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MINNESOTA ENVIRONMENTAL QUALITY BOARD

Wednesday, October 16, 2013

Meeting Location: MPCA Board Room

St. Paul, Minnesota

1:00 p.m. – 4:00 p.m.

AGENDA

- I. *Adoption of Consent Agenda
Proposed Agenda for October 16, 2013 Board Meeting
September 18, 2013 Meeting Minutes
- II. Introductions
- III. Chair's Report
- IV. Executive Director's Report
- V. **Establishment of Silica Sand EQB Subcommittee
- VI. **Establishment of Silica Sand Technical Advisory Team
- VII. Adjourn

Note: Items on the agenda are preliminary until the agenda is approved by the board.

This agenda and schedule may be made available in other formats, such as Braille, large type or audiotape, upon request. People with disabilities should contact Elizabeth Tegdesch, Board Administrator, as soon as possible to request an accommodation (e.g., sign language interpreter) to participate in these meetings.

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

***Denotes a decision item*



MINNESOTA ENVIRONMENTAL QUALITY BOARD

Wednesday, October 16, 2013

Meeting Location: MPCA Board Room

St. Paul, Minnesota

1:00 p.m. – 4:00 p.m.

ANNOTATED AGENDA

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 1:00 p.m. Staff will be available for briefing and questions at 12:30 p.m.

I. *Adoption of Consent Agenda

Proposed Agenda for, October 16, 2013 Board Meeting
September 18, 2013 Meeting Minutes

II. Introductions

III. Chair's Report

IV. Executive Director's Report

V. **Establishment of Silica Sand Subcommittee

Presenter: Jeff Smyser
EQB Staff, 651-757-2279

Materials enclosed: Resolution Establishing a Silica Sand EQB Subcommittee

Issue before the Board: Establishing a Silica Sand EQB Subcommittee

Background:

At the September 18 meeting, the Board decided to create a subcommittee to engage stakeholders regarding silica sand issues. The creation of a subcommittee is governed by Minnesota Rules 4405.

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,

* Items requiring discussion may be removed from the Consent Agenda

**Denotes a Decision Item

duration, size, membership, meeting notice requirements, and other procedures to be followed” by the subcommittee. The resolution fulfills these requirements.

Staff recommendation:

Approve the resolution establishing the Silica Sand Subcommittee.

VI. **Establishment of Silica Sand Technical Advisory Team

Presenter: Jeff Smyser
EQB Staff, 651-757-2279

Materials enclosed: Resolution Establishing a Silica Sand Technical Assistance Team

Issue before the Board: Establishing a Silica Sand Technical Assistance Team

Background:

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

Discussion:

Minnesota The creation of a 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.

Staff recommendation:

Approve the resolution establishing the Silica Sand Technical Assistance Team.

VII. Adjourn

**MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES**

**Wednesday, September 18, 2013
MPCA Room Board Room, 520 Lafayette Road, St. Paul**

EQB Members Present: Dave Frederickson, Katie Clark Sieben, Kristin Duncanson, Julie Goehring, Kate Knuth, Tom Landwehr, Brian Napstad, Mike Rothman, John Saxhaug, John Stine, Erik Tomlinson, Charlie Zelle, Aggie Leitheiser

EQB Members Absent: Spencer Cronk, Ed Ehlinger

Staff Present: Bob Patton, Jeff Smyser (EQB), Kate Frantz (EQB), Beth Tegdesch MPCA for EQB, Leah Hedman, from the Attorney General's office

Chair Dave Frederickson called the meeting to order at 1:10 p.m.

I. Adoption of Consent Agenda and Minutes

A motion to adopt the Consent Agenda and approve the July 17, 2013, meeting minutes was made and seconded.

II. Introductions

III. Chair's Report

Chair Dave Frederickson presented Bob Patton with a plaque of appreciation for his leadership as the Executive Director of the Environmental Quality Board. This was his last meeting as the Executive Director. Mr. Patton gave a short speech of thanks.

