

MINNESOTA ENVIRONMENTAL QUALITY BOARD MEETING MINUTES

**Wednesday, October 16, 2013
MPCA Room Board Room, 520 Lafayette Road, St. Paul**

EQB Members Present: Dave Frederickson, Katie Clark Sieben, Julie Goehring, Kate Knuth, Barb Naramore (for Tom Landwehr), Brian Napstad, Mike Rothman, John Saxhaug, John Stine, Erik Tomlinson, Charlie Zelle

EQB Members Absent: Spencer Cronk, Kristin Duncanson, Tom Landwehr

Staff Present: Will Seuffert, Jeff Smyser (EQB), Kate Frantz (EQB), Beth Tegdesch (MPCA for EQB), Leah Hedman (Attorney General's office)

Chair Dave Frederickson called the meeting to order at 1:08 p.m.

I. Adoption of Consent Agenda and Minutes

A motion to adopt the Consent Agenda and approve the September 18, 2013, meeting minutes was made and seconded. (There was an amendment to modify the September meeting minutes on Page 3 under Commissioner Stine's motion.)

II. Introductions

III. Chair's Report

Chair Dave Frederickson congratulated Kate Frantz, EQB staff, on her upcoming marriage.

IV. Executive Director's Report

Will Seuffert, the new Executive Director, introduced himself and talked about the future work of the EQB. So far most of his time has been spent on silica sand issues and he is focused on trying to make sure there is robust citizen engagement on all the tasks before them. As they talk about their plan for concluding the model standards, this is a critical component of that, and as they move forward on all the tasks related to silica sand, that is what he is trying to bring to the process, and it is critical to actually successfully implementing the law. Other things he is looking to move forward on is climate change and inventorying what progress they are making on mitigation and adaptation. At the November Board meeting there will be a presentation from the Interagency Climate Adaptation Team on what they are doing and where they are going; and we will hear from Professor Mark Seeley, a meteorologist and climatologist from the U of M.

Other issues the EQB will work on are water, technological challenges, which one aspect is to do a makeover of the website to utilize the resources, and they want to grow the Environmental Review Program.

EQB will be hiring more staff. There are two positions that are currently posted: 1. Project Manager for the EIS where the EQB is the RGU, and 2. Communications Director. A couple more postings will follow.

Mr. Seuffert also wants to verbalize his appreciation for everyone's partnership in this effort.

Ellen Anderson gave a brief update on climate change planning. She hopes to have a comprehensive plan to roll out by the end of this year.

Anna Sherman talked about the Next Generation Environmental Congress and the national award they received from the Association for the Advancement of Sustainability and Higher Education, (ASHE). She also shared the background of the Youth Congress and how it came to be. A reception to celebrate the Next Generation Congress leaders was held at the U of M St. Paul campus on October 16th.

V. Establishment of Silica Sand EQB Subcommittee

Presenter: Jeff Smyser

The subcommittee, created to engage stakeholders regarding silica sand issues, has come up with a way to deal with the model standards and criteria and the process coming up to deal with that part of the silica sand legislation items.

The discussion: Minnesota Rules 4405 is the operating procedures for the EQB. The rules allow the Board to establish a subcommittee "to aid in performing its duties". The Board "shall specify the charge, duration, size, membership, meeting notice requirements, and other procedures to be followed" by the subcommittee. The resolution fulfills these requirements.

Schedule:

- Oct 18, public input process that will last 25 days. Three meetings on two different dates will be open to the public.
- Oct 25th meeting hosted by the EQB subcommittee in Mankato at the Blue Earth County Library from 2:00 pm-4:00 pm
- Oct 29th, two meetings:
 - St. Charles, MN held at the Community Center from 9:00 am-11:00 am
 - Wabasha, MN at the Wabasha-Kellogg High School from 1:00 pm-3:00 pm

Also in that 25 days staff want to arrange meetings with citizen groups, industry groups as well as other groups, and set up talks with staff of the local governments in SE Minnesota. Some may be face to face meetings, others may be phone conversations.

- Nov. 12th input period will end and then the next month staff with different expertise from different state agencies will work on putting together the draft document of the model standards and criteria.
- Dec 13th the target is to issue a draft document with model standards and criteria for public review and begin a 30 day public input period on the draft document itself.
- Jan 13th: sometime in the last week of January staff proposes a meeting of the EQB subcommittee on silica sand to talk about the draft document and the public input received, and then have one week to finish up the draft.
- Bring a document to the EQB Board on Feb 19, 2014, to be approved by the Board. It will first go out in the EQB Board Packet by Feb 7th.

