City of East Bethel
City Council Agenda

Regular Council Meeting – 7:00 p.m.
Date: May 4, 2016

		Item	
7:00 PM		**1.0**	**Call to Order**
7:01 PM		**2.0**	**Pledge of Allegiance**
7:02 PM		**3.0**	**Adopt Agenda**
7:03 PM		**4.0**	**Presentations**
	p. 3		Legislative Update and Question and Answer Session with Congressman Tom Emmer
7:28 PM		**5.0**	**Public Forum**
7:38 PM		**6.0**	**Consent Agenda**
			Any item on the consent agenda may be removed for consideration by request of any one Council Member and put on the regular agenda for discussion and consideration
	p. 5-8		A. Approve Bills
	p. 9-32		B. Meeting Minutes, April 19, 2016 Town Hall Meeting
	p. 33-46		C. Meeting Minutes, April 20, 2016 Board of Appeals and Equalization Meeting
	p. 47-71		D. Meeting Minutes, April 20, 2016 City Council Meeting
			New Business
7:40 PM		**7.0**	Commission, Association and Task Force Reports
			A. Planning Commission
			B. Economic Development Authority
	p. 72		1. EDA Member Appointment
			C. Park Commission
	p. 73-80		1. Shade Tree Ordinance
			D. Road Commission
7:50 PM		**8.0**	**Department Reports**
			A. Community Development
			B. City Engineer
			C. City Attorney
			D. Finance
			E. Public Works
			F. Fire Department
			G. City Administrator
	p. 81-350		1. Environmental Assessment Worksheet (EAW) for CST
	p. 351-352		2. Castle Towers Decommission Report

8:00 PM	**9.0**	**Other**
		A. Staff Report
		B. Council Reports
		C. Other
		D. Closed Session; Minn. Stat. § 13D.03, subd. 1 (b), Union Negotiations and Attorney Client Privilege, Minn. Stat. § 13D.05, subd. 3, PID # 29-33-23-34-0001 and 29-33-23-33-0002
8:30 PM	**10.0**	**Adjourn**

City of East Bethel
City Council
Agenda Information

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Date:
May 4, 2016

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Agenda Item Number:
Item 4.0

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Agenda Item:
Legislative update – Congressman Tom Emmer

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Requested Action:
Informational only

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Background Information:
Congressman Tom Emmer is our Congressional Representative for Minnesota's 6th Congressional District and has served this position since 2015. Congressman Emmer is a member of the House Committee on Financial Services.

Mr. Emmer was a member of the Minnesota House of Representatives from 2005 until 2011, and was the Republican nominee for governor in the 2010 election. Mr. Emmer has also been a local elected official, serving on the City Councils of Independence and Delano, Minnesota.

Mr. Emmer grew up in Edina and attended St. Thomas Military Academy. After receiving his BA in political science from the University of Alaska-Fairbanks and his Juris Doctor from William Mitchell College of Law in 1988, Mr. Emmer opened his own law firm.

Mr. Emmer was a popular radio host on Twin Cities News Talk AM 1130. He and his wife Jacquie live in Delano, and are the proud parents of seven children, 6 sons and 1 daughter.

Congressman Emmer will present a legislative update to the Council and be available for questions and answers after the presentation.

Attachments:

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Fiscal Impact:
None

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Recommendation(s):
No Action Required

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City of East Bethel
City Council
Agenda Information

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Date:
May 4, 2016

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Agenda Item Number:
Item 6.0 A-D

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Agenda Item:
Consent Agenda

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Requested Action:
Consider approval of the Consent Agenda

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Background Information:

Item A

Approve Bills

Item B

April 19, 2016 Town Hall Meeting Minutes

Meeting minutes from the April 19, 2016 Town Hall Meeting are attached for your review.

Item C

April 20, 2016 Board of Appeals and Equalization Meeting Minutes

Meeting minutes from the April 20, 2016 Board of Appeals and Equalization Meeting are attached for your review.

Item D

April 20, 2016 City Council Meeting Minutes

Meeting minutes from the April 20, 2016 City Council Meeting are attached for your review.

City of East Bethel
May 4, 2016
Payment Summary

Payments for Council Approval	
Bills to be approved for payment	$44,621.99
Electronic Payroll Payments	$27,182.90
Payroll - City Staff, April 21, 2016	$34,651.73
Total to be Approved for Payment	$106,456.62

Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
	SAC Remittance	04 2016	Metropolitan Council	602		$3,153.15
215-221st 65 Service Rd	Architect/Engineering Fees	36055	Hakanson Anderson Assoc. Inc.	402	43125	$293.89
Arena Operations	Electric Utilities	042116	Connexus Energy	615	49851	$783.79
Arena Operations	Gas Utilities	498178352	Xcel Energy	615	49851	$674.02
Arena Operations	Professional Services Fees	100020	Gibson Management	615	49851	$1,750.00
Arena Operations	Telephone	332373310-173	Sprint Nextel Communications	615	49851	$24.30
Central Services/Supplies	Information Systems	221400	City of Roseville	101	48150	$2,827.67
Central Services/Supplies	Legal Notices	336547	ECM Publishers, Inc.	101	48150	$860.00
Central Services/Supplies	Office Equipment Rental	302512702	US Bank Equipment Finance	101	48150	$269.50
Central Services/Supplies	Office Supplies	IN1156135	Innovative Office Solutions	101	48150	$33.97
Central Services/Supplies	Office Supplies	833550936001	Office Depot	101	48150	$122.89
Central Services/Supplies	Telephone	221450	City of Roseville	101	48150	$249.73
Central Services/Supplies	Telephone	332373310-173	Sprint Nextel Communications	101	48150	$86.88
City Administration	Professional Services Fees	M22046	TimeSaver Off Site Secretarial	101	41320	$397.00
City Administration	Travel Expenses	42916	Davis, Jack	101	41320	$171.18
Engineering	Architect/Engineering Fees	36058	Hakanson Anderson Assoc. Inc.	101	43110	$0.00
Engineering	Architect/Engineering Fees	36058	Hakanson Anderson Assoc. Inc.	101	43110	$612.90
Engineering	Architect/Engineering Fees	36058	Hakanson Anderson Assoc. Inc.	101	43110	$438.63
Engineering	Architect/Engineering Fees	36058	Hakanson Anderson Assoc. Inc.	101	43110	$135.00
Finance	Conferences/Meetings	6346930	Northstar Chapter - APA	101	41520	$25.00
Fire Department	Conferences/Meetings	612427	Century College	101	42210	$2,112.50
Fire Department	Electric Utilities	042116	Connexus Energy	101	42210	$473.93
Fire Department	Electric Utilities	042116	Connexus Energy	101	42210	$200.03
Fire Department	Electric Utilities	042116	Connexus Energy	101	42210	$9.96
Fire Department	Electric Utilities	042116	Connexus Energy	101	42210	$119.05
Fire Department	Gas Utilities	498178352	Xcel Energy	101	42210	$636.42
Fire Department	General Operating Supplies	F-261110236	Allstate Peterbilt North	101	42210	$49.99
Fire Department	General Operating Supplies	028-461702	Batteries Plus Bulbs	101	42210	$90.95
Fire Department	General Operating Supplies	1921-344581	O'Reilly Auto Stores Inc.	101	42210	$228.33
Fire Department	Repairs/Maint Machinery/Equip	416-89	Advanced First Aid	101	42210	$237.00
Fire Department	Repairs/Maint Machinery/Equip	2016044	Anoka County	101	42210	$66.75
Fire Department	Repairs/Maint Machinery/Equip	571686	Ham Lake Hardware	101	42210	$11.39
Fire Department	Telephone	221450	City of Roseville	101	42210	$46.84
Fire Department	Telephone	332373310-173	Sprint Nextel Communications	101	42210	$7.20
General Govt Buildings/Plant	Electric Utilities	042116	Connexus Energy	101	41940	$15.83
General Govt Buildings/Plant	Electric Utilities	042116	Connexus Energy	101	41940	$823.15

City of East Bethel
May 4, 2016
Payment Summary

Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
General Govt Buildings/Plant	Electric Utilities	042116	Connexus Energy	101	41940	$132.40
General Govt Buildings/Plant	Gas Utilities	498178352	Xcel Energy	101	41940	$319.61
MSA Street Construction	Architect/Engineering Fees	36054	Hakanson Anderson Assoc. Inc.	402	40200	$95.00
MSA Street Construction	Architect/Engineering Fees	36056	Hakanson Anderson Assoc. Inc.	402	40200	$1,431.20
MSA Street Construction	Architect/Engineering Fees	36057	Hakanson Anderson Assoc. Inc.	402	40200	$12,682.01
Park Maintenance	Bldg/Facility Repair Supplies	572030	Ham Lake Hardware	101	43201	$16.61
Park Maintenance	Bldg/Facility Repair Supplies	14115	Menards Cambridge	101	43201	$81.93
Park Maintenance	Bldg/Facility Repair Supplies	14130	Menards Cambridge	101	43201	($58.86)
Park Maintenance	Bldg/Facility Repair Supplies	14134	Menards Cambridge	101	43201	$66.87
Park Maintenance	Bldg/Facility Repair Supplies	75275725	SiteOne Landscape Supply	101	43201	$362.95
Park Maintenance	Bldgs/Facilities Repair/Maint	16182	Blaine Lock & Safe, Inc.	101	43201	$150.00
Park Maintenance	Clothing & Personal Equipment	1182654677	G&K Services - St. Paul	101	43201	$19.00
Park Maintenance	Electric Utilities	042116	Connexus Energy	101	43201	$13.50
Park Maintenance	Electric Utilities	042116	Connexus Energy	101	43201	$37.51
Park Maintenance	Electric Utilities	042116	Connexus Energy	101	43201	$13.50
Park Maintenance	Electric Utilities	042116	Connexus Energy	101	43201	$13.50
Park Maintenance	Electric Utilities	042116	Connexus Energy	101	43201	$32.02
Park Maintenance	Electric Utilities	042116	Connexus Energy	101	43201	$16.53
Park Maintenance	Electric Utilities	042116	Connexus Energy	101	43201	$37.86
Park Maintenance	Equipment Parts	10162234	Aspen Equipment	101	43201	$107.03
Park Maintenance	Equipment Parts	10162380	Aspen Equipment	101	43201	$164.60
Park Maintenance	Equipment Parts	10162398	Aspen Equipment	101	43201	$418.96
Park Maintenance	Equipment Parts	10162526	Aspen Equipment	101	43201	($164.60)
Park Maintenance	Equipment Parts	P45155	MN Equipment	101	43201	$5.99
Park Maintenance	Equipment Parts	P61933	MN Equipment	101	43201	$278.27
Park Maintenance	Equipment Parts	P61993	MN Equipment	101	43201	($84.48)
Park Maintenance	Office Supplies	IN1156135	Innovative Office Solutions	101	43201	$32.04
Park Maintenance	Other Equipment Rentals	100324	Jimmy's Johnnys, Inc.	101	43201	$70.00
Park Maintenance	Park/Landscaping Materials	16-0157	Rum River Tree Farm & Nursery	101	43201	$355.00
Park Maintenance	Professional Services Fees	041716	Gail E. Gessner	101	43201	$100.00
Park Maintenance	Telephone	221450	City of Roseville	101	43201	$46.82
Park Maintenance	Tires	1-61267	Steve's Tire Inc.	101	43201	$168.00
Payroll	Insurance Premium	05 2016	Dearborn National Life Ins Co.	101		$1,290.84
Payroll	Insurance Premium	05 2016	NCPERS Minnesota	101		$144.00
Payroll	Union Dues	04 2016	MN Public Employees Assn	101		$429.00
Planning and Zoning	Escrow	36053	Hakanson Anderson Assoc. Inc.	101		$580.40
Recycling Operations	Electric Utilities	042116	Connexus Energy	226	43235	$125.30
Recycling Operations	Gas Utilities	498178352	Xcel Energy	226	43235	$88.89
Recycling Operations	Other Equipment Rentals	100324	Jimmy's Johnnys, Inc.	226	43235	$70.00
Recycling Operations	Professional Services Fees	05 2016	Cedar East Bethel Lions	226	43235	$1,200.00
Recycling Operations	Professional Services Fees	05 2016	Cedar East Bethel Lions	226	43235	$416.96
Sewer Operations	Electric Utilities	042116	Connexus Energy	602	49451	$311.16
Sewer Operations	Electric Utilities	042116	Connexus Energy	602	49451	$35.50
Sewer Operations	Electric Utilities	042116	Connexus Energy	602	49451	$51.65
Street Maintenance	Bldg/Facility Repair Supplies	14749	Menards Cambridge	101	43220	$9.98

City of East Bethel
May 4, 2016
Payment Summary

Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
Street Maintenance	Bldg/Facility Repair Supplies	606364	Menards Cambridge	101	43220	$44.37
Street Maintenance	Bldgs/Facilities Repair/Maint	1182654677	G&K Services - St. Paul	101	43220	$7.08
Street Maintenance	Clothing & Personal Equipment	1182654677	G&K Services - St. Paul	101	43220	$18.32
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$16.60
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$178.14
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$121.95
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$174.99
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$80.23
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$351.99
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$476.22
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$126.18
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Electric Utilities	042116	Connexus Energy	101	43220	$5.00
Street Maintenance	Equipment Parts	7389	Hydraulic Plus & Consulting	101	43220	$63.27
Street Maintenance	Gas Utilities	498178352	Xcel Energy	101	43220	$329.52
Street Maintenance	Legal Notices	336546	ECM Publishers, Inc.	101	43220	$64.50
Street Maintenance	Lubricants and Additives	19700	Menards - Forest Lake	101	43220	$14.50
Street Maintenance	Lubricants and Additives	283019	S & S Industrial Supply	101	43220	$104.88
Street Maintenance	Motor Vehicle Services (Lic d)	1286	Central Truck Service, Inc	101	43220	$104.90
Street Maintenance	Motor Vehicles Parts	F-261040208	Allstate Peterbilt North	101	43220	$12.16
Street Maintenance	Motor Vehicles Parts	F-261120220	Allstate Peterbilt North	101	43220	$27.34
Street Maintenance	Office Supplies	C241199751:01	I State Truck Inc.	101	43220	$73.14
Street Maintenance	Shop Supplies	116613	Metro Products, Inc.	101	43220	$223.22
Street Maintenance	Small Tools and Minor Equip	4109598	Acme Tools - Plymouth	101	43220	$249.99
Street Maintenance	Small Tools and Minor Equip	20145	Menards - Forest Lake	101	43220	$32.34
Street Maintenance	Small Tools and Minor Equip	116685	Metro Products, Inc.	101	43220	$22.46
Street Maintenance	Telephone	221450	City of Roseville	101	43220	$46.82
Street Maintenance	Telephone	332373310-173	Sprint Nextel Communications	101	43220	$70.40
Street Maintenance	Welding Supplies	9050143650	Airgas USA, LLC	101	43220	$265.39
Water Utility Operations	Electric Utilities	042116	Connexus Energy	601	49401	$254.93
Water Utility Operations	Electric Utilities	042116	Connexus Energy	601	49401	$947.48
Water Utility Operations	Electric Utilities	042116	Connexus Energy	601	49401	$132.20
Water Utility Operations	Gas Utilities	041516	CenterPoint Energy	601	49401	$101.98

City of East Bethel
May 4, 2016
Payment Summary

Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
Water Utility Operations	Gas Utilities	041516	CenterPoint Energy	601	49401	$61.23
						$44,621.99
Electronic Payroll Payments						
Payroll	PERA					$6,445.57
Payroll	Federal Withholding					$5,844.62
Payroll	Medicare Withholding					$1,598.62
Payroll	FICA Tax Withholding					$6,835.56
Payroll	State Withholding					$2,319.95
Payroll	MSRS/HCSP					$4,138.58
						$27,182.90

EAST BETHEL TOWN HALL MEETING

APRIL 19 2016

The East Bethel City Council met on April 19, 2016, at 7:00 p.m. for the Town Hall Meeting at City Hall.

MEMBERS PRESENT:	Steve Voss	Ron Koller	Tim Harrington
	Brian Mundle	Tom Ronning	

ALSO PRESENT:
Jack Davis, City Administrator
Mike Jeziorski, Financial Director
Nate Ayshford, Public Works Director
Craig Jochum, City Engineer
Nick Schmitz, Building Official
Colleen Winter, Community Development Director
Karen White, Receptionist
Shelly Orlando, Anoka County Sheriff's Department Liaison
Mark DuCharme, Fire Chief

1.0 Call to Order

The April 19, 2016, City Council Town Hall Meeting was called to order by Mayor Voss at 7:00 p.m. Voss welcomed all to the Town Hall Meeting and invited Fire Chief DuCharme to address safety issues relating to the meeting room.

Welcome and Introductions

Chief DuCharme introduced himself and described the layout of the room. He explained the room is a little over capacity so fire fighters will assure the three exits remain open and unobstructed.

Voss introduced himself and the Councilmembers. He explained Town Halls are held twice a year to get information out to the community and receive feedback from residents. He stated after the first session, he and the Council will be available for questions and answers. Voss introduced East Bethel Royalty Karley and Tori who are the City's ambassadors.

Voss stated the first Town Hall meeting was held 12 years ago, which also attracted a large crowd as there were several controversial issues at that time. He stated he is glad there is a large crowd of residents tonight who are engaged in East Bethel.

Voss pointed out the location of Mn/DOT information relating to design concepts to improve Highway 65 intersections and the attendance of East Bethel resident and Mn/DOT Engineer Sheila Kauppi. He explained there will also be future opportunities to discuss these concepts with Mn/DOT, Anoka County, and the City. Voss stated representatives from Mid-Continent Communications are also available to answer questions about cable and internet services as well as area of coverage.

Voss welcomed Anoka County Sheriff Commander Orlando who has served as the City's liaison for the past eight years and provides monthly reports at Council meetings. In addition, Commander Orlando is an East Bethel resident. He described the patrol services provided by Anoka County Sheriff Deputies.

Voss stated there is also information about the Cedar Creek Eco System and City staff is available to provide information and answer questions.

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Project Updates

Voss provided an update on projects started in the last six months including:

- A new backage road behind the East Bethel Theater from Our Saviors up to Viking Boulevard will address safety concerns at 187th and Highway 65. In addition, it will open some property for development and hopefully senior housing. This road will start construction this year with completion in 2017.
- CST has been informally discussed at Council meetings though a formal application has not yet been completed. It had been anticipated CST would be before Planning in April; however, it is likely the application will not be prepared in time so chances are it will be considered in May with a recommendation to Council. The Planning Commission is an advisory body to the City Council who makes the decisions. The earliest it may get to Council is the end of June. The Council has received a lot of feedback from the public.

Mn/DOT Presentation of Reduced Conflict Intersection (RCI)

City Administrator Jack Davis introduced Sheila Kauppi, Mn/DOT Area Representative.

Kauppi thanked all for coming. She explained she has lived in East Bethel since 1999, always commuted to work, and noticed the increase in traffic volume and that the signals are not correctly timed so it results in long queuing lines at intersections. She thanked the City and Chamber of Commerce for being open to conversations on new ideas. Kauppi introduced Mn/DOT staffers Brian Kerry, Todd Sherman, and Kent Bernard.

Kauppi explained how the conversations started with municipalities bordering Highway 65 and decision to embark on an 18-month study in March of 2015 to identify areas of traffic problems, potential development, frontage road system, poor soils, lighting and traffic signals, and increased volumes. She stated early on, they heard from the freight community, cities, and stakeholders about signal timing. The study also addressed how immediately identified problems could be addressed in the next five years.

