

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RICE

THIRD JUDICIAL DISTRICT

State of Minnesota, by Rice County
Land Use Accountability, Inc.,

Court File No. C8-05-1032

Plaintiff,

v.

ANSWER

Rice County, a political subdivision
of the State of Minnesota, and the
Rice County Board of Commissioners,

Defendants.

Defendants for their Answer to Plaintiff's Complaint, state and allege as follows:

I.

Unless hereafter admitted, qualified or otherwise answered, Defendants deny each and every matter and particular alleged in Plaintiff's Complaint.

II.

With respect to Paragraph I of the Complaint, Defendants admit Plaintiff Rice County Land Use Accountability, Inc. is a corporation organized under the laws of the State of Minnesota, but denies it is a person as defined by the Minnesota Environmental Rights Act ("MERA").

III.

With respect to Paragraphs II - IV of the Complaint, Defendants deny MERA provides a cause of action against the Responsible Governmental Unit ("RGU") for any environmental review decisions under the Minnesota Environmental Protection Act ("MEPA"). MEPA

provides an exhaustive statutory framework for the consideration of developments' environmental impacts through Environmental Assessment Worksheets, Environmental Impact Statements, Alternative Urban Areawide Reviews, and the like. These processes are closely regulated with the involvement of the Minnesota Environmental Quality Board. Plaintiff has failed to follow the appropriate procedure to challenge any decision under MEPA and cannot do so in this action under the guise of a MERA claim. In short, a MERA claim cannot be based upon an alleged failure to follow the procedural requirements of MEPA.

IV.

With respect to the remaining allegations in the Complaint, Defendants assert they lawfully and properly followed all applicable environmental rules and regulations.

V.

Defendants affirmatively allege the Complaint fails to state a cause of action upon which relief may be granted.

VI.

Defendants affirmatively allege this action is barred by the doctrines of laches, the applicable statute of limitations or is otherwise untimely.

VII.

Defendants affirmatively allege this court does not have jurisdiction.

VIII.

Defendants affirmatively allege Plaintiff has failed to exhaust its administrative remedies.

IX.

Defendants affirmatively allege the allegations contained in the Complaint set forth a cause of action for the performance or failure to perform a discretionary function and duty and this action is therefore barred by Minn. Stat. § 466.03, subd. 6 and by common law immunity. Plaintiff has failed to properly challenge Defendants' decisions.

X.

Defendants affirmatively allege Plaintiff has failed to join indispensable parties to this litigation.

XI.

Defendants affirmatively allege Plaintiff has failed to follow the appropriate procedural requirements to bring a MERA claim.

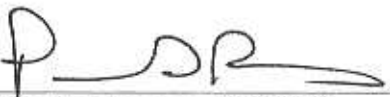
XII.

Defendants affirmatively allege this action is frivolous, vexatious and a sham served only to harass and intimidate Defendants, thereby entitling Defendants to an award of costs and attorney's fees incurred in defending this matter.

WHEREFORE, Defendants pray Plaintiff take nothing by its pretended claim for relief and this Complaint be dismissed together with costs, disbursements and other such relief as the court deems just and equitable.

IVERSON REUVERS

Dated: June 29, 2005

By 

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