There is a special silica sand email address: silicasand.eqb@state.mn.us for those who want to send in their comments. In addition, a notice will be sent out via GovDelivery service letting people know about the meetings and public input process. Reminder to folks to go to the EQB webpage and sign up for notices; which is the main way of communicating on what is going on.

More discussion followed. Chair Frederickson commented; based on session law there are 14 areas that were prescribed to be addressed. Commissioner Stine also commented that there are also two board meetings, Nov. 20th and Dec 18th to check in on what has been heard up to that point.

There was an amendment to the Resolution Establishing an Environmental Quality Board Subcommittee for Silica Sand Issues. There was a motion to accept the change (in bold below) and a second to the motion. All in favor, motion carries.

**RESOLUTION OF THE
MINNESOTA ENVIRONMENTAL QUALITY BOARD**

Establishing an Environmental Quality Board Subcommittee for Silica Sand Issues

WHEREAS, operating procedures for the Environmental Quality Board (EQB) were adopted as Minnesota Rules 4405, under the authority of Minnesota Statutes sections 14.06, 116D.04, 116G.04, and 216E.16; and

WHEREAS, Minn. Rules 4405.0800 states that the EQB “may establish citizen or interdepartmental task forces or subcommittees to aid in performing its duties”; and

WHEREAS, Minn. Rules 4405.0800, Subpart 1, requires that the EQB shall specify the charge, duration, size, membership, meeting notice requirements, and other procedures to be followed by the subcommittee; and

WHEREAS, the Minnesota Legislature assigned to the EQB varied duties related to silica sand mining, processing, and transporting; and

WHEREAS, the creation of a subcommittee will aid the EQB in performing those duties;

NOW, THEREFORE, BE IT RESOLVED, that the Minnesota Environmental Quality Board hereby establishes a Silica Sand Subcommittee.

BE IT FURTHER RESOLVED, that the Subcommittee’s charge is to advise the full Environmental Quality Board on fulfilling the duties assigned by the Minnesota Legislature and on other issues related to silica sand activities, and to provide direction to state agency staff working on these duties and issues on behalf of the EQB.

BE IT FURTHER RESOLVED, that the duration of the Subcommittee shall be continuous until the EQB disbands it by majority vote.

BE IT FURTHER RESOLVED, that the Subcommittee shall consist of the EQB Chair, Commissioners of the Minnesota Pollution Control Agency, Department of Natural Resources, Department of Health, Department of Transportation, **and one or more EQB citizen members.**

BE IT FURTHER RESOLVED, that in accordance with Minn. Rules 4405.0800, Subd. 3., recommendations from the Subcommittee shall be submitted in writing to the EQB as required by Minn. Rules 4405.0600, Subd. 6.

BE IT FURTHER RESOLVED, that in accordance with Minn. Rules 4405.0800, Subd. 4., all meetings of the Subcommittee are open to the public and notice of the time, place, and matters to be considered will be posted as established in 4405.0600, Subp. 2., the EQB website, and will be distributed to all who have subscribed to silica sand topics through the EQB’s GovDelivery notification service.

The following people provided testimony on the draft resolution regarding the establishment of the subcommittee and/or the technical advisory team:

- Peder Larson, Larkin Hoffman Law firm representing the Minnesota Industrial Sand Council
- Keith Foss, Haycreek Township
- Kelley Stanage, Houston County

More discussion followed.

VI. Establishment of Silica Sand Technical Advisory Team

Presenter: Jeff Smyser

The Minnesota Legislature amended Minnesota Rules 116C to require that the EQB assemble a silica sand technical assistance team. The creation of such a team is governed by Minnesota Rules 4405, the exact same rule that governs the creation of subcommittees.

