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September 16, 2010

Meeting Location: MPCA Board Room
St. Paul, Minnesota

TO: EQB Members

RE: **ANNOTATED AGENDA FOR
September 16, 2010 Board Meeting**

General

This month's meeting will take place in the **MPCA Board Room** at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

I. *Adoption of Consent Agenda

- Proposed Agenda for **September 16, 2010** meeting
- Minutes for **May 20, 2010** meeting

II. Chair's Report

III. Executive Director's Report

IV. Legal Counsel Report

V. EQB Citizens Committee Chair Report

At the February meeting, Chair Hugoson announced the formation of a committee to study and make recommendations on the future activities of the EQB. The committee consists of the five EQB citizen members (since they are the members who will continue into the next administration), chaired by Vice Chairman Bloomberg, and assisted by staff and the Technical Representatives. The committee has discussed the EQB's mission, and is completing a two-meeting discussion on future work. Mr. Bloomberg will report on progress.

VI. Reassignment of the Responsible Governmental Unit (RGU) for the Environmental Review of the Proposed Removal of the Minnesota Falls Dam – Action Item

Presenter: Jon Larsen (651-201-2477) or Gregg Downing, EQB Staff (651-201-2476)

** Items requiring discussion may be removed from the Consent Agenda.*

Materials enclosed:

1. Fact sheet from Xcel Energy explaining the basics of the proposed dam removal project.
2. Photograph of dam
3. Aerial photograph of dam and impoundment
4. Letter from Chippewa County Board Chair requesting reassignment of RGU
5. Findings of Fact, Conclusions and Order to reassign the RGU
6. Sample resolution

Issue before the Board: The Board is asked to exercise its authority to designate a different RGU for preparation of an Environmental Assessment Worksheet (EAW) for a project by Xcel Energy to remove a dam on the Minnesota River downstream of Granite Falls, Minnesota. Under the normal operation of the rules, pursuant to the Wetlands and Public Waters mandatory EAW category at part 4410.4300, subpart 27, the local governmental unit would be the RGU; in this case, the appropriate local unit would be either Chippewa or Yellow Medicine County as the Minnesota River forms the boundary between these two counties. However, because of the environmental issues raised by this particular project, it appears that the DNR would be a more suitable RGU. The EQB's rules provide that, in a situation where the rules fail to name the optimal governmental unit as RGU, the RGU assignment can be changed by action of the Board if the Board finds that the new RGU has more appropriate expertise for the review. The staff believes that such a situation exists here.

Background: The Board's authority to consider this matter is found at Minnesota Rules, part 4410.0500, subpart 6, RGU Selection Procedures, which reads:

Subpart 6. **Exception.** Notwithstanding subparts 1 to 5, the EQB may designate, within five days of the receipt of the completed data portions of the EAW, a different RGU for the project if the EQB determines that the designee has greater expertise in analyzing the potential impacts of the project.

NOTE: Interpretation of timing language in the rule above is that the EQB Board may designate a different RGU *anytime* prior to five days after having received the completed data portions of an EAW, when the Board deems it appropriate. In this case, no EAW data portions have yet been submitted.

Enclosed with the packet are a fact sheet and some photographs from Xcel describing the location and background of the proposed dam removal project. It is anticipated that representatives of Xcel will be available at the Board meeting to explain the project in more detail if the Board members have questions.

A letter of support for the RGU change has been received from Chippewa County, and is included in the packet. Staff understands that Yellow Medicine County is working on a resolution of support which will be available by the time of the Board meeting.

The nature of this particular project and certain of the anticipated environmental issues are different from the typical projects that trigger the Public Waters and Wetlands EAW category. These differences support the reassignment of the RGU responsibility from the local units to the DNR. In most cases, work in a public water or wetland is an ancillary feature of a larger project that also involves development of proximate land areas; because the major permitting decisions about the land development lie at the local level, in these typical cases it makes good sense to assign the local unit as the RGU. However, for this project the dam removal from the river is the whole of the project; there is no related land development. Anticipated environmental issues for the EAW preparation include dam safety, hydrologic and ecological changes to the river, floodplain elevation changes, and affects on upstream water quantities available for appropriations; these are issues for which the DNR has greater experience and expertise than the counties.

The DNR has in the past served as RGU for the environmental review of public dam removals. In addition, the DNR is assigned as RGU for projects constructing certain dams and impoundments.

Significant Issues: In past cases (staff believes this is the ninth such case since 1982) where the Board has reassigned RGU responsibilities, all the affected units of government had agreed with the reassignment. In the present case, at the time of this writing, the DNR has not yet informed the EQB staff of its position about being named as the RGU for this project. This matter came up in late August leaving only a short time before materials for the September Board meeting needed to be prepared. Since the Board is now meeting only quarterly, staff has placed this matter on the September agenda to avoid undue delays in the review. If due to insufficient time the DNR is not able to reach a decision about whether it agrees with the proposed RGU change, this item can be dropped from the September agenda and taken up at the next Board meeting.