Kauppi commented on the difficult in obtaining highway funding and consideration of what could be done in the interim. Through that effort, a Reduced Conflict Intersection (RCI) concept was developed and constructed in Blaine to prevent right-angle crashes. Since that time, there have been no bad crashes with incapacitating injuries or fatalities. She explained that is not an uncommon outcome when looking at national RCI statistics, as it reduces 70% of the crashes, fatal crashes, and crashes with incapacitating injuries so they decided to look at additional high-volume intersections where this or other concepts may be an option.

Kauppi explained the traffic movements through the RCI in Blaine at Highway 65 and 169th Avenue and how a signalized RCI would spread out the intersection a little farther and reduce the 'red time' of the signal. She stated they have embarked on a journey to consider a signalized RCI design at Highway 65 and Viking Boulevard and this is a great forum to educate the public prior to receiving funding and commencing construction.

Kauppi reviewed how this concept was developed, purpose of traffic modeling, and resulting shorter queuing times. She used a drawing to describe traffic movements through a signalized RCI intersection as well as access from a frontage/backage road. Kauppi stated the study last year, the East Bethel Council adopted a resolution of support for Mn/DOT to further study this as one of the concepts for this location. The Federal Highway Administration is willing to fund its construction, it could be implemented fairly quickly, and Mn/DOT is fairly confident it could be a solution but want to make sure it also accommodates future development and does not adversely impact other intersections.

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RCI

Kauppi stated as part of the analysis, they are also developing a video to address actual traffic volumes and movement.

An audience member asked whether the other cities with RCI intersections are similar to East Bethel. She also asked whether the intersections would be wide enough to accommodate all types of vehicles, even those pulling trailers. Kauppi stated some locations also get a lot of snow and the benefit of the 65/Viking location is that the median is wide enough to accommodate movement of all vehicle types including semitrailers and trucks pulling a horse/cattle trailer. In addition, this would have a signalized intersection at the J-turns.

An audience member stated with east/west traffic if more than five cars were allowed through, it would greatly reduce the dead time. He stated he has had to wait four cycles. He described how he used to plow Highway 65 and east, and the difficulty with plowing the proposed CRI. He stated another issue is the dead time that should be cut down by adjusting the signal timing to let a few more cars across Highway 65, especially on Sunday when church lets out. Kauppi stated snow plowing is a concern that will be addressed and the comment about signal timing is a valid point and will be looked into.

Mercer Englund, 229 Avenue, asked whether a stop light will be placed 1,000 feet before the RCI intersection, noting Highway 65 is notorious for running red lights and this may encourage that danger. Kauppi agreed that no matter the traffic control, drivers can run it but it is hoped they don't. She stated the intersection would have street lighting and signage to alert the driver there is something different with this intersection.

An audience member stated there are no turn lanes on Viking Boulevard and asked if the problem can be fixed by constructing two left turn lanes, both east/west and north/south. The signals could be timed to let through two to three times as much traffic turning the corner. Brian Kerry stated they are still modeling this intersection concept. He stated turn lanes are still on the table so they have hired a consultant to conduct traffic analysis to compare a traditional intersection improvement with something like this. That analysis will include a computer simulation and comparison of costs to build, which may be comparable. Mr. Kerry explained you would still have some of the existing 'dead time' with the added turn lanes whereas with the RCI concept, you lose that and gain efficiencies and more green time.

An audience member asked how many crashes were on 169th Avenue in Blaine before it was changed. Todd Sherman, Study Project Manager, stated there were pre-2012 fatalities at that intersection that are not reflected on the crash data from 2012 to 2014. Kauppi stated there were either two or three fatalities prior to the RCI and they will provide that information to the City.

Audio System

An audience member commented on the need for the Community Center to have a better microphone/speaker system so all can hear what is being said.

RCI

An audience member stated if traveling on Highway 65 from the eastbound or westbound and wanting to turn southbound, with the RCI she will have to first turn right and go north to access the J-turn. She questioned whether other vehicles will let her safely cross those lanes to access the J-turn. Kauppi explained a signal will stop that traffic as well. The audience member asked if either way she has to sit at a light, not saving any time. Kerry explained how that turning movement would be made and accommodated by the timing of

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RCI

the signal to eliminate multiple stops.

An audience member stated this seems like a 'band-aid' and asked why a bridge isn't being considered. Kauppi stated transportation funding is currently a challenge so projects underway are to preserve pavement and improvements are focusing on high crash locations. She estimated a bridge at this location would cost $20 million and the signalized RCI would cost $1.2 million. She stated if this solution serves the City for 10 to 20 years, during that time they can find money for an interchange, and it may actually take that long. Kauppi reviewed the other locations that have been waiting 15-20 years for interchange improvements. She noted that after the 18-month study, people may not be supportive of any change but the signalized RCI would allow an immediate benefit to all motorists of Highway 65 and businesses.

An audience member stated a lot of cars travel northbound on Highway 65 and turn left or right on County Road 22. He noted that if stopped at the 1,000-foot mark, the cars will be backed up to Crosstown on fishing opening day when a lot of drivers are heading up north. He stated that issue will have to be overcome. Kauppi stated that will feed into their questions about what happens at 187th or 181st and whether something different is needed for those intersections as well.

An audience mentioned the option of a roundabout, which received a negative audience reaction.

An audience member stated he has 46 years of transportation with CDLs, big trucks, and taught the last 16 years. He stated St. Cloud has added a lot of roundabouts that do not have enough room to accommodate big trucks so the truck has to straddle the roundabout to avoid a sideswipe. He encouraged Mn/DOT to be careful with the design of J-turns to assure it can accommodate big trucks. Kauppi stated some of their outreach is with the freight and CDL drivers to make sure the design can accommodate them.

An audience member asked whether the cost of $1.2 million for a signalized RCI includes all the studies, models, consultants, videos, and labor. She asked what the total price is and whether it isn't easier to use a plan for an already designed bridge that everyone knows how to operate. She asked if that would not be cheaper in the long run rather than building this and then in 15 years doing another study on something different. She encouraged Mn/DOT to spend the money up front and do the project right the first time rather than constructing a 'band-aid.' Kauppi stated the cost for pre-design and public outreach is typically 8% on top of that and right-of-way would be an additional cost. She noted that an interchange would definitely involve purchasing right-of-way, which is more expensive than this concept. Kauppi stated it cost $60,000 for the modeling consultant and the Federal Highway Administration has worked with a University of Minnesota grad student who is doing it as part of a thesis study, which free to the State of Minnesota. Kauppi stated it could be 12% for pre-design if they hired a consultant so that cost is exponential based on the project cost.

Joe Anderson, Durant Street, asked if crossing on Viking Boulevard, he can still make a free right on a red. Kauppi stated she believes so. Mr. Anderson asked if the northbound on Highway 65 and the light is red, can that vehicle still make a free right turn onto eastbound Viking Boulevard. Kauppi stated the intent would be to stop all lanes at that location.

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RCI

Neis Manual, 21150 Eveleth Street, asked if federal funds will be used to pay for the $1.2 million. Kauppi stated there is potential to utilize $1 million of federal funds. Manual asked if Mn/DOT utilizes these funds, is there an obligation to follow their rules. Kauppi stated the $1 million is for the signalized RCI concept and while there would be requirements, it would not include anything related to high-density housing.

City Administrator Davis thanked Mn/DOT staffers for their presentation and indicated the gathering of information will continue.

Mid-Continental Presentation

City Administrator Davis introduced Mid-Continental (Mid-Co) representatives Dan Nelson and Jason Sachs.

Dan Nelson thanked the City for this opportunity and welcomed the citizens. He explained Mid-Continent provides cable, internet, and phone service in East Bethel. Mr. Nelson asked customers to call their 800 number if they are having a problem, as it may be something specific to their house, the town, or a bigger issue.

Nelson reference a map depicting their coverage area in East Bethel, noting it does not cover the entire City, as there is too great a distance between homes in some areas. He noted that on the video side, some residents use satellite but most people's interest in Mid-Co today is because of its data services for fixed-wire internet. He described the expected future trend away from cable or satellite devices for video service.

Nelson stated they offer residential service with no contract but in areas that are not served, they may offer a commitment (lease) or other options so Mid-Co is able to recover its investment. He stated last year, they added 50 homes and 48 lots so they will expand services where the market makes it advantageous to do so. Mr. Nelson described their internet product as one of the best in the country and how it will be expanded beyond what current devices can handle.

An audience member asked if they use copper. Nelson stated they are a fiber deep architecture with hi-bred co-axial for the last portion of the service delivery. The typical legacy telephone providers use copper but they do not.

Nelson thanked all for their attention and talking with them tonight.

Questions & Answer Session

Cole Robertson, 23462 Goodhue Street NE, stated I just was wondering how CST fits into the Comprehensive Plan and how their tax revenue will affect the City.

CST

Voss stated as we talked about, that is one of the issues that Council and Planning Commission will consider. Right now, the property that CST is proposing to build on is zoned Light Industrial. It has been zoned Light Industrial for a while. One of the questions that the City will be asking more of ourselves is whether their application and what they want to do fits that zoning. So I think that answers your question on the Comprehensive Plan. So that is one of the questions we will be answering, or asking ourselves and answering. It's really fundamental to whether that goes through or not. In terms of tax revenue, I think we've done some rudimentary investigation in how it affects taxes. Obviously, they would increase the tax base for that property. It's a factor in the consideration of the whole application process but we don't have answers for that right now. And as I said earlier, Planning Commission and Council, we have not seen a formal proposal yet.

DRAFT

CST

Sandy Dankert, 23416 Baltimore Street, stated I just want to say I'm totally opposed to CST coming over there. I live right across the street from it so I'm not too happy about having a trucking company in my back yard. I guess I'm just wondering why we're at this point. Why we're having Town Meetings. Why you would even think that would be acceptable for us residents living right across the street from there.

Voss stated to be clear, the purpose of the Town Meeting, the whole CST issue really has nothing to do with the scheduling of the Town Meeting. This Town Hall meeting, we have these twice a year and so it's an opportunity, obviously, with the timing to discuss that issue. But that's not the purpose despite what may have been told to residents. That's not the purpose of tonight's meeting. And to your question, I think, and any other Councilmembers can answer this too, but just as any resident that has a proposal before the City, we have to respect the businesses as well that want to come into our City. So they deserve a due process. They have rights too. Again, the City is not even, the Council or Planning Commission has even considered this yet. The fact that there's been so many opportunities for residents to learn about this business that's proposing to come in and wants to come into our City is incredibly unique. You know, there's some past Councilmembers that are in the audience here and I think I can say with a great deal of confidence, we've never had this much discussion about something we haven't even considered yet. And I don't say that lightly. I say that it's a very good thing that the residents are interested in their community and interested in what's going on and communicating to the Councilmembers. I probably got two dozen calls today and I don't know how many calls over the past few months. So I think we're hearing the message from the neighbors very clearly.

Mundle stated absolutely clearly.

Voss stated the issues and a lot of the questions you're bringing up, and I say it collectively from the neighbors, are very good questions to ask. They are questions that we'd be asking and some of the questions and maybe things that we wouldn't think to ask. So we do appreciate the feedback. We do appreciate your position and in particularly for those who live near this area. I think we're gaining appreciation of your concern over what that potential impact could be.

Ronning stated one more thing about that. Unless somebody can show me something different, we do not have the authority to review every property sale, every home sale. We have no business in there anyhow. If a resident wants to sell a piece of property, they contact a realtor, not us, and if that property sells, they go through whatever process that is, not us. So you know as far as just telling people that, 'No, you can't be here.' We can't do that to them any more than we can do it to you.

Proposed Shade Tree Ordinance

Heidi Moegerle, 179 Forest Road NE, stated on tomorrow's agenda you have a Tree Commission Ordinance in which it is stated that, 'No person shall intentionally damage, cut, carve, transplant, remove any tree, attach any rope, wire, nails, advertising poster, or any other contrivance to any tree, allow any gaseous, liquid, or solid substance which is harmful to come into contact with any tree, or set fire or permit any fire to burn where the heat could injure any portion of any tree or top any tree by severely cutting back the tree canopy to a stub.' My question is, will we be able to trim our trees? Will we be able to pluck fruit from the trees? Or, do we have to go to this Forester that you're proposing to create in tomorrow's meeting?

DRAFT

Proposed Shade Tree Ordinance

Voss stated what Heidi's referring to is tomorrow night on the agenda there's a proposed ordinance that I believe came from DNR. Davis explained it's a recommendation from the DNR, that's correct. Voss stated so tomorrow night it's on our agenda to consider. Council has had no discussion on that. So I think we'll take those questions into consideration tomorrow night when we have that discussion.

An audience member asked does that mean I couldn't cut down a little tree in my yard and make it my own Christmas tree? Voss stated I don't believe that is but that's one of the things that we're going to talk about. The Council needs to have an understanding fully of what this proposed ordinance is about. We haven't had that discussion. We haven't asked questions of staff yet.

An audience member asked and does the DNR, their recommending it, does that mean you have to follow it? Voss answered no. From my understanding, and Jack or Nate Ayshford, our Maintenance Supervisor, can clarify but what I understand is the DNR has proposed this ordinance to us in regard to our Tree City designation that we had last year. And so it's something they asked us to consider. And again, we haven't had any discussion on it at all.

Ronning stated this wasn't some 'creative monster.' It's something that came, there's a Tree Ordinance that's in effect. I don't know what it is right now. This came up before the Park Board about a week and a half, two weeks ago, something like that. If I'm wrong, I apologize, but it was pretty well presented to them that this is what we expect you to do. And, I don't know what's in this thing. It looks like a big mess but it's not really going to, your trees are your trees.

An audience member asked do we have to be a Designated Tree City? Voss stated this is not, again, this is really premature because we're going to have that discussion tomorrow night. From my understanding, this is not private property trees. Is that correct Jack? This is trees on public properties. So, trimming your own trees, I don't think we'd ever try to regulate that other than perhaps oak wilt and that's more of an educational thing. I believe discussion is on the right-of-way and trees that are publicly owned. I know that's what we'll be discussing tomorrow night.

CST

Mike Matzke, 241st Avenue, stated I'll be living about a quarter mile away from this CST north. The main concern I've got is why are they operating in a gravel pit right now? I've just been kind of, make everybody think, why are they operating in a gravel pit. There's going to be a lot of noise and pollution and dust. I'm totally opposed. Voss stated thank you.

Bud Flagstad, 3200 229th Avenue, stated my concern is they're going to do studies for pollution as far as ground water or Cedar Creek runoff? Junk yards right now, we're taking junk yards out and putting down rubber mats and everything else with four feet of dirt over them because they've been polluting the ground waters and soils impregnation and all that. So, are they going to do a study here because we're going to have salt, right? Open salt with rain running down? It's not going to be enclosed. I'm concerned about Cedar Creek and our groundwater.

Voss asked Jack can you, it's one of the questions we had early on was those types of studies and I know Jack's been working with the rest of staff on that issue. Davis stated

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CST

the water quality issues are a concern and they will be addressed. From what we have been presented, there is no open storage of salt. It's all done inside of a building. But the water quality issues are being addressed. We're getting information as to the content of it, whether it's organics or not organics. It's been referred to the City Engineer so he'll give us some information on that. But it is a very important question. One we'll have answers for prior to the Council.

Flagstad asked a question relating to insurance bonds should there be pollution. Davis stated that will be up to them. Ronning stated that's not an internal process, that's the MPCS, the DNR, and the rest of them. Yes, that's a good question but it's out of our control. That would be something that's done by the agencies that have experts.

Amendment to Met Council Agreement

Jerry Lancette, 356 196th Avenue NE, Cedar, stated I have a question. You may have covered this at some previous Council Meeting. I may have missed it and that is, back in February, there was an article in the Minneapolis paper regarding the Met Council coming to an agreement with the City of East Bethel regarding sewer and water tower over here, or the water tower. And that they were going to forgive like $28 million of that loan and the City was only going to be responsible for $2 million. I want to know if that's the case. Or, what that's going to do for the property tax picture. I noticed that mine went up like 19% or 16% this year and I didn't know if you guys are going to take that into consideration going on down the line for the next year and year after that so we're not seeing these huge increases.

Voss stated your synopsis is pretty close in terms of the agreement with Met Council and it was a process that was started a year and a half ago, two years ago, the discussions with Met Council. In sort of a nutshell, the contract that the City has with Met Council was amended such that in short, for a portion of the work, the greatest liability we have will be $2 million and that's if no development happens. The net effect is, as you said, a potential savings of $20-$30 million over the life of the whole project. So it is an important negotiation between the City and Met Council and it was a drawn out negotiation and I think all parties benefited there.

Property Tax Increase

Voss stated in terms of your question on the taxes, and you raise a good point, tomorrow night is your opportunity at the Board of Adjustment, at 6 p.m., City Council Chambers. There's many of us, I included, whose taxes are going up significantly and it has to do with the evaluation of your property. It has nothing to do with the tax levy from the County or from the City or Schools. It's the evaluation of your property. Tomorrow night's meeting, our contracted tax assessor will be there and it's your opportunity to meet with him, meet with City Council to talk about your evaluation. Because for many of us, that's what's affecting the increase in taxes on your property that's happening this year. So don't wait until December when you get your tax statements. You need to do that now on your evaluation.

Ronning stated may I add something. Jack was involved with this and it was two years ago, January 18 of two years, that we started this thing. But the newspaper article was not quite 'on the money' with that. There's no forgiveness. What Jack and Mike and the rest of the administration and who was able to work on that was able to work out and convince them that was not good for them and it's not good for us. By doing that, they don't forgive the money, what they've done is, it's just been capped. There was no end before that. It's been capped to a certain level and we can pretty well deal with that, I think.

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Property Tax Increase

Lancette asked whether the value that went up on the City portion of his taxes has to do with the increase in the property itself and nothing to do with the sewer and water? Voss explained the statement received in the past few weeks is solely due to the evaluation of the property. Lancette stated the breakdown of taxes by jurisdiction shows the City's portion of taxes from 2015 and 2016 and there's a huge difference. In his case, it is 16%. Davis stated last year's City levy was 1.5%. Voss stated the reason for the 16% is an increase in the property's market value. Davis encouraged Lancette to come to the Board of Review Meeting tomorrow night, bring the tax statement, and review it with the Tax Assessor to determine if an adjustment can be made.

Harrington explained with the tax statement, it will depend on the School District you live in, noting Forest Lake passed a levy this year of $144 million so those taxes will go way up this year.

CST

An audience member stated I just have a quick question. You said, you know, when you sell land and everybody goes to a realtor and you guys have no say in what we get to do or bring in for that land. I'm just wondering, Light Industrial, I guess, how does this company, CST, fit into that category?

Ronning stated what we've seen of it is they receive material, they process material, they package it, they pallet it, and they move it out as a wholesaler the same as if somebody was processing a piece of steel. It's not the same as steel, I apologize. But if you process a raw material and you package it and move it out, to my knowledge, that's Light Industrial. I don't think it's defined in there, unless I'm, something else.

Davis stated the entire issue is under lots of consideration. There's still lots of questions that have to be answered. These are some of the things we're looking at. As was previously stated, there's been nothing submitted yet to the Planning Commission nor the Council. I want to encourage all of you to keep attending these meetings. I've learned a lot from your questions. I've heard a lot of questions I hadn't thought to ask and we're getting those answered. So we're completing the process and this is part of the things we're looking at.

Harrington stated I'd just like to add on. Like Jack said, we're waiting for the DNR, we're waiting for the State, Mn/DOT, if they have to do something on 65, the County, and the PCA. So, there's a lot of 'hurdles' to go through yet.

