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November 9, 2006

TO: EQB Members

FROM: Michael Sullivan
Telephone: 651-201-2462

RE: **ANNOTATED AGENDA FOR
November 16, 2006 Board Meeting**

General

This month's meeting will take place at the State Office Building, Hearing Room 5. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:00 a.m.

Attention: *Denotes an agenda item that may require Board action.

I. *Adoption of Consent Agenda

- Adoption of the Proposed Agenda for **November 16, 2006** meeting
- Adoption of the Proposed Minutes for **August 17, 2006 and September 21, 2006** meetings

II. Executive Director's Report

III. Legal Counsel Report

IV. Update on Phase 2 Amendments to the Environmental Review Program Rules: Review of Public Comments Received

**Presenter: Gregg Downing, EQB staff
(651-201-2476)**

Materials Enclosed

1. Table summarizing comments received on each proposed Phase 2 amendment, dated November 2006.

2. Summary of alternative shoreland projects categories proposed by commenters, dated October 31, 2006.

Other Materials Available

All public comments received have been scanned and posted at the EQB Website, in the Notices and Media Releases section. The table of proposed rule amendments that accompanied the Request for Comments notice is also posted at the Website if members wish to refer back to that document.

Issue Before the Board

No action is requested on this item. Staff will discuss the major points raised in the public comments submitted in response to the EQB's Request for Comments on the proposed Phase 2 amendments to the Environmental Review program rules.

Background

At the June 15, 2006 meeting, the Board authorized publication of a notice requesting comments on intended Phase 2 rule amendments, including a list of amendments that was discussed at the meeting. The notice was published in the State Register on August 14. Notice of the opportunity to comment was also given through the *EQB Monitor*, a press release to media statewide, direct mailings to known interested persons, and by posting at the EQB Website. Public comments were received through October 16.

For the November meeting, staff has summarized the comments received on each proposed amendment in the included table; the table uses the same format as the original table of proposed amendments to facilitate relating the comments to the explanations of the proposed amendments.

Staff has also prepared a separate document that attempts to compare three options for mandatory categories for projects in shoreland areas that were submitted as alternatives to the approach proposed by the EQB based on the DNR's recommendation.

Significant Issues

The proposal that received the most comments was the proposal for new mandatory categories for projects in shoreland areas. Three groups suggested alternative approaches for such categories: the MN Association of County Planning & Zoning Administrators (MACPZA); Minnesota Waters, an advocacy group for conservation of lakes and rivers; and the MN Center for Environmental Advocacy. The proposals of the latter two are quite similar, but not identical. All three differ markedly from the proposal that the DNR and EQB put forth. The most obvious difference is that they are less complicated, especially that suggested by the from MACPZA. The enclosed shoreland category alternatives summary is an attempt to explain the major features of each proposal and highlight their differences. Staff will discuss the alternatives at the Board meeting.

Other amendments that generated significant comments are the proposed changes to the AUAR process, the proposal to make clear that the rules do not apply to quasi-legislative actions such as planning and zoning decisions, and the issue of how to amend the EIS need criteria in light of the Supreme Court's decision in the CARD vs. Kandiyohi County case. These are items numbered 5, 6, 7, 10a, and 4 on the enclosed table. Staff will discuss these comments at the Board meeting.

V. Status Report on Water Projects of the EQB and Partners

Presenters: John Wells and Princesa VanBuren, EQB Staff
(651-201-2475 and 651-201-2478)

Tom Clark, Pollution Control Agency
(651-296-8580)

Materials Enclosed

1. Agency Roles in Water Resource Monitoring—Table 1
2. Outline of Water Sustainability 2030 Report: *Water Supply Management in Minnesota: Moving Toward Sustainability*

Issues before the Board

No action is requested on this item. Pollution Control Agency staff will provide an informational overview of the draft PCA ground water monitoring status report. EQB staff will update the Board on the status of the Board water reports.

Background

Minnesota Statutes, Section 103H.175 directs the Pollution Control Agency to assess the status of ground water monitoring each biennium and to submit a draft ground water monitoring status report to the Environmental Quality Board for review. Mr. Clark will provide an overview of the PCA's draft report for the Board's information. The enclosed agency roles table is part of that report. The full text will be distributed at the meeting. Minnesota Statutes, Section 103A.43 directs the Board to consider how the information provided by PCA might contribute to the Board's biennial water policy and priorities report. A Board discussion of the issues raised by the report will guide EQB staff in preparation of a draft priorities report for Board review.

Mr. Wells and Ms. VanBuren will brief the Board on the status of the three water reports the Board is scheduled to complete. The enclosed outline for the water sustainability 2030 assessment – jointly agreed upon by DNR Waters and EQB staff – will be completed by their joint efforts. Staff will review key elements of the assessment and report on the progress in addressing them. No formal action is requested on this item.

Significant Issues

The Board will need to decide how to frame and, at some point, how best to present potentially sensitive findings about water sustainability, ground water quality and biennial priorities. Discussions will guide staff in the preparation of draft reports.

VI. Status of EQB Retreat Planning

Presenter: Mike Sullivan, EQB Staff
(651-201-2462)

Materials Enclosed

None

Issue before the Board

The Board decided at its September meeting to hold a retreat about future directions and possible next steps. Members will have an opportunity at the meeting to further discuss what they would like to see addressed.

Background

The Board's September minutes provide a good summary of the discussion members have had to date about the need for a retreat. Staff will report on current plans and seek Board advice about the time, date, location, agenda and facilitation.

Significant Issues

The retreat is tentatively planned for the last week in January or early February at the Dodge Nature Center. The Board will need to decide in the next few weeks what it wants to get out of the retreat and how it can best do it.