Discussion: The creation of the technical team is governed by Minnesota Rules 4405, the exact same rule that governs the creation of subcommittees. The technical assistance team is a “task force” under the rules. Minnesota Rules 4405 is the operating procedures for the EQB. The rules allow the Board to establish an “interdepartmental task force” in order “to aid in performing its duties”. The Board “shall specify the charge, duration, size, membership, meeting notice requirements, and other procedures to be followed” by the team. The resolution fulfills these requirements.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD

Establishing a Silica Sand Technical Assistance Team to Assist Local Governments

WHEREAS, Minnesota Statutes 116C.99, subd. 3, requires the Environmental Quality Board (EQB) to assemble a silica sand Technical Assistance Team to provide local units of government, at their request, with assistance with ordinance development, zoning, environmental review and permitting, monitoring, or other issues arising from silica sand mining and processing operations; and

WHEREAS, the legislative directive requires that when the Technical Assistance Team, at the request of the local unit of government, assembles findings or makes a recommendation related to a proposed silica sand project for the protection of human health and the environment, a local government unit must consider the findings or recommendations of the Technical Assistance Team in its approval or denial of a silica sand project. If the local government unit does not agree with the Technical Assistance Team's findings and recommendations, the detailed reasons for the disagreement must be part of the local government unit's record of decision

WHEREAS, operating procedures for EQB were adopted as Minnesota Rules 4405, under the authority of Minnesota Statutes sections 14.06, 116C.66, 116D.04, 116G.04, and 216E.16; and

WHEREAS, Minn. Rules 4405.0800, Subpart 1, provides that the EQB “may establish citizen or interdepartmental task forces or subcommittees to aid in performing its duties;” and

WHEREAS, Minn. Rules 4405.0800, Subpart 1, requires that the EQB “shall specify the charge, duration, size, membership, meeting notice requirements, and other procedures to be followed” by a task force; and

NOW, THEREFORE, BE IT RESOLVED, that the Minnesota Environmental Quality Board hereby establishes a Silica Sand Technical Assistance Team (Team).

BE IT FURTHER RESOLVED, that the Team's charge is to provide local units of government, at their request, with assistance with ordinance development, zoning, environmental review and permitting, monitoring, or other issues arising from silica sand mining and processing operations.

BE IT FURTHER RESOLVED, that the duration of the Team shall be continuous unless Minnesota Statutes §116C.99 is amended to remove the requirement for the Team, at which time the EQB shall consider if the Team shall continue. Disbanding the Team requires a vote by the majority of the EQB.

BE IT FURTHER RESOLVED, that the **Board** shall draw upon the staff resources and expertise of state agencies including the Minnesota Department of Natural Resources (MDNR), the Minnesota Pollution Control Agency (MPCA), the Minnesota Department of Health (MDH), the Board of Water and Soil Resources (BWSR), and the Department of Transportation (DOT). In addition, the Team may also include representatives from the University of Minnesota, Minnesota State Colleges and Universities, and federal agencies.

BE IT FURTHER RESOLVED, that a majority of the Team members must be from a state agency and all members must have expertise in one or more of the following areas: silica sand mining, hydrology, air quality, water quality, land use, or other areas related to silica sand mining. Because the nature of requests will vary, the specific persons and expertise on the Team may vary. The persons and expertise needed for each request received from a local government shall be determined based on the nature of the request.

BE IT FURTHER RESOLVED, that when the Technical Assistance Team receives a request from a local government for a recommendation on issues arising from silica sand activities related to a silica sand project requiring approval or denial by the local government, such a request requires findings and a recommendation. The Team's recommendation shall be submitted to the EQB as a matter to be decided by the Board, as in accordance with Minn. Rules 4405.0600, Subd. 6., as required by Minn. R. 4405.0800, subp. 3 and in accordance with Minn. R. 4405.0600, subp. 2.

BE IT FURTHER RESOLVED, that local units of government may also request general assistance from the Team on issues arising from silica sand activities but not related to a specific silica sand project. The Team may respond directly in writing to the local government unit on such matters with information to assist the unit of government. The Team's general assistance advice shall be logged on the EQB website for reference. It is the Board's discretion whether or not such general assistance advice shall be a matter to be decided by the Board.

BE IT FURTHER RESOLVED, that in accordance with Minn. Rules 4405.0600, subp. 1 and 4405.0800, Subd. 4, all meetings of the Team are open to the public and notice of the time, place, and matters to be considered will be posted as established in 4405.0600, Subp. 2, and will be distributed to all who have subscribed to the Technical Assistance Team topic through the EQB's GovDelivery notification service and included on EQB's website.

A motion was made and seconded to amend language on the Resolution correcting two typos, which will be reflected in the approved October meeting minutes. More discussion on the language and rules followed.

VII. Adjourn