Proposed Shade Tree Ordinance

Audiovisual System

Moegerle stated earlier I had a question about the trees and you mentioned that it would only be public trees. Well, most of us here own right-of-way and the trees in them and this says that they could enforce this with regard to trees in the right-of-way. I have a question about this $95,000 audiovisual issue that's coming up tomorrow. Isn't that a little bit 'gold plated' for East Bethel to have a $95,000 audiovisual system in the Council Chambers?

Voss asked what do folks think about our sound system in the Council Chambers? Or our video system? We're patched together and it's much more than just the audio system we're working with this consultant with.

Harrington stated Heidi, we're just trying to bring this system up to the 20th Century. The stuff we've got back there is ancient. Moegerle asked isn't any of it under warranty? Voss stated it's 15 to 20 years old some of it. Harrington stated the City staff gets calls

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Audiovisual System

every meeting that they can't hear, the picture's bad. We're trying to bring it up to the 20th Century. Voss stated we even heard it tonight.

CST

An audience member stated I'll make this quick. It's regarding CST specifically. I don't condone it whatsoever. I don't want to see it go in. This is regarding access to the land to the north. We have put a road in there between their property and it was listed on the plat drawings that the City has. So I would assume that is part of the plan, that we have to put that road in through their property. Otherwise, we're going to have no access through there. Voss stated that's part of the discussion that's going on right now, is that road. The audience member stated the other part of it is that land to the north of there, what's going to want to go in there with a wood processing/semi-truck plant there? Voss stated again, that's definitely part of the discussion.

Kathryn Morris-Echols, 23615 Goodhue Street, stated I live 1,200 feet away from the proposed property. My question for the Council today is you say you can't deny companies, you know for legal reasons and stuff like that, up front. I understand that. However, what are codes and ordinances for? Aren't they there to protect the people from companies such as this that want to come in here and build something that's absolutely not accepted, condoned, wanted, from the City? So what as a City Council are you doing to protect the citizens, the residents, in the future, you know, from companies like this? Mold, fungi, air quality, draining our wells, all of that? Property values, all of that? So, what are you guys doing to improve the Codes and Ordinances going forward is my questions.

Ronning stated that's a good question and I think it's important to understand that much of what's being done there is by outside agencies. We don't have the resources and we don't have the training and authority to do some of that. The Minnesota Pollution Control Agency, DNR, will be reviewing their well. Minnesota Pollution Control Agency will review their business plan, what the impacts are, what their control plan is, pretty much everything. The County, unless I'm mistaken, the County will mandate that they upgrade that road toward the weight. Joe, what's that, like a 7? An audience member stated no it's 9-ton in the summer but I think it's 7-ton in the winter, or spring. Ronning stated okay, so he says it's 9-ton in the winter, 7 in the summer and fall and they have to bring it up, I think, to 9-ton per axel or something. The audience member stated 7-ton in the spring when the road restrictions. I think it's a 9-ton road in there. County trucks can go on any County road except in the spring and they're 9-ton so it's a 9-ton road. Ronning stated the County, at any rate, is reviewing if the traffic pattern and what the load limits and all that is. What the CST would be required to do.

Morris-Echols stated and I understand that. I'm asking about City Code. Mundle stated I'll get that. As far as City ordinances, there's a large book of them. Honestly, we, a lot of the changes that get made to them are reactionary when we find that there are issues to them. To go through and review them, ordinance by ordinance, can take an awful lot of staff time. So, unfortunately, it's not a perfect system but that's one of the ways we use to monitor the ordinances. As far as the Comp Plan, we review that about every ten years, isn't it? And so another Comp Plan is coming up. When that area up there was designated as Light Industrial, I believe the intent was to put a large land mass together to put a lot of Light Industrial. Now when, about eight years ago, when they did that Comp Plan, nobody foresaw that a mulch distributor would come in under these exact terms and apply for that area. We can't foresee every company that could come in and every kind of industry and outlaw the ones we don't like. We can try to do it with the best we can.

DRAFT

CST Obviously, we don't want landfills or toxic waste dumps. We don't want any of that but as far as some of these, that's where we want public opinion when we review the Comp Plan. And we'll be having another one coming up.

Voss stated to echo Brian's comment on what the vision was for that area. And, I'm someone who was involved. I've been involved with the City for a long time and was involved during the last Comp Plan. As Brian said, there's things you don't envision and can't envision everything that comes in or happens. That's kind of the nature of ordinances. But as I said early on, one of the questions we're going to have to, the fundamental question we're going to have to ask ourselves, is whether this application truly fits the Light Industrial zoning as we have it defined right now and the use as we have it defined right now. That hasn't been answered yet. We haven't had that discussion. The Council, the Planning, haven't had that discussion yet. So that's very fundamental. So right now, I think everyone's premise is that it's a permitted use and we have to allow it.

Voss stated personally, and I'm not trying to start a discussion here at the table, but personally I think that's really in question and we have to discuss that. I can say from my own aspect that when we did work on the Comp Plan years ago, when we established this Light Industrial zoning, this absolutely wasn't our vision for that area. I've said that from day one. I've talked to many residents and have said that too. It's something that we have to fundamentally get to but again, you know, we need to treat the businesses as applicants just as any resident that would be proposing something. There's a due process. This one has been taking a little bit longer because it's a little bit more complex. It's got a lot of issues so we're taking great care to try to be as extensive and thorough as we can before this gets to the decision makers, which is, again, first the Planning Commission who will make a recommendation to Council and then Council consider the whole application.

Theresa Martin, 1132 133rd Avenue, stated what I'm hearing here from the Councilmembers, you guys are saying that you don't have the right to reject businesses. Okay, from your standpoint I absolutely agree with that. Everybody has the right to do that. But there's also a community that you guys represent and you're listening to your community. And as time unfolds, you'll see a bit more and more. But I've been in other cities where they've tried to bring in things and the residents have not been onboard with it. So my question is, as any kind of business coming into a city, wouldn't you want the support of your residents to support you so you can grow? So eventually, that would come to the point as the business. Do they want to be in a city that they're not wanted? So for that sake, that's one question, one thought I had. So I agree with your point on that Councilmembers. But we as residents and you guys as residents have the right to support or not support something. So, in the end, I would like to hear your personal opinion since you represent us, our City. I would like to hear each one of you guys up there. What is the benefit or what is your, are you wanting this business to come in?

Voss stated I just want to clarify. My statement was they have a right to apply. Not a right to be a business in the City. A right, they need due process. They need their opportunity to present their case. And I think, any of the Councilmembers can answer how they want, but it's definitely premature, definitely not fair for us to make decisions tonight on something we haven't even, we haven't even seen plans yet. We haven't seen the documents. We hear we've got hearsay. We know what's going on with staff. But we've seen a site plan. We've seen one drawing. But until we see a complete package, just

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CST

as if you were proposing to put a pole barn. We can't just say, 'no.' What are you trying to do? What are you trying to propose? What are the effects? We have to be thorough. We have to be fair and we have to follow this process. There's a legal aspect of this but there's also the fairness and, we need to be fair to everyone. Fair to the residents. Fair to the applicants. So that was my point on making sure that we understand what they're proposing to do. We're still early in the process.

Ronning stated I'm the one that made the comment about the ability to determine who can buy something and who can't. When we were living in Michigan before moving back here and we put our house up for sale, you sign a document saying that you will not refuse or reject any person for any reason other than inability to pay. So if somebody that you can't stand or you don't want your neighbors to deal with buys it, too bad. There's nothing you can do about it. Now with this sort of thing, you have a seller. There's a seller that has the right to sell his property. They hire a realtor and the realtor sells to whoever it might be. In this case, I think we have to be very cautious because if we cause harm to something that we're wrong in causing harm for, there's potentially $6-$10 million tied up in this. It's not something to take lightly. We, with the staff, Jack is excellent with this and their ability to make information available and make sure the 'I's are dotted, the T's are crossed,' and everything. It's much more complex than just saying, 'We don't like them.' That's not the answer everybody wants to hear but I think that's what reality is.

Mundle stated and to refer to your questions, I absolutely would love the support of the residents with anything that the Council does. Unfortunately, that won't happen a whole lot. Well, I shouldn't say that. It may not happen with some things because on the flip side, we also have to represent the City itself and keep it off any potential lawsuits just by doing what we want. So we have to follow ordinances, codes, and processes to come to conclusions.

Pastor Mike Pearson, St. Andrew Lutheran Church, 1450 237th Avenue, right on Cooper's Corner, stated our concern as a church is that we have a responsible City Council that upholds its ordinances that have been written in support of the people that have voted them to be on City Council. Our concern for a church is to support ethical, responsible business and if that is what CST wants to do, wonderful. All the more power to them. What we have done is we have created a list of four expectations that we hope the business can meet. As someone that's directly across the street from the business, we have great concern over noise. We record our services. Do we want large trucking, beeping, to be interfering with our worship services, Wednesday services, weddings, funerals, other events that happen at the church? By the way, everyone is welcome to come. You are all invited. We have concern about pollution, light, sound, water. We have concern about property value. We do not want to see residents moving. We are a force for good in the community and we will be staying here for as long as it takes. And, we don't want people from the community moving away because they feel their property values are going to go down.

Peterson stated so we have addressed that specifically and in a recommendation, we hope that CST will abide by. We have concerns about the hours of the business, two-shift operation, does that fit into a residential community? That's something the Council should think about and see. Is that something you want to live with next to or support? You have a power as a Council to create ethical business, ethical ordinances that will be supportive for the community. I think everyone wants to see the best possible solution

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CST

happen. And we hope that you take a look at our four recommendations that we made and we'll look forward to hearing back from you. Thank you. Voss stated thank you.

An audience member stated my question is, do you guys have guidelines for Light Industrial businesses here that we could take a look at? Do you have a guideline? A form or something for guidelines for Light Industry? Voss stated it's just described both in our Comprehensive Plan and within our Codes.

The audience member stated just one other question is, is there any way you can change that area from Light Industry to something else on a whim? Or, is it just stuck there? Voss stated well I think the key word there was 'on a whim.' No City can do things on a whim. The audience member asked so you can't flip it to High?

Voss stated nothing happens on a whim for the City for one. But we are starting, I think this month actually, the process of reviewing our Comprehensive Plan, as mentioned earlier. We're required by our Met Council to update our Comprehensive Plan every ten years. We're in about year eight right now, so we're starting that process. The zoning of that property, and the zoning of any properties can and likely will be reviewed and that's a very public process. We don't have a framework yet for the public outreach on that but I'll say from the last time we went through this, we had close to 50-60 meetings total that we discussed the Comp Plan. I don't think it will be that extensive this time but there certainly will be opportunities for the public to interact. Because, just like tonight, you know, how these documents are created is from the community and the community's views. In terms of your question, whether we can change it now with this application coming before us… The audience member stated *(inaudible)* on the process. If something happened where all of a sudden *(inaudible)* Heavy.

Ron Anton, 2412 225th Avenue, stated I really appreciate what the church just said because they had some really key points. But the one thing that I would add to that is the Council needs to be good stewards of the land. We have to understand what we're going to do to the earth, to the air, to the surroundings that we all live in. And, the last thing I would say there is we need to also look at what is the values of East Bethel and what do we want our City to be. We don't want to be just a revenue generator to do big things to the City. That's not how we grew. We want to do ethically responsible things so we all can have a good life. Voss stated very good comment, very good comment.

An audience member stated I just wonder why are we required by the Met Council to do a Comp Plan? Is that a law? Is it a State law that we have to do that? Voss stated I believe so, yeah. Every community, was there 87 communities I think? Davis stated in the seven county metro. Voss stated in the seven county metro, every community is required to do it. The audience member asked required by law? Voss stated required by law, yeah. The audience member stated okay. Voss stated and it's a good thing, really, when it comes down to it, to review what you're doing every so often.

The audience member stated oh definitely, I agree. You need to have a plan or you don't, what is that, you fail to plan, you plan to fail? Yeah. I get that part. I just wonder why the Met Council is requiring it. So anyway, the second part, and this is not to be controversial in any way. I just wondered on the Board here, who is up for re-election this next go around? And, could I get a name with a face? I just wondered.

DRAFT

CST

Ronning stated Tom Ronning. The audience member stated Ronning okay, Councilmember. Mr. Voss the Mayor. Koller stated I'm Ron Koller but I'm not going to run again. The audience member stated oh, okay, all right. Just curious, just curious. Voss stated there's your newsbreak for tonight. That's news to me.

Dave Landis, 1747 237th Avenue NE, stated I happen to be next door to the proposed facility. What the folks need to understand and I don't know if the Council has had the opportunity to explain this, but the real problem is our deficient code and zoning ordinances. That's the reason this facility was even able to make this proposal. Compared to any other cities around here, this facility would fail every test to get into any of their zones. Blaine, Andover, Cambridge, anywhere around here, this wouldn't even be before you. So the folks need to understand that the emphasis has to be on fixing this code. Now what I'm wondering, can't a moratorium be put in place while the City is given more time to consider, possibly? Just a thought and I don't know. But it's clear that this is a problem for everybody and no one intended, as was said, but it's here.

Landis stated the other thing I want to be sure to point out is, as of a fairly recently, health issues have come to the fore on this type of facility. I would like you folks to commit to reading some materials that have been provided to you along health issues. This is even more serious than noise and all the other things that have been mentioned that we've griped and complained about already. But these health issues are a big thing and I equate it to something like asbestos. A few years ago, people handled asbestos like they didn't have any fear of it whatsoever. Now they, everybody wears haz-mat suits. Well this has, wood mulch is known for now causing issues that are similar to that. I want a commitment from you folks that you will look at the materials. We can furnish it. It's already been, I have printed out copies enough for you all to take a look at and I would appreciate you commit to that.

Ronning asked Dave is it? Thanks for the comments. You mentioned several cities. Could you provide what specifics? What ordinances and what regulations that they have that would not allow this in their community? Landis stated if you were making use of the information, it's already been made available to you. Ronning stated I missed it, I'm sorry. Landis stated oh, you want more? Ronning stated with the wood mulch, all the talk about the wood mulch, how can you buy it if it's so toxic and poisonous? How can you go to Menards and buy this stuff? Landis *(inaudible off mic comment).*

Ronning stated the toxicity and the noise, that's a good one. Most of the people making these claims, I would bet anything, have not been there. If you had been there, I've taken people out there and their comments have flat out been, 'This is nothing like they've been telling us. Nothing like they've been telling us.' We stuck our head right in the dog-gone machine that puts the dye on. There's a door at the bottom end of it and you can see the stuff come down, you can see it being processed, there's no smell. There's no, you know, 'walk away dead.' As far as noise, there is no piece of equipment they have there that's as loud as any Harley Davidson, and I have a Harley, you have a Harley. There's no piece of equipment they have that's as loud as a Harley going down 65. You really have to have a first-hand knowledge. You can't let somebody else make up your mind for you.

An audience member stated it sounds like you have your mind made up. Ronning stated we don't have the material before us to allow a decision. But we can't just make it on anger.

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Mundle stated Mr. Landis, if you would provide that information you were just talking about to Jack, Jack will make sure to get it to us and we will review it. Landis stated let's, I know, this is getting a bit tough. It's all there. Okay? You'll have it. You have it already but you'll have it again.

Koller stated Mr. Landis, I read on-line several things about the wood chip mulch and the dust and it will be brought up when we discuss it. I believe you're right on that. Landis stated at least acknowledge you have it. Acknowledge that you have it.

Voss stated everything, I will assure you, Jack has been diligent about, anything that's been provided to Jack from the residents he's provided to the Council. So, we are reviewing things. Mundle stated the information that I requested you provide us is the first new piece of information that you brought up tonight. Not the other city codes and ordinances. The stuff that you wanted us to commit to look at. If you provide it, we will look at it. Ronning stated and what specifically are the ordinances and such and how are they prevented from putting some business like that in.

Voss stated Mr. Landis, to finish answering your questions. You asked the question about the moratorium. That city, I don't know what the legality of it is, particularly when there's an application before us, but I think it's always a consideration of a city to do. There is a lot of considerations that have to be put into it. There are a lot of unintended consequences that come from that. And so it's a good point to bring up, to consider. Perhaps it is a tool and perhaps it is not.

An audience member stated I believe it's been made clear this evening that the application is not in front of you yet. Is that correct? Voss stated no. The application is in to City staff. It has not been presented to Council nor Planning Commission. The audience member stated so you're saying… Voss stated it's in process. The audience member stated okay.

Doug Meyenberg, 2301 224th Avenue, stated I guess I'd just like to caution the Council. I spent time on the Council and as Mayor during the time we were bringing in cable TV and natural gas. And, the people that bring this stuff in have got rights. I'm not for or against because I haven't really looked into the process. But I remember when I was on the Council, that we had to hire special attorneys so that we didn't 'stub our toe' and make a quick, rash decision that all of a sudden, you're in a multi-million dollar lawsuit that will bankrupt the City. My expectation is that the City Council and staff move forward and make sure you don't 'sub the toe.' And I'm hearing all of the residents, and I probably have to side with them if I were sitting in your place. But, if sitting in your place, I also would expect you to protect my pocketbook because companies can 'take you to the cleaners.' I worked for the City of Coon Rapids and they were threatened with lawsuits from major garbage haulers just over organizing the garbage a little bit more. So, that's all I got to say. Just as you're going through, and I'm sure you won't, don't 'stub your toe' so we don't end up in the middle of a major lawsuit. Voss stated that's a good point.

Joe Anderson, Durant Street, stated I might be the odd man out here but as you go through your Comprehensive Plan, I would like to see, do everything you can to draw some more businesses, commercial, industry to our City. I've been a life-long City resident and I've sat through many, many, many referendums for the schools, bond issues for schools, budgetary problems in the City, and the biggest reason is because houses don't pay much

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in taxes in comparison to big businesses. We can't afford to go along and keep saying, 'Keep this a bedroom community.' I sat through those arguments 40 years ago. Our schools are suffering, our kids are suffering, we have all these people talking about that we've got to do stuff for the City, I mean for our students, you know, do things for our City but yet when time comes to bring in some tax dollars, the first person stands up and says, 'I don't want it across the street from me.' And they come up with, sometimes, a far-fetched way off, just like politicians on the far left and the far right. Sometimes the truth is way kind of off center from what the reality is. It's kind of true and I've sat through it many, many times. I would like to see some, not tax relief because I want to see the City go forward. I don't think my taxes are necessarily all that high when I compare it to other places. But I'd like to see some City growth and a big part of that is taxes. When I get that statement, when it says ISD 15, or whatever Forest Lake is, that's a big chunk of our taxes. And, if when we keep out businesses, they don't put one student into the classroom but they pay a chunk of taxes to our classes, towards the City, towards the County. And, if we want to progress, to me that's what you've got to do. You can't sit back and say, 'We're going to stay a bedroom community. We're going to keep these farm fields as farm fields.'

Anderson stated progress is going to come someday and I think we should have a very good Comprehensive Plan that this Highway 65 corridor should be industry. It should be commercial. It should not be housing. I used to sit at these meetings when I used to attend before I got so frustrated, people would at the same meeting complain about their taxes after they talked about keeping business out and the traffic on Highway 65. But we don't want jobs here to go to. Keep them down in Hopkins, keep them down in the City, keep them down in Blaine. But we're going to complain about the traffic. We've got a traffic proposal here. Maybe if we, Isanti, had some jobs and we had jobs and Ham Lake had more jobs we wouldn't even be talking about this 65 and 22 interchange. But I've been listening to it for, I'm 65 years old and I was born in East Bethel. I've been listening to this for 40 years with the school and budgetary and everything else. I think it's time we start to change some attitudes in our City and be a little progressive and try to figure out a way to enhance it. Voss stated thanks Joe. I hope to see you at the Comprehensive Plan meetings. So, I'll get your number.