Staff recommendation: The staff recommends that the Board adopt the enclosed Sample Resolution which would reassign the RGU responsibilities for the environmental review of the Xcel Minnesota Falls Dam Removal project from Chippewa and Yellow Medicine Counties to the DNR and also direct the Chair to sign the Findings of Fact, Conclusions, and Order.

VII. 2010 Draft Minnesota Water Plan – Informational Presentation

Presenters: Princesa VanBuren Hansen, EQB staff (651-201-2478)
Glenn Skuta, MPCA staff (651-757-2730)
Joe Zachmann, MDA staff (651-201-6588)
Jim Japs, DNR staff (651-259-5656)
Chris Elvrum, Met Council staff (651-602-1066)

Materials enclosed: Draft *2010 Minnesota Water Plan*

Background: The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The 2010 Minnesota Water Plan brings together in a single place the recent work of state water agencies, how they are working together, and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and delivery of information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of our state's water resources and programs designed to monitor and manage them.

Overview

This document has three main parts:

1. *Reflecting on the Past* – summarizes key points from past state water plans and recent events
2. *Evaluating the Status of our Resources* –evaluates surface and groundwater quality and quantity, as summarized in four agency reports
3. *Charting a Roadmap for the Future* –Implementation Principles and Strategies – the primary

foundation of the plan, defining strategies for achieving sustainable water management

In preparation of this 2010 Minnesota Water Plan, the EQB convened an interagency team to prepare strategic directions to guide the water-related functions of the agencies over the next 10 years and beyond. While the next state water plan is to be drafted in 2020, the vision of these directions is long-term, extending well beyond 2020.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

The Legislature has charged a number of agencies with managing and protecting the state's water resources. The agencies take this charge seriously and are committed to continuously adapting programs and direction to manage water for sustainability. However, programmatic changes take time and often are complex so pace and presence of change is not always easily seen. Additionally, land and water interactions are highly complex and dynamic systems, with the result that land and water improvement efforts often take years to demonstrate change, or change may be masked by other environmental conditions.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

Principles to Guide Implementation

The principles should guide implementation of the strategic directions that frame the work needed for sustainable water management. The seven principles are:

1. Optimized coordination
2. Shared, long-term vision
3. Comprehensive land and water management
4. Adaptive management
5. Goals and measures
6. Education and outreach
7. Prioritize resources

Summary of the Strategies

The strategies are ordered starting with those that are protective in nature and involve local partners, followed by those that define management areas and their associated data and information needs, and end with those involving decision-making and management tools.

1. *Increase Protection Efforts* – Ground and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration
2. *Promote Wise and Efficient Use of Water* – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water
3. *Restore and Enhance Local Capacity* - Recognition of and support for local capacity and actions is increased
4. *Employ Water Resource Management Units* – Water resource management activities are improved by defining water resource management units that represent a systems approach to management
5. *Collect Information Necessary for Water Management Decisions* – Information necessary to

- support sustainable water management decisions is collected efficiently and collaboratively
6. *Improve Access to Environmental Data* – Decision-makers and public have ready access to environmental data to support sound management decisions
 7. *Provide Up-to-Date Implementation Tools* – Water resource concerns are addressed through the use of an adaptive approach to updating management tools
 8. *Employ Targeted Approach to Identify and Protect High Risk Areas* – Land management projects are targeted to high risk areas to protect and restore water resources
 9. *Apply a Systematic Approach for Emerging Threats* – A systematic approach is developed for identifying, assessing and responding to emerging threats

Public Comment Period

The Environmental Quality Board draft 2010 Minnesota Water Plan is open for public comment through October 1, 2010:

<http://www.eqb.state.mn.us/WaterPlanPublicComment2010.htm>.

The plan will be brought before the EQB for final adoption at its November 18, 2010 meeting.

VIII. University of Minnesota Water Sustainability Framework Project Update – Informational Presentation

Presenters: Deb Swackhamer, Water Resources Center Director and Framework project leader (612-626-0435), and Jean Coleman, project coordinator (612-588-4904)

Materials enclosed: none

Background: The 2009 session of the Legislature directed the University of Minnesota to develop a “comprehensive statewide sustainable water resources detailed framework to protect, conserve and enhance the quantity and quality of the state’s ground water and surface water.” The University’s Water Resources Center is managing the project under the leadership of Professor Deborah Swackhamer.

The project has entered its most formative and crucial stage with the work of the Synthesis Team. The Synthesis Team is charged with integrating technical team white papers, formulating recommendations and "building" the Framework. State agencies are well represented on the team, with staff participating from the Environmental Quality Board, Board of Soil and Water Resources, Department of Agriculture, Department of Health, Department of Natural Resources, and the Minnesota Pollution Control Agency. The Synthesis Team will work well into October to develop recommendations for presentation to the Headwaters Council.

The framework plan is to be delivered to the Minnesota Legislature in January 2011. The University maintains a project Web site, <http://wrc.umn.edu/watersustainabilityframework/index.htm>, for those interested in keeping abreast of the latest developments.

IX. Adjourn