter Tail County, Otter Tail CSAH Reconstruction Project, 10-13-15 (8-17-15)

Environmental Assessments

In the Matter of the Application of Great River Energy and Minnesota Power for a Certificate of Need and Route Permit for the Motley Area 115 kV Transmission Line Project in Morrison, Cass, and Todd Counties, Minnesota

Docket Numbers: ET2, E015/CN-14-853 and ET2, E015/TL-15-204

Project Description: The Minnesota Department of Commerce (Department) has issued the environmental assessment (EA) for the proposed Motley Area 115 kV transmission line project in the Minnesota counties of Morrison, Cass, and Todd.

The EA analyzes the potential human and environmental impacts of the proposed project and methods to avoid and mitigate such impacts, including alignment alternatives.

Electronic versions of the EA, maps of the proposed project, and other documents relevant to this

matter are available for viewing on the Department's website:

<http://mn.gov/commerce/energyfacilities/Docket.html?id=34095>, and on the State of Minnesota's eDockets system: <https://www.edockets.state.mn.us/EFiling/search.jsp> (enter the year "14" and the number "853" or the year "15" and the number "204").

Print copies of the EA will be available at the following locations:

- Great River Regional Library, 122 6th Street NE, Staples, MN, 56479
- Motley City Hall, 316 Highway 10 South, Motley, MN 56466
- Carnegie Public Library, 108 3rd Street NE, Little Falls, MN 56345
- Brainerd Public Library, 416 South 5th Street, Brainerd, MN 56401

A public hearing for the project will be held at 6:00 p.m. on November 19, 2015, at the Motley Staples Middle School Cafeteria, Motley, Minnesota. Notice of the hearing has been issued separately and is available on the above-noted websites.

If you have questions about the EA or would like more information, contact the Department's environmental review manager for this project, Richard Davis, 651-539-1846, richard.davis@state.mn.us. Tracy Smetana is the public advisor for this project. Contact Ms. Smetana at 651-296-0406 (1-800-657-3782), consumer.puc@state.mn.us.

This document can be made available in alternative formats (i.e., large print or audio tape) by calling 651-539-1530.

Petitions

The following petition has 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.

- Mower County, Northern Country Coop Expansion
-

Notices

Good Cause Exempt Rulemaking Relating to Recreational Trails

The EQB will be engaged in "good cause" rulemaking to make its rules consistent with changes directed through statute adopted in the 2015 legislative session.

Good cause rulemaking is a streamlined process that is limited to only rule amendments that do not require any interpretation of law. This means that the public will be invited to comment only on whether the EQB's proposed rule amendments accurately incorporate the legislative directives. Interested parties who wish to be notified of their opportunity to comment and the final adoption of these amendments are encouraged to register for Govdelivery at <https://public.govdelivery.com/accounts/MNEQB/subscriber/new>

Interested parties have three business days after the date of this notice to submit comments to the Office of Administrative Hearings. You may submit comments until 4:30 p.m. on November 25, 2015. The EQB requests that any person submitting comment to the Office of Administrative Hearings.

Contact Persons: The Office of Administrative Hearings contact person is: Denise Collins, Office of Administrative Hearings, at P0 Box 64620, St. Paul, MN 55164-0620, phone 651-361-7875, Fax 651- 361-7936, and e-mail rulecomments@state.mn.us.

For additional information about this rulemaking, contact Erik Cedarleaf Dahl at erik.dahl@state.mn.us or 651-757-2364.

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

In the Matter of Aquatic Plant Management
Restoration Order 884631 issued to Nick
Fiecke.

NOTICE AND ORDER FOR
PREHEARING CONFERENCE AND
ORDER FOR HEARING

TO: Nick Fiecke, 4955 17th Avenue S., Apt. 117, Fargo, North Dakota 58103.

NOTICE OF HEARING

NICK FIECKE ("Fiecke") IS HEREBY NOTIFIED that the Department of Natural Resources ("DNR") has initiated this action pursuant to Fiecke's appeal of DNR's Restoration Order 884631 issued to Fiecke.

ORDER FOR PREHEARING CONFERENCE

IT IS HEREBY ORDERED that a contested case prehearing conference will be held by telephone on Friday, December 18, 2015, at 9:30 p.m. The telephone number for the call is 1-888-742-5095, and the conference code is 371-152-3559#. All mail sent to the Administrative Law Judge assigned to this matter should be directed to P.O. Box 64620, St. Paul, MN 55164-0620.