Theresa Gohl, 23620 Goodhue Street, stated we live kitty-corner across from the proposed CST and I would like to comment on Dave's comment about the health issue. I had a kidney transplant five months ago and I've done a lot of research on environmental things. John Hopkins has a study out, which I think you've seen or should have seen, because it was sent to each one of the Councilmembers. I went to my nephrologist yesterday at the University of Minnesota and she agreed to write a letter to the Council stating that this is not a good place for people with CST there across from us. I would have to wear a mask every time I went outside.

Landis stated a couple things. You asked about some examples. I'm surprised you would ask this frankly but there's so many examples. I'll furnish the whole thing to you. But Blaine, for example, has two sentences that would take care of this whole problem. 'No outdoor storage in Light Industrial. No more trucks than are bays in their building.' Now, Light Industrial is defined in our code and everybody knows that's the problem. A lot of folks haven't been involved in this but it's been talked about. As far, sir, on your concern with industry coming in for our tax base, you need to see the numbers about this one. The problem is, again, the code, this business would furnish 'peanuts' compared to what this piece of property should if it were properly occupied in a Light Industrial. And again,

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these numbers can be furnished. They'll 'knock your socks off' if you see the difference. That property would hold six Aggressive Hydraulics in the comparable land usage. And the numbers would 'blow you away' when you see the comparisons. And, those are available and will be furnished to the Council and any of the public that wants it as well. And you would say, 'This would rob the residents of East Bethel of future revenue that cannot come there because of this.' This proposal would fail in anywhere around here. Now that makes East Bethel what, the 'armpit' of Anoka County? We just bring in types of things that nobody else would want. Nobody else wants this type of thing in close proximity to residents like this. Why should Eat Bethel even have a code that would allow it to be considered?

Voss stated Jack, before we go forward, thanks Dave. We're getting close to 9 o'clock. Why don't we do this first? Are there any comments or questions for any other issues other than CST? I want to make sure we cover everything tonight. Is there anyone else that has questions other than CST issues?

An audience member asked what is the next step that you guys go through? Voss stated no, other than CST right now. I want to make sure that we cover everything. Jack, there's a question up front.

Accessory Building Ordinance

An audience member stated I just want to say thank you for *(inaudible)* building. I appreciate that. Voss stated I'm sorry? The audience member stated you changed the rules for, you have 2 acres you have this much of an outbuilding, you have 5 acres you have this much. You guys changed that. I appreciate that. Voss stated okay, the comment was that recently the City made some changes and tweaks to the Accessory Building Ordinance to allow accessory buildings, larger buildings on smaller lots is a nice way to put it. So we did make some changes and that was as, I think, the result of residents coming before the Council.

Voss asked any thing else? Davis stated we have one more question here.

Business Friendly

Jennifer Klasons, 23591 Washington Street NE, stated I have lived here 20 years and I've always heard that we are not letting any big business in. We're tax poor. We want to keep it rural. And sometimes I am a little bit disgusted about the businesses that we do allow in. But, that's my comment. So in problem solving, I understand the person that owns the property has been trying to sell the property for maybe four years. I'm thinking isn't there anyone else that would want to buy this property and is that a possibility? That would be like even a homebuilder or something. Is there a chance that someone else can purchase the property besides this company that we don't want? And, I don't think changing the zoning is a big deal because when I lived in Coon Rapids, they tried to change the zoning on some property to put some storage in and it didn't go through. So I think that shouldn't be a big issue. That's a question mark.

Voss stated I don't know if the City's ever not allowed big businesses to come in. That's I think, it's the reputation the City's had. Many cities have had it, not 'business friendly.' I think over, particularly over the last several years, with the formation of the East Bethel Chamber of Commerce, the EDA getting more active in economic development, there's a lot of programs to support not only new businesses coming in but the existing businesses that we have. We're not forgetting about the existing businesses.

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Mundle stated really, I've been a long-time resident too and I have heard all the past Councils say, 'Well, we want to keep it a bedroom community. We've been against business.' We are absolutely trying to change that. We are doing whatever we can to bring businesses in and keep our businesses, improve our businesses, help them improve, help them expand, anything that we can do.

Mundle stated one of these processes was the Business Retention and Expansion Program, which was an extensive program that was done over the past year and had many, many, many volunteers. Essentially what they did, it's a Program that's developed by the University of Minnesota and questions are developed and tailored for East Bethel. We had a group of at least 50 people to go out interview businesses in the City with those questions. Say, 'What do you like? What don't you like? Are there any red flags?' I don't know how many questions. It's at least an hour's worth of questions. This information is then sent down to the U of M. They analyze it, put together in ways that non-economic experts can understand it and we can start to see a picture of what the City needs and what the businesses need. That's further tailored down to what are the three biggest projects the City can take on to help support our businesses and attract new businesses. So, over the past year, over the past two years, over the past three years, the City has been doing a lot to try to change that image. Businesses won't, unfortunately, come overnight unless somehow we have an oil boom or something. So, our economic 'engine' is just starting up. It takes some time to grab hold but it is absolutely starting up and we are focused towards large businesses, any businesses that want to come in. And, there was a second part of that statement, but I can't recall.

Klasons stated changes to the zoning and someone else purchasing the property. Mundle stated someone else purchasing the property, sure maybe but the City has absolutely nothing to do with other people purchasing the property. One thing that the City has been trying to do is promote East Bethel, promote the properties that are for sale. But we can't control any buyers. We can't control what the sellers do. You want to take changing the zoning?

Voss stated I think to change the zoning comes back to discussion of the Comprehensive Plan. And, the discussion of changing the zoning, right this minute, it has been alluded to by several people. There's, I think, significant legal issues that would have to be considered and discussed if that was even attempted. But that may be something that will happen during the Comprehensive Plan process, which is starting.

Voss stated Dave, I see your hand but can we get questions of anyone who hasn't asked a question? I want to make sure we get to everyone.

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An audience member stated I live in Bethel on Dewey Street and we saw the signs so there are some people living there that are concerned. I came down here to hear what's going on. I just had a question when you were discussing the codes and whatnot and deciding whether they would fit with the ideal you would have for that. I seen a flyer that there's only like one job per acre with this company and there should be, with Light Industrial, like five to ten jobs per acre. So is that something you can include when you come up with your idea of what a company should fit into? Can you mandate a minimum number of jobs per acre?

Ronning stated you might be able to do something like that but you'd limit yourself extremely on what would come in. For a place this size, my experience and that's all I'm

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relying on, is you primarily would have something like a warehouse, which does not hire a lot of people. Unless you had a number of smaller businesses that would go in there together, you'd probably end up with a warehouse-type business, maybe a *(inaudible)* implement or something.

The audience member from Bethel stated I was just thinking if the community was willing to go through it, are they going to want to make sure that there's enough jobs to make it worth it to them to have the company there. If there's only going to be a few and they feel like they're giving up a lot, is it going to be worth it to the community to have that company there? Voss stated the issue you're bringing up about jobs per acre is something we, that you discussed early on, at least in informal discussions, and certainly will be something that will be discussed formally when it goes to Planning and comes to City Council. I like the idea of having that as a guideline with, when we redo our Comp Plan.

The audience member stated okay and the -- someone said -- the Fire Chief, he cleared everything with this company? Voss stated if someone told you that, it's hearsay. The audience member stated okay because I want to know how much experience does the Fire Chief have with this product. Voss stated you're asking the Fire Chief how much experience he has with wood, okay. The audience member stated with mulch production and its combustibility. Voss stated that has not been presented to Council yet. And the flyer you're speaking of hasn't even been presented to Council either. So, if anyone has an extra one, I'd love to see it too.

Brian Weidenfeller, 23440 London Street NE, stated I'm down the road in the new development from where CST has applied for an application for. I was wondering, as far as the lights at 65, what impact? Is there a study that's brought for the traffic that's going to be increased? With the truck traffic trying to cross those lights, such as 22 and 65? Are we presenting a new problem for us residents trying to get across the street? And, are we going to be able to extend the length of time on the lights for the bigger trucks to get through? And secondly, I was curious if you truly believe this is a Light Industrial proposal, would you live across the street from it?

Voss asked Jack, can you answer the question on the traffic? Because, I know you talked with the County. Davis stated the traffic question at that intersection is a Mn/DOT issue. The City has no control over that at all. I'm sure they do traffic studies but they have to have a certain volume before they do things. They will do requests for re-examination of the timing of the lights but this would have to be something that's submitted to Mn/DOT. The other issue with the transportation is it's a County road so when it comes to roads and streets, we have to go to Mn/DOT and Anoka County to get those results.

Weidenfeller asked will it be a new problem presented to the community with the lights? Davis stated the issue with the trucks, I see that as something they would have to address. That's another intersection too where traffic backs up significantly, especially in the evenings and in the mornings. So I'm sure they would have to address the timing of the lights to increase more green time on the side streets and you have to reduce it somewhere, which is on the through lines. So that would be an issue Mn/DOT would have to address and we would give that to them if this came about.

Weidenfeller asked and do you truly believe this is Light Industrial, Commercial? Voss stated the question, that question whether it's truly Light Industrial, I think I've said a few times tonight, is one of the things we'll have to consider in the process. And, Planning

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Commission will need to consider it and the City Council will need to consider it. Because if it doesn't pass that hurdle and it doesn't, if there's a determination by City Council that it doesn't meet, then it's not a permitted use. Then it's a different 'ballgame.' That's one of the fundamental questions that needs to be answered, which we will do once we have a formal application in front of us.

Troy Strecker, 23673 Baltimore Street NE, stated my wife and I live right across the street. Obviously, I've spoke before. I just wanted to allude, quick, to the question about one of the Councilmembers saying they had visited it, it's pretty quiet, this and that. We're not so much, myself personally, I'm not so much concerned about the equipment itself making the noise. I'm concerned, as many residents have said here, with the trucks backing up, the beeping. And the problem I have right now with you saying that you visited it, you've not visited it in July or August when it's 90 degrees out and the wind is blowing and my whole yard and my wife and her day care kids can't be outside because the dust is so bad and stuff's covered, and that kind of thing. So I guess that's more my concern. I understand that you visited it. We've had a few other people that have visited but we also know it kind of sits down in a valley. If anybody, and I don't know how may countless times people have come to my house and said, 'It's like a frickin' wind tunnel here coming across that field and stuff.' That's going to come right in our yard, Matt's yard, Jim's yard, everybody's. It's going to come right across that and I guess that's my only comment is we're not looking at July or August or June here. That's more what I'm concerned about. Thank you. Voss stated it's a good point and something we all need to consider is to extrapolate back to summer. Because you're right, we did, I think all of us visited in spring or late spring.

Corey Kessel, 23213 Buchanan Street, stated I'm about a half mile away, a quarter mile away from Cooper's Corner. You know your question, I guess, really comes back to the beginning where we, you talked about the process. You know the application, if you guys have the application or don't have a formal application, can you kind of run us through that process again? Obviously, this is going to go before Planning Committee, the Council, then where does it go from there once you guys have discussed it. Do we have another community meeting or how's that process wrap up to approval or deny the application. Voss asked Jack, you want to answer that?

Davis stated thank you Steve. The applicant in this case, which is CST Companies, has to submit a site plan review to the City. In that Site Plan Review, the applicant has to answer a number of questions and address the issues relating to compliance with all the City ordinances that relate to this business in that zone. This process began in March, they submitted an application, which was incomplete. City staff then addressed the issues that were incomplete. They resubmitted it, there were still issues that were incomplete. We met with them last week and there were approximately seven major issues that they still need to address relating to dust, noise, odor, water quality, the access road.

Davis stated so there's a process that has to be followed. Once they get this application in and it's deemed complete, then it can be submitted to the Planning Commission. The Planning Commission will then review the application and they will either recommend approval or denial of it. They will recommend that to the City Council. Once City Council gets it, then they will react to the Planning Commission's recommendations and it's up to City Council for final approval. As was previously stated, the Planning Commission's recommendation is only a recommendation. So City Council takes their recommendations very seriously and once it comes out of there, the Council will act on it.

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The reason for this is they need this approval before they can ever get a building permit.

Davis stated so, that's the process. Currently we have given them a deadline of Thursday morning to submit their application. If it's complete at that time, it could be submitted to the Planning Commission on April the 27th. And if it's not, it would go to the Planning Commission in May. After it goes to the Planning Commission, then it would be forwarded to the City Council. The City Council could request an additional two weeks. The City has 60 days to act on the application and the City can extend that period for an additional 60 days, if needed.

Voss stated one thing to add to that as well, just so everyone appreciates. With everything that Jack's explained in this process, because it's a Site Plan Review and it's a permitted use. There is no public hearing. And I think, hope, everyone here will agree that the City Council has obliged, very well, of getting the feedback from the neighborhood and the residents. It's not something that the City normally does. Certainly not something that we're required to. But, and I'll speak for all five of us, that we appreciate the fact that you are here, that you are active, you are giving us these comments because there is no formal process to allow that. We're obviously listening so that's a good thing.

Upcoming Events

Denise Lachinski, 22286 Vermillion Street NE, stated I just have a couple of announcements for the City of East Bethel. There's no requirements of the City Council. April 24th there will be an Arbor Day Celebration here in Booster Park East where we will do some, April 23rd, sorry, Saturday, at 10 a.m. We will be doing a tree planting for the Arbor Day Celebration with the local Cub Scout Troop. Tomorrow night is the Booster Day Celebration Meeting and we have that every third Thursday of the month. We're looking for some volunteers to help with our seniors. They need some help with their bingo and auction and I don't know. What else Ken? Ken Langmade stated the pancake breakfast, our noon lunches. Lachinski stated so if you know of any groups or even yourselves, if you could come help us out, that would be fabulous. That's it.

Volunteer Opportunities

Voss stated to Denise's last comment, Denise has been one of our volunteers for several years heading up our Booster Day Committee. It's a volunteer process. As with any volunteer organization, it's sometimes difficult to get volunteers to come out and I know many of us enjoy and participate in Booster Day over the year. It's a great City celebration. If anyone has that spare time, it doesn't take a lot, it just takes a little bit of commitment particularly between now and July when Booster Day occurs. The Committee will be very appreciative of any help that you provide. And you can contact Denise, you can go through Jack, to get Denise's contact information.

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Steve Bloom, 2657 226th Lane NE, stated if CST takes up 20% of the industrial zone and gives roughly $17,000 in taxes to the City of East Bethel, who will pay for sewer, water in the rest of the industrial park?

Davis stated there are no plans currently to extend water and sewer service to that area. It's over three-quarters of a mile away. It's not feasible for extension. We anticipate that any extension would be developer or user driven so really that's not anything that's on the 'table' at this time. In terms of the taxes, the valuation of that would come from the County. So what you've seen, $17,000, is an estimate and it could be higher. But until the County gives a valuation on that and we know what the total investment is, predicting exactly what the taxes are just a guess at this point.

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An audience member stated from what I've heard, CST is, it sounds overwhelming like they're not wanted. Are they aware of that? Has anyone contacted them and said? Voss stated I'm sure they're hearing it. The audience member stated okay, I just want to make sure they know the strife that's. Voss stated I don't call it strife.

Landis stated one thing, you mentioned that there would be a new Comp Plan worked on. I'd like to make a suggestion that in the future, when zoning changes are made that can impact residents to the degree they have in the past, that you give a little consideration to some of that to the affected parties. We bought in 2005. We were zoned Residential and unbeknownst to us, as we were moving in, this was being under consideration. And I didn't know until a few weeks ago that we're zoned Light Industrial. Low and behold, our home is Light Industrial. And it was just done arbitrarily with no, any specific information. You folks, I'm not being personal here, but you come around to my house and ask for my vote. I don't think it's too much to ask to come and tell me my property's being rezoned to something that's got a huge impact on me. So I just suggest in the future that you take the time and effort to advise people. I know you say the agenda's on City Council and so on but, you know, we've all got lives and we aren't necessarily looking over our shoulder to see what the City might be doing to us. And so it's just a consideration.

Voss stated and that's very good because like I said early and have said may times, it's difficult to communicate with the residents. It's even more difficult to get them to engage or even read the things that we send. And I'll say from probably one of the few people that are here that was involved in the last Comp Plan, even then, we did our best to communicate to the residents through newsletters, postings, news articles, and direct mailings to every resident in the City, every resident. And one thing we can't do, Dave your timing may not have been right, Mr. Landis. Not everyone reads their, especially when you get something from the City. Usually that kind of goes in the trash some times. But that was the attempt that the City made was to make sure we contacted everyone. And there was, some of the, a few people here that were involved back then. You know we had quite a few people that were involved in the Comp Plan.

Landis stated Steve, when I inquired about what was done to inform residents, I was told because it was a Citywide rezoning, and specifically over five acres, apparently, that there is no notice given or required. Voss stated whether it was required Dave… Mr. Landis stated no one could find any record of any notice of that kind being done. If the record is there, I requested it and didn't get it. So I'd appreciate seeing how I was advised because I don't think I was. I read mail and I'd suggest that if you send a direct mail out and say on the outside, 'You better read this because it will affect you,' it would get read. Voss stated you know, it might have said that. Honestly, it might have.

Voss asked anyone else? We're running late but this is, as long as you want to stay and have discussion, I think we're here.

An audience member stated you talked about notification. Two things on the zoning and with CST too, with the notification, couldn't it be as simple as, and I know other cities and counties do it when something's up for a deal like CST is, is make a sign and put it on the proposed property so everybody driving by knows what's going on there and they can, they don't have to check weekly for agenda meetings to find out about them?

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Voss asked is there a concern that your neighbors don't know CST? The audience member stated they don't know because of you. They know because of everybody in the room. Voss stated I agree and cut me a little bit of tread because Dave was at the very first meeting where we talked about CST. And Dave had the same kind of comment and I encouraged Dave and any other resident to let our neighbors know because when that news first came out, it was the first time anyone in the City even heard about it. And for as large of a City as we are, expansive, what to me is the most impressive is the fact that so many people know about this issue without the City sending out formal notices. You know, so this has not been a secret to anyone. It's not.

The audience member asked if that one person hadn't found out, where would we be right now? Voss stated that's the challenge we have. The audience member asked don't you think that a sign in the 40 acres saying, 'This property is proposed for such and such' would have been a good idea? Voss stated that is something that we've discussed years ago and I'm not sure where it's at. I think we still have signs like that because we've done that in the past for rezoning. But that's a very good point to make. That's one way of communicating and other cities do that.

The audience member stated disregarding all the ordinances and stuff like that and what the book reads, and I don't care what Tom has to say, would you guys want to live next to this? Honestly? Voss stated I'll share. No, if you want my answer. No. The audience member stated I want to hear from all four of you. Not five because we know where Tom sits.

Ronning stated I don't mind answering that. I probably shared your opinion until I was out there and saw what it was. And, I've taken a resident or two out there just so they can make up their own mind rather than what is being presented to them. And I live over by Polk Street by the schools. It's not going to be in my back yard, it wouldn't be. If it was across Polk Street from me and what I know about it now, I don't think I would care. I really don't.

The audience member asked 22 hours a day? Trucks? Would you want to listen to a Harley 22 hours a day? Ronning stated no but I do get to do that. When Fatboys was open, they'd go to 2-3 o'clock Saturday morning, or Sunday. But I think the number of trucks is exaggerated. The audience member asked seriously? Ronning answered yes. How many trucks do you expect? How many trucks do you think they have? The audience member asked how do you think they get their product there? *(Several overlapping inaudible off mic audience comments.)* Ronning stated okay but how many of those are going to be coming every hour? Voss stated Tom, folks, we've gone three and a half hours with very cordial discussion. Let's not ruin our evening.

The audience member asked the other three, can I have their honest opinion? Would you want to live next to this? Harrington stated when I get all the information, I'll let you know. I haven't gotten all the information. That's all I want. Before I make a decision, I want to know all the facts and I think everybody should get all the facts before any decision is made.

