

**MINNESOTA ENVIRONMENTAL QUALITY BOARD  
MEETING MINUTES**

**Tuesday, October 30, 2012  
MPCA Room Board Room, 520 Lafayette Road, St. Paul**

**EQB Members Present,** Dave Frederickson, Kristin Duncanson, Brian Napstad, John Saxhaug, Julie Goehring, Erik Tomlinson, Mike Rothman, John Linc Stine, Aggie Leitheiser (for Ed Ehlinger), Katie Clark, Tom Landwehr, Spencer Cronk

**EQB Members Absent:** Ed Ehlinger, Tom Sorel

**Staff Present:** Bob Patton, Jeff Smyser, and Kate Frantz (EQB), Mary Osborn (MPCA for EQB)

Chair Dave Frederickson called the meeting to order at 1:06 p.m.

**I. Introductions**

Chair Frederickson introduced the new Commissioner of the Department of Energy and Economic Development, Katie Clark. Board members and others in attendance then introduced themselves.

**II. Adoption of Consent Agenda and Minutes**

A motion to adopt the Consent Agenda and approve the October 17, 2012, meeting minutes was made, seconded, and carried unanimously.

**III. Chair's Report**

Chair Frederickson encouraged full participation in a broad discussion on the alternatives identified in the Improved Environmental Governance and Coordination report, and the roll call vote on the Good Cause Rulemaking Resolution.

**IV. Executive Director's Report**

No report.

**V. Resolution: Good Cause Rulemaking**

Presenter: Jeff Smyser (EQB)

Mr. Smyser reviewed the "good cause rulemaking" amendments to the environmental review rules, a process that was followed to incorporate recent legislative changes to statute (that required no interpretation) into Minnesota Rules.

Paula Maccabee (Just Change Law Offices, Water Legacy) testified that the changes in the statutes were extremely one-sided in perspective because environmental stakeholders were excluded in all legislative hearings pertaining to environmental "streamlining." She proposed changes (attachment to the Board packet) that she believes would "protect the public interest a small amount."

Mr. Patton responded that the EQB does not have authority to amend language to make further policy changes under the good cause rulemaking process. All of the proposed rule amendments reflect changes to the statute made by the Legislature, and rule language is for the most part verbatim. The changes are needed so that the rules conform to the statute. Other changes containing interpretation of the statute cannot be done through the good cause rulemaking, but can be brought forward in the next formal rule revision process.

The EQB voted unanimously to adopt the following resolution.

**RESOLUTION OF THE  
MINNESOTA ENVIRONMENTAL QUALITY BOARD**

**Authorization for the Chair to Sign the Order Adopting Rules and Statement of Supporting Reasons for the Adoption of Exempt Rules Relating to the Rules Governing Environmental Review, Minnesota Rules, Chapter 4410**

WHEREAS, the Environmental Policy Act, Minnesota Statutes, Section 116D authorize the Environmental Quality Board to adopt rules governing the Environmental Review Program; and

WHEREAS, during the 2011 and 2012 legislative sessions, amendments to Minnesota Statutes 116D were approved with the adoption of Minnesota Laws 2011, Chapters 4 and 107, and Minnesota Laws 2012, Chapter 272; and

WHEREAS, the rulemaking provisions of Minnesota Statutes, Chapter 14, are not required where the legislature specifically authorizes the exempt rulemaking process for specific changes; and

WHEREAS, rulemaking provisions of Minnesota Statutes, Chapter 14, are unnecessary when amending a rule to incorporate specific changes set forth in applicable statutes where no interpretation of law is required; and

WHEREAS, the EQB submitted the rulemaking to the Office of Administrative Hearings (OAH) for review and approval and the OAH approved the proposed rules.

NOW THEREFORE BE IT RESOLVED, that David J. Frederickson, the Chair of the Environmental Quality Board, is hereby granted the authority and directed to sign the Order Adopting Rules and Statement of Supporting Reasons, OAH Docket Number 11-2901-23076-1.

**VI. Executive Order 11-32 Project Updates**

Improved Environmental Governance and Coordination

Presenter: Jeff Smyser, Bob Patton (EQB)

Mr. Smyser presented the document, *Analysis of Alternatives for Environmental Governance and Coordination and the Role of the MPCA Citizens' Board*, and Mr. Patton presented the document, *Relationship of EQB Functions to Cost and Benefits/Outcomes*. The latter document was prepared for Board members to see how different combinations of functions might affect costs and outcomes.

The following provided public testimony in support of **EQB Alternative 3: Revitalize and Refocus EQB**.

- Bob Tammen, City of Soudan resident
- Lee Helgen, Envision Minnesota
- Jim Erkel, Minnesota Center for Environmental Advocacy
- Kristen Eide-Tollefson, concerned citizen
- Paula Maccabee, Just Change Law Offices and Water Legacy

After testimony, the Board discussed the alternatives and provided staff with direction.

Mr. Patton stated that, based upon direction from Board members, final recommendations will be prepared for adoption at the November 14 EQB meeting.

Environment and Energy Report Card

Presenter: Ellen Anderson (Senior Advisor to the Governor)

Ms. Anderson reported that the Core Team is very close to finishing up and will have a product ready for the Board to review before the November 14 meeting at which the Report Card is scheduled for adoption.

Environmental Congress

Presenter: Ellen Anderson (Senior Advisor to the Governor)

Ms. Anderson reported that the subcommittee has been focused on developing the format for the upcoming citizens' forums, as well as on outreach.

Environmental Review Improvement

Presenter: Randall Doneen (DNR)

Mr. Doneen reported that the team is incorporating revisions to the recommendations in the Environmental Review Improvement Report based on comments received, public testimony, and direction from the Board. Revised recommendations will be included in the Board Packet for the November 14 EQB meeting.

**VII. Adjourn**

The meeting was adjourned at 5:01 p.m.