ORDER FOR HEARING

IT IS FURTHER ORDERED that a contested case hearing in this matter will be held at a time and place to be decided by the Administrative Law Judge at the prehearing conference.

The Chief Administrative Law Judge, Office of Administrative Hearings, has assigned this matter to Barbara Neilson, Administrative Law Judge, Office of Administrative Hearings, P.O. Box 64620, St. Paul, Minnesota 55164, telephone (651) 361-7870.

ALLEGATIONS

1. Respondent owns the real property located at 1751 N. Kettle Dr. NE, Osakis, MN 56360 (the "Property").
2. On February 19, 2015, the DNR issued Restoration Order #884631 (the "Restoration Order") to Respondent. A copy of the Restoration Order is attached as Exhibit A.
3. The DNR issued the Restoration Order after investigating suspected use of herbicide to control emergent vegetation and cattail within Lake Osakis adjacent and riparian to the Property.
4. Staff from the Minnesota Department of Agriculture collected samples of the affected vegetation in October 2014 and analyses showed that the cattail and vegetation had been sprayed with a glyphosate-based herbicide.
5. The DNR's conservation officers initially estimated a loss of 5400 square feet of emergent aquatic vegetation in the area of Lake Osakis adjacent and riparian to the Property.
6. Respondent did not have an aquatic plant management permit required by Minn. Stat. § 103G.615 and Minn. R. 6280.0250, subp. 2 to spray or remove cattail or vegetation in the waters adjacent to the Property.
7. Minn. Stat. § 103G.615, subd. 4(b) authorizes the DNR to require restoration or replacement of any emergent or floating leaf vegetation lost as a result of the illegal destruction of aquatic vegetation in public waters to the condition existing before the illegal activities were undertaken.
8. The Restoration Order required Respondent to:
 - a. Allow natural re-growth of cattail within the area of affected vegetation adjacent to the Property;

- b. Apply for a permit to transplant cattail stems and plant cattails in the area of destruction in a stem density of at least 2 stems per square foot;
- c. If transplant and replanting efforts are unsuccessful in restoring cattail to an average stem density of 5 stems per square foot by August 15, 2015, replanting of additional cattail will be required; and
- d. Restore cattail in the area adjacent to the Property along 120 feet of lakeshore by 45 feet lakeward below the ordinary high water level to a density of 5 stems per square foot by August 15, 2016.

9. On March 19, 2015, Respondent appealed the Restoration Order to the Commissioner of the DNR for review pursuant to Minn. Stat. § 103G.615, subd. 4(c). Respondent questioned the amount of area of cattail required to be restored under the Restoration Order.

10. On May 13, 2015, the Commissioner's designee informed Respondent that he had concluded the review under Minn. Stat. § 103G.615, subd. 4(c) and determined that the issuance of the Restoration Order was consistent with Minn. Stat. § 103G.615 and Minn. R. ch. 6280. The Commissioner's designee requested DNR staff to re-measure the site and size of the area to be restored and amend the Restoration Order accordingly.

11. On June 16, 2015, an Aquatic Plant Management Specialist with the DNR revisited the site and measured the area of destruction in the public waters adjacent to the Property.

12. On July 16, 2015, the Commissioner's designee sent a letter to Respondent informing him of the results of the June 16th review and re-measurement. The letter advised Respondent that the area required for restoration under the Restoration Order was estimated to be

2,945 square feet. This July 16th letter incorrectly advised Respondent that the restoration had to be completed by August 15, 2015.

13. On August 28, 2015, the DNR sent a letter to Respondent advising him of the error in the July 16th correspondence and confirmed that the deadline for restoration under the Restoration Order was August 15, 2016.

14. Respondent submitted a timely request for contested case hearing of the Restoration Order as amended.

ISSUES

1. Whether the DNR may enforce the Restoration Order, as amended, and require Respondent to restore 2,945 square feet of emergent vegetation in the area of Lake Osakis adjacent to the Property?

The relevant laws and rules include, but are not limited to, Minn. Stat. §§ 103G.615, .311, and .315; and Minn. R. 6280.0250.

For a complete copy of the Notice and Order for Prehearing Conference and Hearing, contact Rory C. Mattson, Assistant Attorney General, Minnesota Attorney General's Office, 445 Minnesota Street, Suite 1800, St. Paul, Minnesota 55101, telephone (651) 757-1325.

Dated this 13th day of November, 2014.

MINNESOTA DEPARTMENT OF NATURAL
RESOURCES

/s/ Barb Naramore

Barb Naramore

Assistant Commissioner

Minnesota Department of Natural Resources