Koller stated well, right now I live right behind the brand new sewer treatment plant.

Mundle stated of any of the Councilmembers, I believe I live the closest to it. So I can just about see that site from my house. The audience member asked what site is that?

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CST	The proposed? Mundle stated the CST site. Voss stated so I'll tell you what, it's 9:30. Is there question or comment we haven't talked about or anyone hasn't discussed tonight? Okay, on behalf of Council, we're going to adjourn.
Closing Comments	Voss stated on behalf of the Council, I want to thank everyone for being here tonight, being patient, being cordial. Please continue the discussion and thank you all for being here at our Town Hall Meeting.
Adjourn	**Harrington stated I'll make a motion to adjourn. Ronning stated I'll second.** Voss stated any discussion? All in favor say aye?" **All in favor.** Voss stated opposed? Meeting adjourned. **Motion passes unanimously.** Town Hall Meeting adjourned at 9:27 p.m.

Submitted by:
Carla Wirth
TimeSaver Off Site Secretarial, Inc.

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EAST BETHEL CITY COUNCIL MEETING
LOCAL BOARD OF APPEALS AND EQUALIZATION
April 20, 2016

The East Bethel City Council met on April 20, 2016 at 6:00 p.m. for the Local Board of Appeals and Equalization meeting at City Hall.

MEMBERS PRESENT:	Steve Voss	Ron Koller	Tim Harrington
	Brian Mundle	Tom Ronning	

ALSO PRESENT: Jack Davis, City Administrator
Ken Tolzmann, City Assessor
Mary Wells, Assistant to the City Assessor
Diana Stellmach, Anoka County Chief Deputy Assessor

1.0 Call to Order

The Local Board of Appeals and Equalization meeting was called to order by Mayor Voss at 6:30 PM.

2.0 Adopt Agenda

Harrington stated I'll make a motion to adopt tonight's agenda. Mundle stated I'll second. Voss asked any discussion? All in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

3.0 Assessor's Letter and Report

Davis stated Kenneth Tolzmann, City Assessor, will present the 2016 Assessment Report. This meeting is held for the purpose of reviewing and correcting assessments. Property owners who disagree with their 2016 assessment for taxes payable in 2017 may appear at the meeting requesting an adjustment to their valuation.

Davis stated at this time, Mr. Tolzmann will present the Assessor's Report and receive comments from property owners after that regarding their valuations.

Tolzmann stated thank you and good evening. I'd like to welcome you to this 2016 East Bethel Board of Appeals and Equalization. My name is Ken Tolzmann, your City Assessor. In addition, I'd like to introduce Mary Wells, my assistant, as well as Diana Stellmach here representing Anoka County.

Tolzmann stated the purpose of this meeting tonight is to hear any evaluation questions surrounding the 2016 assessment, which represents your taxes payable in 2017. This is the first step in establishing next year's property taxes. Once this process is complete, the City will begin working on the new City budget. Then, once the new budget has been established, Truth in Taxation notices will be sent out in November.

Tolzmann stated one of the things I'd like to take a minute to explain is the relationship between your estimated market value and your taxes. The most important thing to know is the only purpose your market value serves is to establish what your fair share of the cost of services will be. The next step is for the City and the County to go through their budgeting process this summer and fall and when that proposed budgets have been established, a Truth in Taxation notice is mailed out in November listing that proposed property tax for next year.

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3.0 Assessor's Letter and Report

Tolzmann stated as your City Assessor, I work for the City of East Bethel. It's my priority to advocate on behalf of the taxpayers of this community while at the same time maintaining a duty to uphold the property tax laws of the State of Minnesota. I'm available during normal business hours and on weekends by appointment. I'm sure a lot of you are wondering just how we come up with these market values. The whole process surrounds getting good information on sales that take place in the community. For this year, we are using sales that took place between October 2014 and September 2015. This is the process Statewide. All these sales are reviewed and determined to be either qualified or unqualified. A qualified sale is one that's not a bank sale, relative sale, foreclosure sale, or any other type of sale that would not be representative of market value. These good sales are then used comparatively with unsold properties to reach these new estimates of value.

Tolzmann stated for this 2016 assessment, there were 149 such sales, which met Department of Revenue criteria for a good sale. Overall, after this assessment was complete, these sales deviated from sale price by only 8% with the average assessed market value for this 2016 assessment being at 93.5% of actual market value as of January 2 of this year.

Tolzmann stated overall, the City's tax base increased this year by nearly 8% to an overall taxable market value of $907,388,700. As it stands now, looking at the new sales going into next year's assessment, we have 41 qualified sales with an average sales ratio of 95%. This is an indication that the real estate market in the City is continuing to rebound. In my opinion, this upturn in the real estate value in the City is due, in large part, to the continued reduction of the number of bank-owned properties for sale in the City. For this past year, the number of bank owned properties for sale in the City were at 33 as compared to 52 that we saw last year. So, it's getting better.

Tolzmann stated in closing, I'd like to take this opportunity to thank the City of East Bethel for the continued opportunity to serve as your City Assessor. Thank you. Voss stated thank you Ken.

4.0A Open Hearing

Voss asked shall we open the hearing? Davis replied yes. The hearing opened at 6:35 p.m.

Shirley Lockwood 21001 Kenyan St NE

Voss asked is there a list? Mary Wells stated the first one on the list is Shirley Lockwood.

Shirley Lockwood, 21001 Kenyan Street NE, East Bethel, stated it started back in March of 15 and I know I can't do anything about that one but I did not look at the paper when it came out regarding taxes for this year until I was doing my taxes, getting my income tax paper ready. And, on the bottom of the paper, I saw where it says, 'new improvement value of $24,400.' We put a $3,900 deck on our house and I don't know where these numbers come from.

Lockwood stated I called Mr. Tolzmann and I will have to probably go to tax court for that but now on March 17th, I received the estimated. My taxes went up this last year $531.25, 30.6%. And, the estimated market value went from $150,000 to $185,400. So now, this year when I got my sheet, I looked at it right away and they went from $185,400 to $205,700 for next year. So I called Mr. Tolzmann and he came out on March 24th and on the bottom of the page, they still have, where I have 'new improvements of $24,400.'

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Shirley Lockwood 21001 Kenyan St NE

Lockwood stated I have pictures of the house and like I said, we put a $3,900 deck on it. Now he did file some other papers then and I did get something else so my taxes will go down from next year, or the estimated value or whatever, from $205,700 and it will be down to $183,400. But I would like to know where these numbers come from or what happened. If there was a mistake, okay. I mean, but I just don't know.

Voss stated Shirley, I'm a little bit confused. You talked about the $24,000 improvement. Is that last year and this year? Lockwood stated it's on every paper that I have. It's on all three papers that I have. It was on from 2015 values for payable in 2016 and it says: 'The following values are reflected in your estimated and taxable market value. $24,400.' So then, I got the one for this year, 2016 to 2017: 'new improvement value $24,400.' And then he sent the numbers back in and it came back down to, the estimated market value will be $183,400. But it still says: 'new improvement value $24,400.' Voss asked is that correct?

Tolzmann stated I show no new improvements for the current assessment. There were new improvements that showed up for last year, but not for this year. Voss stated okay. Tolzmann stated so there's nothing listed here. Lockwood stated it's on there.

Voss stated to me it sounds like it was being assessed twice. Wells stated just let me clarify. When the value notices are sent out, they always show two year's worth of values. This year they showed the pay 17 value as well as last year's. So she's seeing the $24,400 show up under the same tax year but it's showing up on two notices. But it's for last year.

Lockwood asked so it's not for this year? Wells stated no. Lockwood asked so it's only for one year? Because, what I didn't look at. Wells stated yeah, see this column says 15 pay 16 and that's where it is. And, this column is for 16 pay 17 and it's not there. Voss stated so we got that clarified at least.

Lockwood stated so, and I'm just wondering if it went down from $205,700 to $183,400. I'm wondering if that sounds reasonable because. Voss stated so it dropped $23,000. Is that my math? Lockwood stated it dropped $3, oh wait, $2,000. Um, estimated market value in 2016 is $185,400. Now next year it will be $183,400. So, $2,000.

Voss stated but before you said, what was it, in 2015? Lockwood stated in 2015 it was $150,000 and then it went up to $185,400 because of this new improvement value on there. But I guess I have to go to tax court for that, right? Because I did not see the paper, I did not read it. So what do I do? Call?

Voss asked well, what's your question first? Let me make sure we understand your question tonight. Lockwood stated I'm wondering how long this, where they got that amount from, the $24,400. Where did it come from? I have pictures of the house and like I said, we put a $3,900 deck on.

Ronning asked and this $24,400 improvement? Lockwood repeated 'new improvement value.' Voss asked Ken, can you comment on that? Tolzmann stated that, I was out to the property, which would have been in 2014. Lockwood stated May 15, uh huh. Tolzmann stated and let me just double check that. And at that time, that was for the five-year re-value. Every five years we go out and take a look at the property. And, let's see, at that time, the grade of the house was adjusted half a grade up and based on what I had saw at the property when I walked around, it looked like it had been in pretty descent shape. When I went back out there this year, Ms. Lockwood took me around and there was, she does have

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Shirley Lockwood 21001 Kenyan St NE

an issue with some woodpeckers that are attacking the wood exterior of her home. So the adjustment I made was due in large part to the infestation of woodpeckers that there seems to be a problem with there.

Voss stated I think Ms. Lockwood's question, though, is the equity between what she spent on the deck and the $24,000 improvement last year. Tolzmann explained when I do the revalue, if the increase is in excess of 5%, I show it as a new improvement. That's designed as flag to the homeowner to let them know, you know, that there's been something that's changed on their property. That's a common practice. Voss asked is it fair to say then it's a combination of the deck that was added and overall valuation? Tolzmann stated yeah, it wasn't just the deck. It was the overall change in the physical characteristics of the property.

Lockwood stated I have pictures and it didn't change that much from 2014 until now. Tolzmann stated I did make the adjustment so the issue has been resolved, in my opinion.

Voss stated but in terms of, it's a pretty substantial increase so was she in a zone that was reassessed then? Tolzmann stated that's correct. Voss stated you can explain this much better than I but as I understand it, you take portions of the City every year and do more thorough re-examination. Correct? Tolzmann stated yes, do an onsite examination of the property, that's correct. Voss stated and then her property must have been in that.

Lockwood stated there's other houses out there that look a lot better than ours and their taxes didn't go up like ours and this new improvement stuff.

Ronning stated I guess I'd have a question that if they but a $3,900 deck in, what would be the basis for the increased property value of $20,000-some for improvements. Tolzmann stated a lot of times what happens is that there's actually the year build of the house. Let's say it was built in 1960. Typically, a homeowner will keep the property up and when we go out and take a look at it, we look more at the condition of the house and that is referred to as the effective age of the property. So while a house might be built in 1960, it might have an effective year built of 1985. And, I don't have listed what Ms. Lockwood had before but that was the bulk of her increase, just that the property looked in better condition than the last time I was out there. That would have been five years before.

Ronning stated if I didn't misunderstand, you were out there this past year? Or, recent year? Lockwood stated he was out in 2014. That's when it jumped up. And then I had him out here on March 24, I think it was. Then he did re-file something to bring it down to $183,400 instead of $205,000 for next year.

Voss stated so your valuation's dropped $22,000. Is that, that's what I was asking you earlier because I was confused over those numbers. Ronning stated I still don't understand the $20,000-some versus $3,900. Lockwood stated I don't either, I just don't.

Voss stated I think what Ken's saying is the deck's a portion of it. Tolzmann stated right. Voss stated let me ask it this way. If she didn't add the deck? Tolzmann stated it still would have shown but not as much. Voss stated it would have been a special assessment, what it's called. Lockwood asked it would have shown 'new improvement value'? Tolzmann stated it would have, um hum. That's the way it's done.

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Shirley Lockwood
21001 Kenyan St NE

Voss stated to me it does sound, I'll call it deceiving, in the term, because if I didn't do anything and there's a new improvement value, it's, 'Where did I add on? I didn't do anything.'

Ronning asked from your side of things, how do you justify the $20,000-some with $3,900 and something? How can you justify it? Voss stated what Ken's saying, the deck was only part of the bigger number. Ronning stated maybe they didn't even wash the windows that year. So, where the rest of it comes from is, it's something people are discouraged with, any of us, all of us. It's kind of a difficult thing to understand as well.

Tolzmann stated it's my job to look at the property, to look at the quality of the house, how well the property is cared for. Those are the things that enter into what the market value of the property is going to be. How well it's cared for. What's the condition of the property? And if it looks in better condition than the last time I was out there, I make a note of that. That's the purpose of me going out there. That's why I go out once every five years, is to update those records. And, when I do that, if the increase is, like I was saying, greater than 5%, I put it on as a new improvement. That's a flag to the homeowner. You know, I wouldn't have to put it on.

Ronning asked does that reflect the sale of homes in the area as well? Tolzmann stated the rates that we use are all tied to what homes are selling for in the area, yes. For this past year, I think… Ronning stated for the area they were that significant? Tolzmann stated yeah those are things we take into account every year. You know, what the sales are. That's what drives these values, are the sales in the community.

Lockwood asked but how come it's only my house then? And no neighbors? Wells stated oh no, you just wait and listen. Lockwood stated I have pictures if anybody wants to look at pictures. And, it did not get this bad from 2014 until now. It was like this.

Ronning stated well, your thoughts about the re-evaluation to the $183,000, $185,000? Lockwood stated I guess that's okay, I guess. It did come down. Ronning asked did that correct what your concern is? Or not correct it, does it answer? Voss stated for this tax year. Lockwood stated yeah. Voss stated you've already said for last tax year you have to go to tax court. Is that what I'm hearing? Lockwood stated yeah.

Tolzmann stated for this meeting… Voss stated so this body can't do anything about what happened last year. I think you understand that. Lockwood stated I know. Voss stated I just want to make sure we all understand that too. Lockwood stated I just wanted to know why that 'new improvement value' was on there. Voss stated okay and thank you for bringing that up because I would never have known that either. Lockwood stated because I've never seen it before and nobody I've talked to has had that problem.

Ronning asked did the evaluation you're going to be dealing with is, I mean we can't say it is or isn't, some of it's, has it been adjusted to, I hate to say 'satisfaction' because that's not what's required. Lockwood stated probably not. Voss stated but there's an adjustment that Mr. Tolzmann's made to your valuation. Lockwood stated yes, from $205,000 to $183,000. Voss stated okay. Ronning stated it went down $22,000. I think he put your $22,000 on mine plus. Voss asked any other questions? Okay, thank you. Ronning stated I don't mean to make light of what you're saying. It's a very serious thing for us all.

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Bob and Diane Jacobson 20628 East Bethel Blvd.

Voss asked who do we have next on the list. Wells stated next is Bob and Diane Jacobson. Voss asked Diane, would you rather sit? Diane Jacobson stated I can sit right here.

Diane Jacobson, 20628 East Bethel Boulevard, East Bethel, stated the property is under Robert Jacobson, Trustee. We first got alarmed when I started reading our market estimated value is, for 2016, is $216,300. When we got our 2016 proposed sales tax in 2015 values of our house, the estimated market was $158,400. And for 2016, they've jumped up to $200,700. Why? Voss asked did you get your dates right? It should be 2017 value, right? I just want to make sure.

Diane Jacobson stated okay, our valuation for 2017 is now $206,800. Bob Jacobson stated its part of our problem because we did miss the tax statement, evaluation from, supposed to be from 2016. Voss stated okay. Bob Jacobson stated it jumped up $216,000 from $158,000.

Diane Jacobson stated so in reality, it was like $68,000 difference. Bob Jacobson stated we got the same thing on the bottom as the one she did. It says, '$50,000 worth of improvements.' And for next year, we've got another what, $34,000 in improvements.

Diane Jacobson stated we did put one new rock in the driveway. Bob Jacobson stated I mowed the lawn too. Mundle asked was it a really big rock? Bob Jacobson stated no that big rock's been there for a long time. Diane Jacobson stated and we washed the outside of the house.

Ronning asked what were the two numbers you said for improvements? Diane Jacobson stated one was for $34,000 and the other one… Bob Jacobson stated this one here is for $50,000. That's from 2015 to 2016. Diane Jacobson stated that was on 2017 when we're supposed to have done $34,000 worth of improvement.

Voss stated I think for clarity we should probably focus on the 2017, the most recent one. Diane Jacobson stated okay, that's $34,000. Voss stated because you're, obviously, concerned with last year's, sounds like you'd have to go to tax court anyway.

Ronning stated I don't think they're precluded from contesting whether it's over valued. Voss stated we can't do anything about it though. They have to go to a different venue. Ronning stated they can contest whether or not it's over valued. They missed last year but that doesn't mean the value is - it can still be over valued.

Diane Jacobson stated and we believe it is. He's been to our house this spring and nothing's changed. Oh, we got a different camper too, maybe, was that it? The newer camper? Tolzmann stated no. Diane Jacobson stated because you said if we added anything new it would. Tolzmann stated the $34,000 for new improvements was for last year. That was for taxes payable this year.

Diane Jacobson asked but what did we do? Tolzmann stated the property was revalued last year. When we met this spring, you showed me the exterior access to your basement and at that point, we changed your basement from a normal full basement to a crawl space basement. Now for this year.

Diane Jacobson stated you can't go into our basement from the house. You've got to go outside. Bob Jacobson stated and it's been that way since 1978. Diane Jacobson asked so

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Bob and Diane Jacobson 20628 East Bethel Blvd.

why didn't you catch it sooner than that? You weren't doing your job were you? Tolzmann stated that I can't answer but we got it corrected. Technically, it is a full basement but given the fact that you can't access it from the house, I felt it was more appropriate as a crawl space.

Diane Jacobson asked so that would increase our property tax then? Tolzmann stated no, no. For this year's tax assessment, last year your land value was $73,600. With the increase in market values that we saw in the City this past year, the land value went to $89,900. Okay, that accounted for the increase you saw this year. Last year, your value was $200,700. This year it's $206,800. Your building value actually went down by about $9,000 from last year to this year.

Diane Jacobson asked are you seeing that? Bob Jacobson stated no. Tolzmann stated so the majority of your increase was in the land. The house value went down. Diane Jacobson asked in the land? Tolzmann stated correct. Diane Jacobson stated I think we're having the neighbor haul his junk over.

Ronning stated I guess I'd have to ask the question again. What was the market value for the area that's considered? Tolzmann stated the, let's see, they're in zone, let's take a look. Ronning asked, for comparison, have any homes sold in your area? Tolzmann stated they're in Zone 3 with 5+ acres. And what I do is look at all the sales in that particular zone and that's what drives the value of the homes in that zone are those sales. So the land value, like I said went from $73,000 to $89,000 and that's just, when we look at overall in the City, market values are up about 10% this past year. The land value went from $73,000 to $89,900 and that's reflective of just what the market's done in the past year.

Ronning asked is your, are your records available that would give you what the sales were in that area? What's the high and what's the low? Tolzmann stated we've got a sales ratio but I don't have it with me. But they're all listed. Ronning stated it would be nice to know. Tolzmann stated yeah, I think in the handbook that I supplied the City, I think we saw, did we put those changes in? Well, I'll look it up on my database. Just a minute.

Diane Jacobson asked so in other words, there's nothing that you're going to do for us? We're going to pay the high taxes no matter what? Ronning stated I don't think he's really at a conclusion yet. I can't say 'yes' or 'no' I guess. Tolzmann stated what I'm saying is that there was a percentage increase in that particular zone for this year, which was representative of the change in the market values in the City from last year to this year. Those are equalized by each zone in the City. I think we've got about 7 or 8 zones. They all, in the final analysis, came in at 93.5%. So they're all adjusted accordingly.