Mr. Frederickson addressed the issue of the Draft Model Standards and Criteria for Silica Sand activities. He said that it was never the intention to have this be the final draft document. They were under the gun to have something together by October 1st. The idea was to create a foundation before it was built. The process took it to this level and established a kind of foundation to build on; it was the Board's intention to gather public input through the normal process and that will be hearings across the affected area, particularly southeastern Minnesota. Our plan is to continue to do that, and it has always been our plan, and based on that we will not be taking action on this draft document today but instead will be looking seriously at hearing your comments, whether it be today or whether through the process of taking testimony in the weeks/months to come. We will be looking forward to a major amount of public input as we go forward with the process of building draft standards.

Commissioner Stine, MPCA commented: I know the citizens are very concerned about air quality, water quality, and other associated impacts that have been the subject of a lot of discussion at local government levels and their ordinance development work. I look forward to hearing the feedback of the community here but also am very committed to working together with other EQB members. We may be prepared to offer a suggestion on how we might do this; how we could structure a subcommittee of the EQB to work on this effort and we look forward to this opportunity.

IV. Executive Director's Report

Items related to silica sand items were given to the Board members for review. Also a memo from Mr. Patton was given regarding implementation considerations of the GICD recommendations. Later in the agenda Ellen Anderson will talk about the climate change issue as one of those recommendations. The memo is really an outgrowth of the last meeting when we talked about implementation of the GICD recommendations. Bob had some input from other sources as well.

The thought is that potential projects coming out of the GICD recommendations are a wonderful opportunity for the Board, but we also have constraints having to do with staffing resources and we need to think through on how to move forward. Further discussion is needed.

Citizen members met recently to talk about how to be more engaged with the GICD recommendations. Erik Tomlinson shared three main talking points.

1. How can citizen members most effectively engage with EQB staff
2. How to develop legislative engagement activities
3. Identify citizen engagement activities; how can we engage with the public

The main questions were: How do we want to engage, who do we want to engage, and how do we want to achieve this. Some climate issues were identified; outreach to the youth and citizens to build on the Environmental Congress, develop some kind of succession plan for citizen members as there is turn over to keep people up to date, better communicate and engage the public on ideas on an how to do that. A lot of these ideas need to be worked through with the Board and Executive Director.

V. **Draft Model Standards and Criteria for Silica Sand Activities**

Because of some confusion, Jeff Smyser gave a quick review of what the model standards are and what they are not. HF 976 had quite a number of silica sand topics, mandates, projects that were created and there seems to be a little uncertainty in people's minds of these different projects. There is a lot of confusion between these model standards and the rulemaking part of it.

A brief summary: The Minnesota Legislature directed the EQB to develop model standards and criteria for mining, processing, and transporting silica sand. The legislation directs the EQB to develop the standards and criteria by October 1, 2013. May be used by local units of government in developing their ordinances, **we are not writing ordinances, we are writing standards** that other local units of government can use as a basis to use in their ordinances.

Jeff went over the Model Standards and Criteria Table.

The legislation requires that the standards and criteria are to be developed in consultation with local units of government. There was not time to do this to the extent needed. In addition, there is the need for state agencies to review the draft and provide additional information and corrections. Finally, it is important that the general public have the opportunity to provide input on the draft as well.

In addition to the specific standards and criteria included in the table, the review should include how they address the differences between the two geographic areas as well as coverage of different issues arising from mining, processing, and transporting silica sand.

The process should allow some time for interested parties to review the draft. Next would be setting up some forums for substantive discussion.

We are looking for input from the Board on how to put together the subcommittee and how the review process will happen.

There was more discussion and questions from the Board. Commissioner John Linc Stine proposed a February 2014 timeline.

