

**MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES**

**Thursday, November 20, 2008
PCA Conference Room**

EQB Members Present: Dana Badgerow, Jonathon Bloomberg, Mark Holsten, Randy Kramer, Susan McCarville, Dan McElroy, Gene Hugoson, Sanne Magnan, Brad Moore, and Dennis Wenzel

EQB Members Absent: Julie Goehring, Susan McCarville, Thomas Sorel, and Glenn Wilson

Others Present: Robert Roche, Joan Nephew and Pat Sweeney

EQB Staff Present: Gregg Downing, John Wells, Princessa VanBuren, and David Arbeit

The meeting was called to order at 9:00 a.m. by Chair Hugoson.

I. Adoption of Consent Agenda and Minutes

Commissioner Badgerow moved and Commissioner Moore seconded approval of the consent agenda and minutes of the June 19, 2008 EQB meeting. The motion was approved.

II. Chair's Report

Chair Hugoson informed the Board that Commissioner Moore was leaving state service effective December 1st, 2008. On behalf of the Board, Hugoson commended Commissioner Moore for his many valuable contributions not only to the Board but also in state service.

Chair Hugoson indicated he met with the governor's office regarding EQB reorganization and to discuss the future of EQB based on the recommendations developed by the Subcommittee on Future EQB Directions. He mentioned that, in part, because EQB is housed in the Department of Administration that from a budget standpoint, it does not have the funding needed to cover its many programs, including money to fill the Executive Director's vacant position. The governor's office has assured him that prior to the end of the calendar year, they

will provide feedback regarding the recommendations on the restructuring of EQB.

III. EQB Staff Report

John Wells provided an update on work being done with the Corps of Engineers. EQB is the lead non-federal agency in the cooperative agreement. Wells indicated that Chair Hugoson signed the agreement on behalf of the Board and the State. Wells also reported that EQB is in the process of developing an interagency agreement to formalize the partnerships in the project and to define a system of accounting to tabulate non-federal match.

Member Bloomberg asked whether there was an update from the governor's office or staff on the status of the Environmental Review rules revision that has been with the governor's office for about a year. Chair Hugoson and Wells replied in the negative. Chair Hugoson agreed to follow up with the governor's office. Commissioner Badgerow mentioned that she would check with the governor's office as well.

IV. Legal Counsel Report

Mr. Roche indicated that no legal issues involved the Board at this time.

V. Reassignment of the Responsible Governmental Unit from the City of Burnsville to DNR for Environmental Review of the Proposed Xcel Energy Black Dog Generating Plant Cooling Water Improvement Project

Gregg Downing informed the Board that it is being asked to assign a different responsible governmental unit for environmental review of cooling system modifications to the Xcel Energy Black Dog generating plant in Burnsville. Under the normal operation of the rules, the City of Burnsville would be the RGU for this project, pursuant to the mandatory EAW category at part 4410.4300, subpart 27, Wetlands and Public Waters.

However, because of the technical complexity of this particular project, the involved units of government agree that the DNR would be the more suitable RGU. The rules authorize EQB to make the change to another unit of government because of its technical expertise.

Mr. Downing stated that the Board had before it a fact sheet from Xcel Energy explaining the basics of the project, and that representatives from Xcel Energy were present in the event the Board had questions regarding this project. Mr. Downing also referenced a letter received from DNR in which it has agreed to be the RGU. Mr. Downing mentioned that the Board also had before it a resolution passed by the Burnsville City Council supporting the change of the RGU. He indicated no knowledge of any affected party or interested person opposed to this change.

Mr. Downing noted the revised sample set of Findings of Fact, Conclusions and Order given to the Board to replace the one previously sent out. The revised sample includes a specific finding about the letters from DNR and the City of Burnsville.

Member Randy Kramer asked if it was a common practice to change the RGU and whether a citizen has the same right to comment on an EAW if DNR is the RGU as when a local unit is the RGU. Mr. Downing explained that the review would be done essentially in the same manner using the same form and the same process regardless of whether the city or the DNR were the RGU. He indicated that the process is independent of who is assigned as the RGU.

Chair Hugoson mentioned that situations of this nature are not common, but occasionally do arise where it is better for all parties concerned to transfer RGU responsibilities.

Commissioner Moore moved and Commissioner Holsten seconded the motion to approve the resolution authorizing the Chair to sign the Findings of Fact. There being no discussion, the resolution was adopted by roll call vote. Voting aye were: Commissioners Badgerow, Magnan, Holsten, Moore, Hugoson, BWSR Chair Kramer, and Members Wenzel and Bloomberg. There were no nay votes. The motion was adopted. *Note: Commissioner McElroy arrived after this vote was taken.*

VI. Water Availability Project Final Report

John Wells and Princesa VanBuren of EQB presented the final draft report of the Water Availability Project.