Ronning asked would it be correct to say that part of the City, the values are based on the sales with excluding the, what do you call it, Sheriff's sales, mortgage defaults? Tolzmann stated yeah, only good qualified sales we use. No foreclosure sales, no bank sales, relative sales, none of that.

Ronning stated and it may very well be exactly what it's supposed to be. But as far as we're concerned, it's a 'phantom' number. Tolzmann stated well based on the statistics that we've got, with 150 sales, you know it's been quite accurate. I put a high degree of confidence in the values that we've got here.

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Bob and Diane Jacobson 20628 East Bethel Blvd.

Diane Jacobson stated well then, how come the neighbors across the road from us have a fairly new house and can't get theirs sold. Diane Jacobson stated that I can't, it depends on what they're asking for it. We only look at qualified sales. Stuff that sold. We don't look at what people are asking for it or what they're being offered for. Diane Jacobson stated they dropped it four times, the price, and still it's not selling. Tolzmann stated that could be.

Bob Jacobson stated that's beside the issue. The difference between taxes that we're going to pay this year and the taxes we're going to pay next year are not that bad. We should have been here a year ago because I got it down to the taxes around us. Our taxes went up a year ago 26%. Our value went up 26%. The closest one under that is 16%. And, there's actually one of them that went down 19% of the houses just around us.

Voss asked comparable houses with comparable land? I think that's what we're hearing is you've got to compare 'apples-to-apples.' Bob Jacobson stated no, but still. Diane Jacobson stated we have a 1918 house. Voss stated I'm familiar with your house, yeah. Diane Jacobson stated and the rest of them are all brand new. Bob Jacobson stated the one south of us is not. Diane Jacobson stated yeah, the one south of us isn't. And ours is going up and the new ones are going down.

Tolzmann explained their house is depreciated back to an effective year of 1968. So, a newer home would have a much newer, maybe 2005, so there would be much less depreciation taken off for a newer home. That's something that takes the age of the home into account in our system. Voss stated okay.

Diane Jacobson asked so because it depreciates you raise the taxes higher? Tolzmann stated we're talking market values, the way we come up with the market values. Diane Jacobson stated exactly. Tolzmann stated so if your home was newer, what I'm saying is the value would be higher.

Diane Jacobson stated okay, we're not served by any City streets. It's all County so what's the problem? The only way we got the potholes filled in front of our house was last night because of the Town Meeting. Diane Jacobson stated all I can say is that the changes that you saw from last year to this year in your land value affected all the properties in that particular zone. Those were across-the-board.

Diane Jacobson asked so what's our next step to protest all this? Bob Jacobson asked tax court? When's that? Voss asked what is the process Ken? Tolzmann stated for this year's, if they're talking about last year's value, they would have to file in tax court and that would have to be done, I think it's the end of April. But for this year's assessment, as I was saying earlier, the changes that we saw for this year were typical Citywide. You know with the changes of the land values reflecting an increased values Citywide from last year to this year.

Ronning stated going back to the first statement is based on the zone and what the sales are in that zone. Assumedly, there are like homes, some kind of similar homes, it's not a 10-bedroom, 400-bath mansion kind of thing. They don't fit in that same. Tolzmann stated when I met the Jacobsons last, was it early this spring? We did take a look at similar houses around their area and after looking at those, we, those did factor into the value that they're paying on for this year, or excuse, our value for this year. The current assessment as of this year.

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Bob and Diane Jacobson 20628 East Bethel Blvd.

Voss stated but if we understand this correctly, it wasn't the structure value that went up. It was the land value. Tolzmann stated correct, the land value went up. Voss stated so it wasn't a factor on what style of house it is. Tolzmann stated right, the house value actually went down about $8,000 or $9,000. Voss stated so the valuation on your house went down, which is what your focus has been but the property value went up.

Diane Jacobson asked so how did the property go up? Voss stated it's just demand, right? Tolzmann stated based on the sales in the community.

Ronning stated I'm confused. That's not new. There's a record of what these are but you went after what the concern was, you went and look at some other areas? Tolzmann stated yeah. Ronning asked how did they compare with what the record was? Tolzmann stated they compared rather well, I thought. The characteristics that we have their property listed for fit right in with the other properties that I looked at. Ronning stated I'd still like to see, it would certainly be helpful, I mean I may not ever be doing this again, but for whoever is, if there's a district zone of something, it would be kind of nice to have that. If it's in here, I apologize.

Tolzmann stated I thought in Zone 3, 5-9 acres, there were 9 sales, good sales. Diane Jacobson stated I know but we don't have five acres. Tolzmann stated okay, what is the actual acreage then? Bob Jacobson stated 4.8. Tolzmann stated okay, it's rounded up to 5. Okay, 4.8. Diane Jacobson stated so you put us in a category that bumped us up. Tolzmann stated no, that's the category that you've been assigned to. 4.88 acres, I would call that a 5 acre site.

Bob Jacobson stated I've got to go to tax court. Diane Jacobson asked how do we get into tax court now? Wells stated call the number on the back. Diane Jacobson repeated call the number on the back. Because you guys can't do anything about it. Voss stated last year no. Diane Jacobson asked or for coming up this year? Bob Jacobson stated for this year we're only 2% higher than what we were last year. It was 25% before. Ronning stated yeah, it is the current year. Voss stated your home value went down. Diane Jacobson stated okay, thank you, see you in court.

Ronning stated we're hearing tonight but it seems there's another day? Another evening later? Voss stated not for us. We're not tax court. Ronning stated I thought there was last year. If I'm mistaken, I'm mistaken. Voss stated in December we'll have review of the budget. Davis stated no, this is it.

Ronning stated after the fact or not, I'd like to see what these values are for the different areas and what the basis for them are. Voss stated that's something you can provide to Jack. Tolzmann stated I'll provide Jack with a list of the sales that took place in that Zone. Ronning stated do it please. Tolzmann stated sure.

Warren Mesenbring 244 Elm Road Wyoming

Wells stated Warren Mesenbring. Voss stated good evening. If you could state your name and address please.

Warren Mesenbring, 244 Elm Road, Wyoming, stated so this came in the mail on the 17th. I just looked at it briefly and I put on my calendar. It's something that I always thought I should do is to show up and see if I can get my taxes reduced because I have owned commercial buildings. I have a couple in this City and a commercial realtor friend that I

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Warren Mesenbring
244 Elm Road
Wyoming

have mentored my son, they office together, or they did in one of my buildings and he reduced the taxes very substantially. Like about $18,000 on one building, from $43,000 to like $25,000. And then, on another one, unfortunately right before we sold it, but it was like from $140,000 to $75,000. The first one's in St. Anthony on 88 and C and the second one was on Lowry a block west of Central. So, I know that, you know the way he approaches this, he does comparables, which my son also did. My wife died last year and she had willed the house we had in Minneapolis to the grandchildren. So, my son had done a comparable to come up with a value and the realtor separately did a comparable so they did a price. Too low, it sold in half an hour. But, anyway.

Mesenbring stated so I just thought this is something that I've always wanted to do but just had other things to do all along. So I saw this coming on my calendar and I thought, 'Oh, it's going to go by again this year. I won't be able to do anything about it.' But then I have a mortgage on a property. I live on Elm and this is on Dogwood. It's with Kathryn Sneegel and R.J. Lenz. It's a mortgage filed at the County. And so my friend and myself were looking through this stuff and their homestead exclusion was like $17,000 on $44,000 of estimated market value and mine. Well I can't remember but my assessed value was like $125,000 and my homestead was $9,000. So well, I thought I'm going to do this. It's tonight. So I called at 4, I got your voice mail, and you called me back but I was then on the line with the next person on it and I got Emily and she typed up a letter. Because what do I have to do?

Wells explained part of this issue is that his wife passed away last year. Mesenbring stated yeah, in January. Wells stated because they were living in two separate houses, the law would have allowed them only to be at 50% homestead in each location. But now with her passing, he does qualify for full homestead here now. We just need him to reapply for that. Actually, because of the date of her death, we would be able to do that as an abatement and that would be a pay 2016 change. It would qualify as a pay 2016 change.

Ronning stated pardon, what change? 2016? Wells explained because of the, with homestead we will abate one year if the homeowner hasn't filed. And trust me, we do hundreds of them every year because people don't realize they need to file these papers. So because she passed away almost a year ago, or over a year ago actually. Mesenbring stated January 17 of 2015. Wells stated he would have qualified for that homestead for payable 2016 had he filed. And we will go one year back for a homestead. So he has that paperwork and Emily in our office got it all situated and sent it off with me to bring here.

Mesenbring stated it's lying back there. I'll get that sent in. I'm trying to explain the reason. Thanks. That's the reason I ended up here, is mainly because of my son's, the guy that mentored him into real estate to run the commercial building that I own in the City. He got phenomenal tax reductions for me so I thought, well, you know, give this a try and see what happens. Maybe it will end up going up, I have no idea. So that's how I ended up here. And I only started this at 4 this afternoon so I called Ken and then I called and got Emily and Emily gave it to Diana.

Ronning stated there's a couple different market values listed. There's an estimated market value and a taxable market value. The taxable market value is the one that counts, I think. Tolzmann stated that's correct. Ronning asked what are those two numbers for whatever years you have?

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Warren Mesenbring
244 Elm Road
Wyoming

Mesenbring stated well, I've got a lot of properties. I can page through here and get to my house I own. Ronning stated the one you're claiming, I think it applies to your home. Or, does it apply to whatever you have? Wells stated he has several lots with the homes.

Mesenbring stated yeah, I have six lots on my house at 244 Elm and then I own 248 Elm, that's three lots. I own 226 Elm. 232, that's two. I own 226, that's three. And, I own 220, that's four. And I might as well, if I can have my son and especially his friend who does this as a business do comparables for me and then we'll just see what happens. Might go down, might go up. We'll just see. That's my plan. But I'm not prepared to do any more than to state that case with you tonight.

Voss asked so what are you asking this body to do? Mesenbring stated I think there's nothing that I'm prepared more than what I just said. You know, I started this process really because it was on my calendar and my friend and I were looking at this one that I own over on Dogwood. The ratio between their homestead exclusion and mine was way crazy. But now I understand why after talking with Emily. Wells stated it will change.

Mesenbring stated but as long as I'm here, I may as well start the process which I've always wanted to do to see if I can get my taxes reduced on my residential properties the way I have been able to on my commercial properties. That's it. That's all I can say. Voss stated okay. Mesenbring stated so nothing more to say for now. I'm just going to submit paperwork, I guess, based on what I think and I'll probably meet with Mr. Tolzmann and he might say, 'No, your properties look nicer than your assessed value so it's going to go up.' Or he might say, 'Yeah, you're right.' Let's get it where we can. I appreciate Anoka County a lot. I heard once that Anoka County has only the 7th highest property taxes in the State. So I appreciate an efficiently run place like that. I think that's really cool. So I'm not here to be a 'hard ass' okay. I'm very easy. It's, hey, might be worth checking. That's all I want to do.

Voss asked can you comment a little bit on process just so everyone here is clear? Tolzmann stated typically in a case like this, if there was some documentation showing there was, that the value isn't correct, that would be more appropriate, in my opinion. The values that we've got out there have been fairly accurate. They're also based on sales of property in the area as well. So, without some evidence, appraisal, something that would indicate the value we've got isn't correct, you know, I would see no reason to change the value just without any evidence to present.

Voss stated I think what Mr. Tolzmann is getting to, is you haven't really made a specific request or a point on showing comparison. You talk about looking at comparisons but do you have anything to present to us? Mesenbring stated I do not but do I have time to do that yet? Voss asked is there time past tonight? Tolzmann stated tonight is the deadline. If he wants to apply to the County, he's certainly welcome to do that being that he's here tonight. Voss stated okay.

Mesenbring stated and that's the June? Tolzmann stated June 13th I believe. Voss asked is that what you were going to add? Okay, so your next step if you don't have anything to present. Mesenbring stated no. Voss stated then my suggestion is to talk to the County and be at the County's hearing and then have some material to show that it should be this amount and now what's shown here.

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Warren Mesenbring
244 Elm Road
Wyoming

Mesenbring stated you know I may find out that they're right on the mark and then there's no need to go. Voss stated and if they're wrong and it should really be higher, you really don't want to go, right? Mesenbring stated for sure. Yeah, I'd say, 'See you guys.' Voss stated so you know the process now so you know the next step. Mesenbring stated yeah, I'm cool, so that's it. Voss stated unless you have something else.

Mesenbring stated let me think before I go, um, I'll see if my guys can do the comparables. I would say one thing. I think Coon Lake Beach can only be compared with Coon Lake Beach. It seems like a unique place. I've been there since 1982 but maybe that doesn't mean too much. That's it then, thank you. Voss stated it means a lot that you've been there since 1982. Believe me, it does. Thank you. Mundle stated thank you Warren.

Mesenbring asked is this a handout? No? Davis stated no that's there for anybody that needs to read the report. I you'd like a copy of it I can get you one. Mesenbring stated it would just fill up my files. Thank you very much.

Jerry Lancette
356 196th
Avenue NE

Tolzmann stated I think the next person we have is Jerry Lancette.

Jerry Lancette, 356 196th Avenue NE, Cedar, stated I was at the meeting last night and it started out as a question regarding the increased value of my property and I made the appropriate phone calls to the City, the County, and the School District. I get a lot of 'talk' and no real answers that I'm looking for. Voss stated we'll try tonight.

Lancette stated all right. So, basically I thought I had a pretty good handle on it and, you know, I saw an increase in my taxes for calendar year 2016 of 16%. And, the County portion was about 18.5%. I got this booklet from the County and it says that they were able to hold the levy down to 2.4%. I'm going, 'Well, 2.4% versus 18%, how does that work?' I look at the City portion, I'm going, well, I remember seeing City Council meetings in the past where you guys have talked about, you know with the sewer and water now, that the citizens are going to be taxed and, you know, a certain percentage you're going to start seeing that on your tax bill. So I'm looking at that and I'm going, 'Well, that's probably what that is, okay?'

Voss stated Jerry, I don't mean to cut you off but tonight is not a meeting to talk about the taxes or tax levy. It's focused on your market value of your property. Ronning stated I think there is an answer though. Was it 2014 there was a levy of 15-point something? And that's what you're referring to as far as sewer/water costs, essentially. Correct? Davis stated that's correct. Ronning stated and the rest of it is just operating expenses as far as, it isn't going up and up and up because of the sewer and water. You follow me?

Lancette asked what was the percent you said? Davis stated in 2014, the City's levy increase was 15.1%. In the years following, it's been .9 and 1.5. Ronning stated so the 2014 is really where the, we caught up cost on the sewer/water. It's not something that's every year.

Lancette asked so it was a one-time thing and then it's just a minor adjustment every year after that? Ronning stated that was a one-time levy but it doesn't go away. Whatever increases there are, it's increased in costs of running the City. If we're, which isn't really too bad. We're at a 2-3% inflation and we're keeping it under 1-1.5%, if you look at it that way. Do I, am I making any sense?

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Jerry Lancette 356 196th Avenue NE

Lancette stated okay, it just goes against what I think I was told this afternoon. Ronning asked what was that? Lancette stated well the fact that my property tax went up, okay? When I talked to Ken this afternoon I had like 8 or 9 properties that sold within a radius of my house by 4 or 5 blocks. All within the last year. Some sold at a loss of the asking price, some was $100 over, maybe $1,000 over. But there was none that was the market value was $200,000 because the market was so hot somebody came in and offered $250,000 for it. So I was questioning that and then I bought up the fact that well, is part of this increase have to do with the sewer and water. Voss stated no. Again, for tonight's discussion we're focusing on market value. We're not focused on the taxes. We're not focused on the levy. Ronning stated as far as the question on, based on sewer and water, that would be no. The short answer is no. Lancette stated okay. All right, thanks.

Felicity and Bryan Mahler 19651 Rochester Street

Tolzmann stated I don't have any more names registered here. But I do have a letter that Jack gave me. It's from Felicity and Bryan Mahler and I will enter that into the record. This property here, I did go out and physically view the property. The owners declined an inspection of the property and when I, in my opinion the property is appropriately valued.

Voss asked what's the address of the property? Tolzmann stated the address is 19651 Rochester Street. Voss stated okay.

Davis stated in relation to that letter, the owners could not be present tonight and asked that be presented so that it could be known that the petition was filed. In that way, they can take it to the Anoka County date on the tax court.

Voss stated okay, so it's not something that we address tonight then. Davis answered correct. Ronning stated their request is accommodated. Davis agreed.

Close Hearing

Voss asked is there anyone else here tonight for the Board of Equalization Meeting? Okay, we'll move on. From the five that we've seen, two of the actions have stated they're going to go to the County. Well, actually three of them. With the other two, there's no real specific request. Is that clear? So, there's nothing to present to this Board that we need to act on. Correct? Davis stated correct, yes. Voss stated that should bring it to the end.

Shirley Lockwood, 21001 Kenyan St NE

Shirley Lockwood, 21001 Kenyan Street NE, East Bethel, asked do I need to go to the County if I'm not satisfied with this 2016? I go to the County first? He brought it down from $205,000 to $183,000. Voss asked you're not happy with the fact that he brought the value down? She answered I'm just not happy he said there were woodpeckers in my house and that's the only reason that it got bad looking. I have pictures here. It's the whole house. It's original siding, original windows from 1976 when we bought the place. And, it's not just woodpeckers that damaged it this last two years.

Voss stated so if we understand it right, your valuation, the adjusted evaluation is $183,000. Tolzmann stated that's correct. Lockwood stated for next year. Voss stated and now you want that adjusted down? Lockwood stated adjusted down to I don't know. It probably won't be. Voss stated I'm sorry, Ms. Lockwood, can you come to the microphone again? So, we're here to act on this year's tax year. I think we clarified that. Our understanding is the Assessor has reduced the proposed valuation from roughly $205,000 to $183,000. Is that? We're all agreed in that? Lockwood answered yes, that's the estimated market value. Voss asked so are you're concerned with that $183,000 that it should be lower yet? Lockwood stated I don't know.

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Shirley Lockwood, 21001 Kenyan St NE	Ronning stated there were three numbers, I think, you gave. One was a 2014, then a 15, then a 16. Voss stated but we can't do anything about that. Ronning stated I know it but it went from one number to a jumbo number and then it came back down. How does it compare with the first one? Lockwood stated yes. The first one was $150,000 to $185,400 and now down to $183,400. So the $150,000 to $185,000 is what I have to go to the tax court with. Right? Voss stated that's the previous year. Lockwood stated because that was, because I forgot to look at this paper when I got it. I put it in the drawer because it said 2016. But I have pictures. Thank you. Voss stated hearing no one else, do we have a motion to adjourn? There's no action to take. Correct? Davis stated that's correct.
5.0 Adjourn	**Mundle stated I'll make a motion to adjourn at 6:58 p.m. Harrington stated I'll second.** Voss asked any discussion? All in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

Submitted by:
Carla Wirth
TimeSaver Off Site Secretarial, Inc.

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EAST BETHEL CITY COUNCIL MEETING

APRIL 20, 2016

The East Bethel City Council met on April 20, 2016, at 7:00 p.m. for the regular City Council meeting at City Hall.

MEMBERS PRESENT:	Steve Voss	Ron Koller	Tim Harrington
	Brian Mundle	Tom Ronning	

ALSO PRESENT: Jack Davis, City Administrator
Mark Vierling, City Attorney
Nate Ayshford, Public Works Manager
Mark DuCharme, Fire Chief

1.0 Call to Order

The April 20, 2016, City Council meeting was called to order by Mayor Voss at 7:00 p.m.