The following people provided testimony on Agenda #5 - Draft Model Standards and Criteria:

- David Williams, Preble Township, Fillmore County
- Sigurd Anderson, Lake Township, Wabasha County
- Bill Mavity, Stockholm, WI, representing Pepin County District 12, Pepin and Stockholm towns and villages

- Winston Kaehler, Red Wing
- Lynn Schoen, Wabasha, representing Wabasha City Council
- Peder Larson, Bloomington, representing MN Industrial Sand Council
- Keith Fossen, Red Wing
- Kelley Stange
- Scott Sustacek, representing Jordan Sands
- Carol Overland
- Fred Reiter, Minneapolis
- Amy Nelson
- Vince Ready, St. Charles
- Vern Crowson, Chatfield
- Alan Muller, Red Wing
- Bobby King, Minneapolis
- Louy Stambaugh
- Jim Gurley
- Jody McIlrath, Frontenac, representing Florence Township and Save-The-Bluffs

Commissioner John Linc Stine put forth a motion to:

1. Revise the title [from “Model Standards and Criteria”] to “Inventory” or “Background Document.”
2. Form a subcommittee (to be created at the October Board Meeting)
3. Charge the subcommittee to engage citizens, local units of government, and the Industrial Sand Council in the development of those model standards in an active and participative way including meetings in SE Minnesota and other parts of the state
4. Bring back a timeline and plan for approval by the Board at the October EQB meeting.

Commissioner Mike Rothman seconded the motion. A roll call vote was taken and it was unanimous.

VI. Silica Sand Projects Update

Jeff Smyser gave updates on the:

- A. Library
- B. Technical Assistance Team
- C. Rulemaking
- D. Central Website
- E. Multi-facility EIS

The following people gave testimony on Agenda #6 - Silica Sand Projects Update - EIS:

- Dale Hadler, Winona
- Johanna Rupprecht, Winona, representing Land Stewardship Project
- Jane Cowgill, Winona

VII. Environmental Review Progress Update

Kate Frantz gave an update on the Environmental Review Progress.

This update is starting back to the November 14, 2012, Executive Order 11-32 Project regarding Environmental Review Improvement. The Report was approved by the EQB with six prioritized recommendations.

1. Strengthen EQB capacity for oversight and assistance in implementation of environmental review
2. Develop a better system of making information available
3. Expand the use of AUAR or AUAR-like alternative review processes
4. Develop a pilot screening tool for EAW development and early coordination process
5. Develop an easier process for RGU re-designation

6. Revise EAW to Consider Broader Issues or Effects

Kate's work has been focused on the top two.

1. Strengthen EQB capacity for oversight and assistance in implementation of environmental review

Ø **Environmental Review Forms and Guidance**

- Updated EAW Form and Guidance
 - Revised EAW Form Posted to EQB website
 - Revision to *EAW Guidelines* underway
- Next Steps

- Finalize and post *EAW Guidelines*
- Prioritize other guidance documents for updating

Ø **Mandatory Categories Rulemaking**

- Completed
 - Request for Comments ended August 23, 2013
 - ~15 Comments received and have been routed to PCA, DNR, DOT for recommendations
- Next Steps

- Recommendations will be routed to other EQB agencies for informal feedback mid-October
- Feedback from EQB agencies should be provided to EQB staff by beginning of November

2. Develop a better system of making information available

Ø **External Communication: GovDelivery**

- Completed
 - Account has been set up with EQB Staff as administrators
 - Templates for regular communications, (i.e. EQB Monitor), are being utilized
- Next Steps
 - Encourage stakeholders to subscribe to the topics
 - Ensure list of topics is relevant and appropriate

VIII. Discussion of EQB Climate Change Work Plan

Ellen Anderson shared two announcements: They had a letter sent to the Governor's Institute on Community Design to Governor Glenn Denning signed by the Governor thanking them for their help and their work through the Planning Workshops; and the youth involved in The Next Generation Congress, which is part of the Environmental Congress, won a National Award from an organization related to sustainability and higher education.

One of the recommendations from the EQB's planning workshops with GICD was to "Establish the EQB as the central point for implementing and tracking the State's climate change efforts." Public input at the Environmental Congress, from the Next Generation Congress, and the Citizen Forums called on the EQB to build upon the Minnesota Climate Change Advisory Group (MCCAG) recommendations made in 2008.

Ellen has been putting together a work plan to move forward on the recommendation that the EQB be the central point of focus for climate change planning and coordination in the administration. The work plan includes formation of an EQB Subcommittee to oversee and guide the work of interagency teams.

**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 an EQB citizen member.

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.

**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 subcommittee 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.