Mr. Wells reviewed the origin of the project, which came in response to a request from the Minnesota Pollution Control Agency, and the Board's February 2008 resolution to: 1) Consider how the state might establish protective and achievable standards to qualify and address the environmental impacts of proposed water uses; 2) Look at water availability and appropriations, including but not limited to issues specific to the ethanol industry, finding a way to put consideration of proposed water resources into a broader framework and perspective; and 3) Summarize need and options for collecting additional data important to comprehensive and timely analysis of proposed water uses.

Mr. Wells indicated that the draft report was the result of efforts by the EQB Water Availability Work Group, which included EQB staff, representatives from various local, regional, state and federal agencies and technical experts at the University of Minnesota. The EQB staff convened over a dozen work group meetings over nine months to discuss the issues.

Mr. Wells noted that the report summarizes the findings related to the three components of the charge, and suggests recommendations for moving forward around a single concept of sustainable water management. He mentioned that the report begins with the presentation of information important to understanding the context within which water appropriation decisions are made in Minnesota. This includes information about water use patterns, the hydrologic cycle and it's important to understanding water supply. The report also includes a discussion of the concept of water sustainability, including the principles that guide implementation of this concept. The report presents how the current standards and practices comprise the Minnesota framework followed by a description of current water management methods and procedures for addressing the environmental impacts of proposed water uses.

EQB staff Princesa VanBuren described the project's efforts to develop a prototype GIS based tool to support sustainable water management. Ms. VanBuren mentioned that the EQB staff worked with the Land Management Information Center staff and other staff from various agencies and organizations. Ms. VanBuren demonstrated the prototype planning tool for the Board.

Mr. Wells highlighted key recommendations made in the report, including a call for Minnesota to: a) develop a water sustainability data acquisition plan; b) define a strategy for integrating the information needed to assess water

sustainability at statewide, regional or county scales; c) identify defensible criteria for assessing the critical water levels or flow conditions required to support ecosystems; d) continue efforts to develop and apply water sustainability models and planning tools; and e) develop Minnesota's resource system planning capability, including efforts to define water for conjunctive surface and ground water management, and consider the use of economic mechanisms in water management.

Commissioner Holsten moved that the Board adopt the report and direct the Department of Natural Resources to take the lead within its statutory charge in evaluation of the models and tools that need to be developed for assessing water availability and sustainability. Commissioner Moore seconded the motion.

Commissioner Moore thanked the EQB and the team for the report and noted his view that fully it addresses the request of the MPCA Board. Commissioner Magnan thanked staff and said the report provided an excellent framework to help us move into the future. Commissioner Holsten added that the DNR is doing long-term retooling and that the report is helpful in that effort.

Member Bloomberg questioned the implications of a motion directing the DNR to take a lead on some of the efforts and how that motion may line up with the broad EQB water coordinating authority or other agency authorities as they relate to water planning.

Commissioner Holsten, in response, referred to page 35, Appendix E of the report, which indicates that the DNR is charged with both the technical and regulatory aspects of permitting. Commissioner Moore expressed his view that EQB is the keeper of the rules and the policy board. The agencies implement Board recommendations. Commissioner Badgerow expressed her gratitude to EQB and LMIC staff for pulling an impressive prototype tool together. She asked that the prototype tool, or some tool of that kind that aggregates data and includes data beyond the scope of DNR's, in fact be part of the implementation plan.

Chair Hugoson also suggested that DNR give a report periodically as to how this is proceeding as it does have implications beyond the PCA and DNR. There being no further discussion, the motion was adopted by roll call. Voting aye:

Commissioners Badgerow, McElroy, Hugoson, Magnan, Holsten, Moore and Members Bloomberg, Kramer, and Wenzel. There were no nay votes.

VII. Freshwater Society Report “Water is Life: Protecting a Critical Resource for Future Generations”

Joan Nephew, Executive Director and Pat Sweeney, Communications Director of the Freshwater Society made the presentation to the Board on the report “Water is Life: Protecting a Critical Resource for Future Generations.” The report was developed based on the culmination of a year of work by the Society’s Guardianship Council, offering insights on ground water sustainability, ground water quality and surface water contamination. The Council’s findings and conclusions on water resources and policies although from a non-governmental view point address many of the same issues and reach many of the same conclusions as the EQB Water Availability Project.

Chair Hugoson thanked Ms. Nephew and Mr. Sweeney for the presentation and acknowledged that the Freshwater Society will have an impact on bringing communities together to discuss water issues.

The meeting was adjourned at 11:05 a.m.