2.0 Pledge of Allegiance

The Pledge of Allegiance was recited.

3.0 Adopt Agenda

Harrington stated I'll make a motion to adopt tonight's agenda. Under the Consent Agenda, I'd like to add Line Item F. Supplemental Payment Summary. Mundle stated I'll second. Voss asked any discussion? All in favor? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

4.0 EPA A/V Proposal

Davis presented the staff report, indicating at the March 16, 2016 Council meeting, staff was directed to review design options with EPA and schedule the engineering phase for the Council A/V project upgrade. On April 1, 2016, Staff met with Nate Elam and George Walkley from EPA to discuss the concerns related to this project. Options were discussed and the components needed for the final phase of the Council Chambers A/V upgrade were reviewed.

This upgrade would include new projectors and screens, resized for HD, cameras, and a 70-inch audience display mounted at the front of the dais. In addition to the existing microphones, a wireless microphone and an over the ear microphone for presenters would also be installed. There will be a touch panel in Council Chambers for controls for screens, audio, and other components of the system. The Cablecast Broadcast Server and the Cablecast Video Server will also be upgraded to the HD versions. All camera and video recording equipment in the A/V room will be upgraded. The existing equipment rack will be used. This upgrade includes parts, labor, programming, and training.

This equipment upgrade is necessary to maintain and expand our level of meeting recording and playback capabilities. As previously discussed, the cost of this project would be paid from our Building Capital Fund and the PEG fees collected from our Midcontinent Cable Franchise contract in the amount of approximately of $6,000 per year would be used to recover this cost over the life of the project.

This upgrade is quoted from the State of Minnesota Contract #21681. The final quote for the State Contract amount is $90,834.47. There would be an additional expense of $4,040.00 for a processor, hub, and converters and can purchased outside and at less cost

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4.0 EPA A/V Proposal

than the State Contract price. The final total of $94,874.47 is within the EPA's original budget amount that was presented to Council at the February 24, 2016, Work Meeting.

Should this request be approved, anticipated completion of the work is projected by June 3, 2016.

Davis stated at this time, Mr. Nate Elam with EPA is here to answer any questions or provide any additional information as to this project quote.

Nate Elam, EPA, stated good evening. Mundle stated so you went through and kind of, did you make changes to what would be seen in here as far as layouts within the room with the equipment that's proposed. Davis stated yes and I'll let Mr. Elam explain that.

Elam stated we looked at moving things around a little bit, if we needed to. With all the sight lines and things here that are in the room, we talked about maybe, possibly, doing a monitor or something of the nature up above the station here. But that really didn't come into play or work real well with camera angles and views. So, realistically, the same layout of what you have now currently is what we would still be using. We would still have three cameras located in the room for recording, two on each side of the dais, and one more towards the rear, more of a wide-shot of the dais as well. Then we would also be adding an additional monitor, which would be up in the main front, which would be a 70-inch monitor for the audience to view as well.

Voss asked so the monitor would be down in front? Elam stated yup, down in front of you and then Jack and I had talked about possibly having this lectern area moved over to that side at that time to be able to allow the audience to be able to view that monitor a little bit better.

Voss asked there would be a lectern in the whole table? Elam stated this whole thing, I believe, would be removed and something else would be put in its place over on that side. Davis stated as we had a discussion, what we would be proposing then would be to have a podium over where the recording secretary station is. In the past, the recording secretary needed to be here for a meeting or a Council meeting, was stationed up here. That could be done. The staff table would be over here so when a person was addressing the Council with the podium over there, they can turn and look at the audience much easier and the Councilmembers much easier. So, they don't have their backs to the audience. This would open up the front for viewing the screen and it would also increase the capacity. We could put some additional chairs in here, if needed, for some of these meetings.

Voss stated but otherwise, do the screens change? Do we need to do hi-def screens? Elam stated the screens are going to change but the only reason they're going to change is because we're going to switch to the newer wider screen format. They're going to come down from the ceiling about the same distance and your viewing will be very similar to the same but it's going to be a little bit wider. They're roughly about two feet wider than what they are now. Voss stated it will be on Mark's shoulder then.

Ronning asked that's the aspect ratio? Elam stated the aspect ratio, correct. So it's going to go from what these are, a 4 by 3 aspect ratio to a 16 by 9.

Mundle stated and with the presenter standing right there, that wouldn't be in the way of the screen? Elam stated I don't believe that we will have any issues with that. We'll have to

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4.0 EPA A/V Proposal

position that lectern so that the projected image clears the head. It will be a better view from that camera to be able to get more of a straight on face view instead of more of a side shot like you get with this camera now.

Voss stated the benefit I see is they're partially facing the audience and, at times when we have presenters, it's just as you would, turn around to the audience and now you're away from the microphone and not speaking to the dais. Elam stated correct.

Voss asked what about the microphone changes? Are we changing the microphones? Elam stated in the proposal that we have, we are not changing out the microphones. We have an additional two microphones, wireless. One being an over-the-ear microphone and one being a handheld. The over-the-ear would be for if somebody, and Jack you can correct me, but if somebody comes in to do a presentation and is a little bit more mobile that they can roam around the room with some freedom. The handheld was more for if the audience has questions and they just want to pass that mic around to be able to get picked up on through the recordings.

Voss asked any other features that are improving. Harrington asked the cameras are going to get all seven of us instead of just the five like it does now? It will have all seven people in there? Elam stated yes, that is correct. So we've got it designed. These are a little bit different cameras, a little big, wider, angle field of view so you'll be able to get all seven members from that one camera location back here. Then the side ones will be able to capture three of you that way and the other three this way, and that main one. There's different presets for the operator to be able to run those from. So they're going to be, kind of thumbnail pictures is basically what it is. And, they'll be able to push that preset and that camera will automatically spin and zoom and pan, tilt, and focus right to where that preset is set at. Kind of a neat option. The recording's getting updated so it will be a digital recording and you'll be able to record to a flash drive. Also, a DVD like what you're doing currently. So you'll have multiple ways of recording, a redundant copy, but two different formats of recording.

Voss stated okay, one of the things when we had the last big upgrade is, and the hole in the ceiling's still there, we tried to do projection so we could show visuals. Is there any changes that we can actually present visuals during the meeting? Davis explained that would be done by your laptops and I'll let Nate explain that a little bit more. The hole in the ceiling, which was for an overhead, to my knowledge it hasn't been used in a number of years. I don't even think it's functional now. That seems to be something that's not a traditional practice. Everybody's going with electronic means. If you could explain, how we'd access displaying information from laptops?

Elam stated sure, so as far as the ceiling dot-cam goes, we didn't plan on having anything like that just because from what Jack had said, it doesn't sound like it's been used. Voss stated I don't think we'll be disappointed it's not included. Elam stated so we have discussed new tiles where we need them and that would be one that would get replaced. For the computers, we've actually got it set up for, I believe, three computers in the Chambers here. One would be Jack's. I think we had another input over on that side so it's both of these sides. Then we had a guest access that would be cut into the end of the table over here. That would be able to have both VGA and HDMI signals for that. They would auto switch between the two. So, as soon as somebody plugs into it, it will automatically sense that and it will get projected to both projectors and to that flat screen.

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4.0 EPA A/V Proposal

Voss stated so when we have a guest presenter come in, they bring their own laptop, they can plug into our system, and be able to present? Elam answered correct. Voss asked does that projection then get recorded with the meeting? Elam answered yes it would.

Voss stated okay. How soon will this start? Elam stated well, that's a good question and it's always, how soon do we get an order and things like that as well to kind of follow that. But, I would really have to check with our installation department to get you a firm answer on that.

Koller asked do you know how long it would take to install? How much downtime? Elam stated to install yes. We are currently set up and have our plan for about a week's time. That would take down the functionality of this room and also the cable feed going out. We would have to take that down for a certain amount of time as well.

Voss asked we can schedule that between Council meetings? Davis stated as we've discussed earlier, what we wanted to try to do, if we want to proceed with this, their busy time starts when school's out. We had originally discussed if we could give them the order, they could order the equipment. It could be here maybe everything in two to three weeks and we could schedule this installation work after our Council meeting on May the 18th.

Elam stated and I know that we have been getting some orders in for other projects, of course, and that time slot does fill up fairly quick. So, it's always the sooner the better. Davis asked is that schedule that I just mentioned, is that reasonable? Elam asked was that June 3rd or something like that? Davis answered yeah. Elam stated I don't know for sure. I really don't know but I would have to get back to you on that. I know as soon as we could get in here, we certainly would. I know there were a few things to do before we could come in, just on electrical and maybe cutout over there, and the lectern location and stuff like that. But, not a lot of other things on your part.

Davis stated back to your other question Steve, about what other upgrades, those would be done essentially back in the AV room and be more toward the servers and equipment back there to get it upgraded. As everyone well knows, we have a system that's kind of held together with 'bubblegum and bailing wire' now. This would increase, or it would give us great reliability and, hopefully, address our needs for the next 10 to 12 years.

Voss asked is that system being completely replaced? Or, are we reusing any of the old pieces. Other than the rack? Elam stated there is maybe three or four pieces that we're looking at re-using still. One of them being the DVD recorder since I don't think that was purchased too long ago. So that was one of them that we were going to reutilize. We had done, you had an audio mixer that went out, probably two-three months ago now. So we're kind of planned on using that in this upgrade so that would be one piece that we would definitely reutilize. I don't know if there's much else. Davis stated I think that pretty much covers it. Elam stated yeah. Voss asked any other questions?

Ronning stated for, this is a significant investment as far as most people would be concerned. For clarification and for the record, could you explain what some of our equipment is and how it would be flawed? I know that we have to upgrade our TVs to do the HD and a number of things like that. But, it would be nice to understand more fully what, we've got a bunch of junk. But it means more coming from you than what I said.

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4.0 EPA A/V Proposal

Elam stated so realistically, the system is getting dated. It's kind of getting to be antiquated. A lot of the new systems now are moving from an analog system to a digital system. That's where this big push is to get everything to a digital standard, basically. So once we start looking at digital, we can do digital recordings, we can do high definition for video recording, video playback. We can get digital inputs as far as laptops and computers into the system. At that point, we really need to change out the projectors, change out the screens, and it really kind of gives it a whole new 'facelift' of the products because this whole digital part wasn't available eight to ten years ago when this system was originally put in.

Ronning asked do we have anything that's really worth investing in to repair? Elam answered no, there's not. And, what we were looking at, as well, as far as the Tightrope equipment, the cablecast stuff, to actually do a trade-in on that so there's some trade-in value for those pieces. It's not a lot but I think it was around, somewhere around $1,200 for a couple of those pieces we'd be saving on the trade-in value towards the purchase of the new equipment as well.

Voss stated the projectors, can they be resold? Elam explained projectors aren't, it's just kind of specific to different companies that will allow that for those upgrades. There are different manufacturers that we work with.

Ronning asked are you able to comment whether we're on 'borrowed time' with this stuff? Or if? Elam stated the way it sounds and looks, yeah, I would say you're a little bit on borrowed time. Davis agreed and stated we're pushing it. Elam stated yeah. Ronning stated like I say, for clarification and for the record as well, we're having thorough discussion to understand what we're trying to do. Elam stated sure, makes sense. Ronning stated thank you. Voss asked any other questions? All right, thank you. Elam stated thank you.

Harrington stated I want to make a motion to authorize the EPA to proceed with this project. Koller stated I'll second. Voss asked any discussion? Hearing none, all in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

5.0 Presentation

Commander Shelly Orlando presented the March 2016, Sheriffs Report of Custodial Arrests/Significant Events.

5.0A Sheriff's Department Report

DWI's – There was one DWI arrest in March. The driver was pulled over as a result of traffic violations. The male suspect failed field sobriety tests and tested at a .16 blood alcohol content.

5th Degree Possession of Controlled Substance – On March 12th, Deputy Nelson conducted a traffic stop on a vehicle after it left a known drug house. The stop was for equipment violations. The driver and passenger both had suspended licenses. During an inventory search of the vehicle, a pipe containing a methamphetamine residue was located next to the passenger's seat. The passenger was arrested for 5th degree controlled substance. The driver was issued a citation for driving after suspension.

Damage to Property / Disorderly Conduct – On March 17th, Deputies were called to an address for a stand-by while a trailer was removed by the owner. The owner of the trailer had borrowed it to the male who lived at this residence several months ago, and was now

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5.0A Sheriff's Department Report

retrieving it. The male who had borrowed it, arrived home while it was hooked up to the owner's vehicle. The male became very belligerent and got back into his vehicle and rammed the trailer. The male was ordered out of his vehicle and arrested for damage to property and disorderly conduct. The owner was then able to leave the property with her trailer.

5th Degree Possession of Controlled Substance/Driving after Revocation – Deputy Kvam stopped a vehicle for dark window tint and the driver having a revoked license. Deputy Kvam was familiar with the driver continually driving on his revoked license. He had been issued three Driving After Revocation citations so far this year. Deputy Kvam decided to take the male to jail on the Driving After Revocation charge. While conducting an inventory search, a glass pipe containing a substance that NIK tested positive for methamphetamine was located. The male was taken to jail.

5th Degree Possession of Controlled Substance – Deputy Kvam stopped a vehicle for having no license plates and speeding. While he was attempting to run the VIN number from the dashboard, Deputy Nelson observed the male passenger moving around inside the vehicle as if attempting to hide something. As Deputy Kvam was re-approaching the vehicle, he saw the driver and passenger appear to shove something into the center counsel of the vehicle. He had the passenger step out of the vehicle and asked him about his movements. The passenger said he was just putting his wallet into the counsel. The passenger then reached into the vehicle, opened the counsel and took his wallet out. Underneath the wallet was a plastic bag containing a leafy substance. Deputy Kvam asked about the bag and the passenger gave the bag of marijuana to Deputy Kvam. Deputy Kvam searched the vehicle and located seven packages of marijuana wax, 27.5 grams of marijuana, and seven stems of mushrooms. All items appeared to be packaged for sale. The male admitted to all the narcotics being his. The male was transported to jail and the Drug Task Force was notified of the arrest.

Orlando stated we have a couple of events that are going to be coming up and everyone is invited to come and participate. There is a Walk a Mile in Her Shoes event and that actually is to raise awareness about domestic and sexual violence. It's being held on Saturday, May 21st from 10-11 a.m. at the Anoka City Hall Plaza. All proceeds benefit the Alexandra House so it's a real good thing to do if you want to come and walk. I will be there. I'm having my daughter come with me. So if you guys want to show up, they start registration, I believe, that morning. You can register on line at Nystrom & Associates. You can go to that website for further information on Walk a Mile in Her Shoes. But they do have on-site registration as well, if you're not sure what you're going to do that day and you wake up and it's a beautiful day and you want to go walk a mile. And, you don't have to wear high heels if you don't want. But if you want, they will have some there.

Orlando stated and then Anoka County is having an Anoka Law Day, Friday, April 29th. This is something that we actually participate in every year but this year, we're trying to really drum up interest in it. And so they are having a bunch of different free legal clinics. And, the legal clinics involve family law, so divorce, child custody, child support, paternity, driver license reinstatements, adult and juvenile expungements, conservators, power of attorney, guardianship, immigration. There's an outstanding warrant resolution so if you have a misdemeanor or gross misdemeanor warrant that is just kind of hanging out there. You can come down that day and they will get it taken care of. So, real good deal for people who might have something from a couple years ago and just been kind of 'biding their time' wishing for it to go away. This is a good way to get rid of it.

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5.0A Sheriff's Department Report

Orlando stated there's also, we'll have our EOD dog doing demonstrations every hour on the half hour starting at 9:30 in the morning and going until 2:30. The Law Day is from 9 a.m. to 3 p.m. I do have just a quick schedule that I'll give to Jack and I don't know if you'll be able to post it on your website or not, but with some information about it. We're just trying to get the word out.

Orlando stated my understanding is the County is offering free parking in the ramp down there so if people can get down there and we can get you parked for free and we can maybe take care of some legal problems or legal issues you have coming up, we'd really like to see a good turnout for it. Or, if you know of anybody who has some stuff that they might want to come and see. And, there will be attorney's down there to help people out and we'll work with people on getting expungements done if they fit the criteria. Okay?

Voss asked any questions for Commander Orlando? Mundle stated in one of your reports it mentioned marijuana wax. I assume that's not a candle? Orlando stated no, it's not a candle. Mundle asked what is that? Orlando explained that is actually a substance that is made out of marijuana and it's kind of like the newest thing to do. Well, the newest kind of drug that is out there right now. I'm not sure how they make it but it's almost like a beeswax-like substance when they're done and then they smoke it. Voss asked so it looks like a clump of wax? Orlando stated yeah. So it's evidentially a very intense concentration of the THC. Voss stated so just another thing, yeah? Orlando stated another thing, yes.

Voss stated okay and asked anyone else? Anyone from the public have any questions for our Sheriff's Department tonight? None? Thank you. Orlando stated thank you.

5.0B Fire Department Report

Fire Chief DuCharme stated good evening Council. Before I get into my report, I want to make a couple introductions here. In your Consent Agenda, staff is recommending that two firefighters be allowed to come off of probation. I'd like to introduce them but before I do, I just want everybody to understand what it takes to be a fire fighter. These gentlemen have put in over 300 hours of training this past year. They completed the Fire Fighter I certification, the Fire Fighter II certification, completed their emergency responder designation, and also completed getting their commercial driver's license. In addition to that, I made them come to the Monday night trainings and they responded to fire calls. And, because they live over in the Coon Lake Beach community, they had to drive that whole way over to the station on Viking until they're off probation. So, it's quite a commitment that we ask out of our people and I'm really proud of them.

DuCharme stated so I'd like to introduce Justin Szamada. Come on up Justin. Also, Jim Saenger. DuCharme stated I'm confident that these gentlemen will be the backbone of the Coon Lake Beach Fire Station. So, take that into consideration when you get to the Consent Agenda. Voss stated absolutely, welcome. The Council welcomed Fire Fighters Szamada and Saenger. *(Those present responded with a round of applause.)*

DuCharme stated we'll talk about March fire calls. In March, we ran 47 calls and as usual, most of those, 70-75% were medical. Ran 31 medical calls. Out of the medical calls, the 31, 29 were transported by Allina EMS to hospitals. So, once again, these medicals that we do go on we assist Allina in 'packaging' the patient so that they can get them efficiently to the hospitals and treatment.

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5.0B Fire Department Report

DuCharme stated of the fire calls that happened in March, we had a number, as you can look at your list, of unauthorized burning and burning complaints and things like that. I ask the public, once again, if you're going to have a recreational fire, please let the neighbors know so that they can prepare themselves. If they don't want the smoke, they can close their windows and also remember a recreational fire is three feet wide, not more than three feet high, and you cannot burn leaves and grasses. And, you cannot burn other debris. So, just keep that in mind. Currently, we do have burning restrictions in place. I anticipate they will be in place for at least two more weeks, until we get a full, what we all a 'green up.' And, that's put in place by the DNR and when the DNR is confident that the green up is good enough so that it decreases the fire danger, we'll let everybody know. They'll let us know.

DuCharme stated other things that happened, yesterday we, as East Bethel Fire, were over at St. Francis High School and 900 kids we put through bystander CPR. I want to thank Tim Harrington for being there and also Brian Mundle. They were also part of the crew that was there. So, it took over the whole gym and let me tell you, these kids were great. They came in, 900 kids, I don't have a complaint about one kid. They all did what we asked them to do and it was really terrific. So thanks again Councilmembers.

DuCharme stated today a number of our fire fighters were at Coon Rapids High School doing the same thing where they went and assisted and they put 1,200 kids through bystander CPR. So in two days, we participated in putting over 2,000 people. Voss stated that's absolutely amazing. DuCharme agreed and stated it's unbelievable. So when you see them, let them know that we really appreciate their efforts. DuCharme asked are there any other questions that I could answer, Fire Department related?

Harrington asked was there a control burn today Mark? That you know of? I'm south of here and there was smoke and there was ash in the air. DuCharme stated you know Councilmember Harrington, I did see smoke to the east and I'm not quite sure what that was. So, it must have been some type of controlled burn. You know when you bring up 'controlled burns,' the other day, I think it was Monday, we had heavy smoke in the air and the day before, Sunday, the University of Minnesota at Cedar Creek, they do their research burns and they did 100-200 acre burn on that Sunday. Now we don't have jurisdiction over the University of Minnesota, as the Councilmembers know, but they do notify us when they burn. And so they did have a burn but that smoke on Sunday was not the remnants from their fire. That smoke came in from Wisconsin where they were doing a large burn and for some reason, it decided East Bethel was a good place to be until the front moved through. So we did have the DNR out here during that heavy smoke and myself and several other fire departments were looking for the cause, and looking for the cause, and they did trace it back to Wisconsin.

Ronning stated I think I saw Troy go by for probably a different meeting but the 2,100, do you know what, there's thousands of these. Do you know roughly how many thousand? DuCharme stated I'll get that report to you. Usually we ask the Heart Safe organization, in other words Troy, to give us the information at least twice a year for report to Council. So, I'll make sure to do that and in the May meeting, we'll have that in the package and give you accurate numbers that have been put through this training.

Ronning stated it's certainly worth noting that these Fire Department volunteers go out and do this training and a number of them take time off work to go do it. DuCharme stated absolutely. Ronning stated that's quite a commitment. DuCharme stated absolutely, right.

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5.0B Fire Department Report

Mundle stated on 3/10 here, it looks like you responded to a motor vehicle accident with injuries on 65 and 237th. Are you able to tell us anything about that? It would be call #88. DuCharme stated it looks like it was an afternoon call, is what that was. That's one of the numerous accidents that we have. I can tell you that was not the most severe accident that we had during the month. I think that mainly involved a car going into the ditch and us coming out to do EMS checks. As you know, Councilor, we've had some major accidents at that scene where we've had to airlift people out and so forth. Mundle stated yup.

Harrington stated Mark, how about that one on 209th last Thursday. That was a bad one too, wasn't it? Nobody got killed but I heard they had to extract the woman from that. DuCharme stated you're right, we did have that, I think that happened, I think I left from here and went right to the accident Thursday. That was a two-car accident. You know I want to tell you, I want to compliment the crew that was there, the fire crew. One of those cars was pretty, took a pretty hard side impact and when I looked at that car, I didn't think we were going to get the door popped open. I was just about ready to suggest to one of the fire officers that maybe they just cut the door off, and those guys and gals were able to pop that door and get that driver out of there and get her on the way to the hospital. And, there was one of them was brought in hospital red lights and siren. The other one was more routine to be checked. But you know, that was a serious accident. So, doesn't look like anybody's phone was in use at the time, but that was a serious accident. Voss asked any thing more for the Chief? Any questions from the audience for our Fire Chief?

An audience member asked where was that last accident that you were talking about? DuCharme stated that was on 209th and 65. The cars were northbound. One car had two people in it, one car had I think just one in it. So, Sheriff's Department was there, as usual, and they're really good to work with us. It's kind of interesting on these scenes because everybody kind of knows what their job is and it's almost like a ballet. Everybody just gets out there and does what they're supposed to do. The Deputies almost always show up first and, you know, they check for injuries. And from there, as we get there, they kind of turn it over to us, to Fire. Then they continue their investigation and make sure we're protected by blocking traffic and things. You don't understand how dangerous it is to stand on Highway 65. I mean, that is one of the most dangerous things we do.

DuCharme stated okay, so we're going to burn a house this weekend. So, we're going to make smoke. I've got a training burn going and it will be around Coon Lake Beach, so just a warning. The Council thanked Chief DuCharme.

6.0 Public Forum

Voss asked do we have anyone for Forum? Davis stated unfortunately, we didn't have a form for anyone to sign. So, we'll just have to call it. Voss stated this is the portion of the meeting, the Public Forum, if you have questions for Council. Anything you want to bring up on items not on the agenda. This is your time to come forward and speak to Council. State your name and address please.

Tom Eich, 18510 Jackson Street, asked are the minutes for the Town Hall Meeting from last night, are they accessible for some of us that weren't able to make it? Davis stated they will be in approximately six days but they'll be submitted to the next Council meeting for approval so they'll be on our website after the May 4th meeting.

Mundle asked would the video come up before that? Davis stated the video will be available, hopefully, within the next day. Mr. Carlson, our video recorder, is going to give

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me the DVDs so we can put that on the website, hopefully tomorrow if you want to look at it on the website. Mr. Eich stated perfect.

Eich stated I know one of the topics was the Mn/DOT with 22 and 65. What was discussed at that? Was anything passed? Voss stated no. The purpose of the Town Hall Meeting was just to present, the City staff to present information and then interaction with the public. There's no action that's taken by Councilmembers. Mundle added other than opening the meeting and closing the meeting. Voss stated yeah, opening the meeting and closing the meeting. That's our only action.

Eich stated okay, when action does take effect? Voss asked with regard to the Mn/DOT presentation? Eich stated with that and other topics. How do I find out what's going on in the City? I've been a resident here for 45 years and I want to know what's going on in my City. My kids are done with school, I'm on my own with my wife. I have time to invest and I want to know where my taxpayer dollars are going. I'm really frustrated with the grocery store issue. I'm frustrated with lack of businesses in the City. I would like to know, this ATV project that was just approved, correct? Ronning stated yes.

Eich asked what was the total dollar amount to the taxpayers over, what was it, ten years did I hear? Was that $90,000 that I heard? Davis stated the total cost was $94,000 and that money we get, $6,000 a year, from the cable company. That money can only be spent for improvements to rebroadcast our meetings on our cable channel. So, that was an appropriate expenditure of that fund and over the life of the project, it won't involve any taxpayer funds. Eich stated okay.

Eich stated my questions are because I'm in sales and I question things. Did we get three estimates? Davis responded we did. Eich stated we did okay. Do we all agree that we need a 70-inch TV down in the front? Davis explained in order to see it, that's what's required. Eich stated okay, well I've been sitting in the back row and this is only my second meeting that I've attended and I plan on making every one from now on, but if we're sitting in the back row, and you've got a 70-inch TV down there, how are we going to see it? My point is waste. I'm tired of waste and I'm tired of, if we need cameras and microphones, we need to get to the 2016 standards. I'm all for that. But I want to pick apart the things that we do not need because we need other things in this community.

Eich stated I think one of you guys said last week, you know, tar is on a decline. I was impressed. That's a beautiful idea, okay. But if we're spending more money on a TV that really you can't see sitting in the back of the room, why aren't we investing in paving more roads? I live on Jackson. We just resurfaced that probably three years ago. I think that construction company ought to come back out and do a reassessment of it. It's got big holes in it, it's got cracks. I just want to be a part of this. So, where else do I get information? Koller stated Tom, if you go on the East Bethel website and click on 'City Council,' you can look at all the packets that we have here before the meetings. They're put out like the Friday before the Wednesday meeting. So, you have like four days to look at the packets and find out what we're talking about at this meeting. Voss stated we also have e-mail notification system. That's a good way of knowing what's going on.

Eich asked those topics you're deciding on, they're already, they've already been reviewed? Discussed? Voss stated you would get the packet the same time we get the packet, basically. Eich stated and at that time, I come in and address my opinion? Voss stated just like tonight, yes.

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Eich asked are there any other meetings that involve decisions that are being made? Koller stated well, there's lots of Committees but they usually put out recommendations for this Council. So, this Council has to make all the final decisions. Ronning stated and they're looking for help.

Eich stated well I'm here and if you want my number, I'll give you my phone number because I intend to, well, we're either going to work together or we're going to work against each other. So don't take it as a threat. Take it as a promise. I want East Bethel to grow and succeed where, as far as I'm concerned, we're going backwards. I've heard complaints of, I don't even know how you pronounce it, is it CST? Have we looked at every opportunity? I'm not saying it's a good thing. I'm not saying it's a bad thing. But I live south of here and I see Rivard's Lumber, whatever they do there, woodchips and mulch. Have we suggested maybe that they build down there? Behind a sod field where there's no homes?

Davis stated absolutely, every option has been explored on this. Trust me. I've been working on it now for two and a half months and we have looked and encouraged them to look at other options, other sites in the City. According to them, this is the only one that met their specifications as far as size and having access to a signalized intersection. Eich stated okay.

Davis stated one other point too, about the website when you want to know about meetings. If you go to the front page of the website, there's a little calendar there and it's got all the meetings. All you've got to do is click on the date and it will bring up what meeting is on that date. So that's another good way. If you ever want to know too, don't hesitate to call City Hall. Everything's going to be posted on our reader board too. We do put out a newsletter but it's four times a year. But check the reader board, call City Hall, check the website, you'll have all the information.

Voss stated sign up for e-mail updates. Eich stated yeah, I've been getting those for about a week now, week and a half, and they're interesting. But I'll state again, I don't want to hear about it afterwards. I want to be part of it up front. I want to be the nosy person that's opening his 'yap' just picking at you because we've got to do something here. Voss stated Tom, you're definitely welcome to any meeting, absolutely. Ronning stated yeah. Voss stated we like the fact that our Council Chambers are full now.

Ronning stated bring your awareness. You seem interested in participating in this. Everything that happens here is government law. There's certain requirements that we have to, could our Attorney explain what some of the requirements of the process are?

Vierling stated certainly all these meetings are public and open. The City documents that come in are maintained by the City Administrator's office. They're all open and available for view, most often than not. And, again, the website is probably the best portal for getting access to information immediately because the City staff puts things on there almost immediately when they come in.

Eich stated so if I wanted information about the construction project that took place on 65 and 22, probably two years ago, where would I go to find out the statistical data? How much money was spent on that project? Ronning stated Anoka County probably? Voss stated probably Mn/DOT. It's a State highway if it was a State project. Eich stated

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Mn/DOT has a website and I would go there? Voss stated that I don't know if we can tell you.

Eich stated I'm looking for an easy route. I work 55 hours a week, I don't have time during the day to call the City Council so when I'm at home at night, I'll research it. I'll look it up that way. So, I'm looking for a site where I can go and I don't want to dig through pages and pages of insufficient data. I want to come here and ask some questions. We just approved $90,000. Okay, so it's not really taxpayer dollars, that's fine. Okay, I want to know true statistical data because that's what we're here to talk about is where our money is going.

Ronning stated Jack, so there's minimal mistakes anyhow, 22 is a County road. Did we have any involvement really in there? The eastbound, or the east side, we didn't, that's strictly County. And the west side is as well? Davis stated the only thing we would have information on would be City streets. As you well know, there's approximately 24 miles of County road in the City and there's 8 miles of State highway in the City. So, anything that involves Mn/DOT, it would be on their website. The County would be on their website. Where it is and how much detail they contain, I don't know as particularly as it relates to Mn/DOT. You can also sign up from the County standpoint. They issue construction schedules and details on projects that are going on each year too. You can get that on their website for the Anoka County Highway Department. Or, you can even receive that by e-mail also.

Koller stated one thing you might like is when you go on the website, the City Council packets, the monthly bills, everything we pay out is listed on that packet. Eich stated so that sewer project that was discussed at the last meeting, that was on there? Koller stated that will be a total one. Davis asked are you talking about the one that was done in 2011 through 2013? Eich stated I'm talking about the one that we just addressed here at the last meeting two weeks ago about hauling across the highway. Davis stated the Decommissioning Project. Eich asked that information's on there as far as where it was hauled from, what it was, how much the total dollars were? Davis stated that won't be on the website but if you request that information, we can provide it. Eich asked who do I request it from? Davis stated you can call the receptionist or you can tell me. You do have to fill out a form there because we want to document every request that we have so we can get that information for you. If you'll just leave me your number, I'll fill the form out for you.

Koller stated our monthly bills, everything from the light bill, phone bill, every expense is on the website in our packets. Eich stated correct. You know, I dug through the fiscal spend for last year and, you know, at first I thought, 'Really? I mean, holy cow.' But, it cost money to run lights, it cost money to maintain, and I get that. I'm looking for the loophole because there is everywhere there's a loophole. There's a waste of money everywhere and until we go to the next level, I got to find it.

Davis stated well, if you want to sit down and talk about budgets, we'll be more than happy to if you can find it, we'd love to find it too. We welcome your input. Eich stated perfect, thank you.

Voss asked anyone else tonight for Public Forum? If not, we'll move on.

Tony Vincent, 24150 Whispering Circle, stated I've been a resident of East Bethel now for

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about two years. We first moved out here in October of 2013 and loved it. Happy day. All of a sudden, we get the flyer that there's a mulch company being put in five miles from our house that debris, dust, I mean that's, you know, like that gentleman said, how are you going to develop our business area when we put in structures like this that are not going to build, provide more income to our community via stores, grocery stores, hobby shops, what have you, when they're going to be discouraged by having a large manufacturing facility right there? There's a lot of younger generations like myself that have been here, want to stay here, but having this and building a family with that right there? Why not sell and move? Will it increase our property values? No. In fact, to me it will probably decrease because people are less likely to move up here having that right across a newly developed development on the west side of 237. I'm probably not the only one that's come up here and voiced my opinion but… Voss stated no, I'll guarantee you're not the only one.

Vincent stated I just wanted to voice our opinion. There's a lot of older individuals here within this room that probably feel the same way that I do. Like this gentleman said, have we investigated ever avenue? Every outlet? Everything that could be done with this? And, no matter what's said and done, it's going to happen? Davis stated well, if somebody could give me some other options, other than what's been discussed, we've heard nothing new for six weeks. We've been on this for 12 weeks. We're willing to look at anything but I haven't heard anything that we haven't already looked at. So, that's why you're here. We welcome any comments. We'll be glad to look at anything. But everything that's been brought up has been addressed and I'm confident that we've looked at this thing from 'A to Z.'

Voss stated I think to clarify what Jack's saying, staff has been doing that. Nothing's been presented formally yet to our Planning Commission or this Council. That will happen in due time, we expect. Vincent asked when do they plan to break ground and start building? Voss stated we are so far away from knowing what that date is. We haven't, again we haven't been formally presented with what they're going to be doing or want to be doing. And, nor has anything been approved. So, it's, I think I can say with a great deal of confidence there's going to be quite a bit of discussion that's going to happen at Planning, discussion that's going to happen at Council before any decisions are made. And, as Jack's alluded to, there's many different issues. Many that have been brought up by the public that we are following up on. Actually, everything we're following up on. So, we're in the midst of the process is probably the best way to put it.

Davis stated one other thing I'd like to add is the property has not been purchased by CST. There's nothing that's been approved, so it's still in the process of going through all the steps that are required with this. And you know, I'd like to think a couple members of the audience here, especially Pete Creswell who supplied us with a variety of information, we're looking at all that. And, everybody that's given us stuff. We're grateful for it. We encourage it and want it. But, as we stated, this is still in the review process. There's nothing been approved. The land still is owned by Mr. Wyatt. So until all these 'I's are dotted and T's are crossed,' there won't be any consideration by the Planning Commission and City Council. And, this process could take another month, it could take three or four months before anything final is brought for consideration.

Ronning stated I think it's also worth mentioning, I'm certainly not aware of any authority or legal right that any city has to tell people when they can sell their property, who they can sell it to, or for how much, or anything. And, we can't tell them who can buy it. So then with that understood, they have, what is there, the DNR, MPCA, there's a number of State agencies that they have to interact with and satisfy before we, I think it's before we even

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really 'open the book on it' almost.

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Davis stated everybody's going to have to weigh in and their application for the review process is still, it hasn't been submitted. It's incomplete. If they don't have it in to us by 8 o'clock in the morning, this pushes the process back another month. So everything is still in the review process at this time. Vincent stated all right, well thank you very much.

Bill Lappin, 22706 Sandy Drive, stated I guess I'm about ten steps behind everybody. I don't know too much about this. All I know is *(inaudible)* said it was zoned for Light Industry. Is that correct? Voss answered yes.

Lappin stated I guess my concerns are I used to live on Long Island, back in New York, and they had a car salvage yard that was Light Industry when I moved there. And then they started crushing cars, then they went to trucks, then they went to busses. Then the busses would explode because no numbskull took the gas out of them. And we had fires, and the Fire Department couldn't get in because they thought they had their own fire department, which tells me that they knew that there was going to be problems. And we use to get smoke. We used to get all kinds of smells. And, I'm about two miles from this in the City right now as the 'crow flies.' I've been retired a long time and I don't want to be on my deck and smell that stuff. You know. You said there's a lot of things they have to go through.

Lappin asked do they have to pass some legislation? Do they have to prove the water's going to be safe after that? Or, the smoke? I mean, what's to prevent them from going from a light stage to a more heavy contaminating stage? I mean, you just can't. Once they own it and you give them permission to do something, I imagine it's twice as hard to get them to take it out. Ronning stated probably what would stop them is penalties and fines and citations from the County, from the City.

Lappin stated that's what I thought we were going to have where I used to live and it didn't work. They wouldn't even let the fire department in. Ronning stated I have a brother that lived in Manhattan and he had some projects and to listen to the stories they went through when, his was part of a historical part of the city, so he had to really pay for building permits. He had to go through the societies and stuff. He had to pay for them. He had to pay the contract, well the contractor does the work but he had to pay the Union that did the work. I'm a union guy but you shouldn't, you don't pay the organization, you pay the workers. There's a whole litany of things he had to pay. Those things don't happen here.

Lappin stated yeah, I'd just hate to see that. You know, I'm not as close as some of these people. Do you people live there, right across the street? And, I'm sure they're worried about their kids going out there. I don't know if you got the paper said it's like 27 trucks going in there during the day. Ronning asked what paper's that? Lappin asked I wish had, did anybody bring that? Harrington stated they had a flyer. Did you see that flyer last night? They had a flyer out. I've seen it.

Lappin stated I don't have little kids but I have 12 grandchildren. I don't know who wants to look at what. Voss stated yeah, we've seen it. Lappin stated the quality of life. You're going to get tax money from these people but, I mean, you just had people complain about their taxes. These people are going to complain about their taxes when their home value decreases. If any of this stuff is true, they will decrease. That's how I feel about this and I'm not as affected as much as these people. I don't have young kids any more. My kids

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aren't going to try to ride a bike down that road, you know. And the worst part for me is if my house decreases a little bit and if I try to have a barbeque with my family coming over and I smell this stuff. And maybe there won't be any smells. But, I don't know. I think, really, I don't know, I think every precaution should be taken. That's all I have to say. Voss stated thank you.

Jerry Johnson, Waconia Circle, stated just for clarification purposes, would they actually purchase the property before they found out if they can do it? Or, are they going to have to get the okay from… Voss stated that would be their risk. Just because they own the property doesn't really mean anything to us. Johnson stated I can't imagine that they would buy that big plot of land unless they have the approval to put what they want in there. Voss stated I would agree with you too, yeah. Johnson asked so are they going to be requesting some sort of answer from you guys before they purchase the property? Voss stated that's totally their decision. Anyone can own any property, correct? I would think it would be their foolish risk to purchase a property before they get approved.

Voss asked anyone else tonight for Public Forum? Hearing none, we will move on.

7.0 Consent Agenda

Item A <u>Bills/Claims</u>

Item A <u>Approve Bills</u>

Item B <u>April 6, 2016 Council Meeting Minutes</u>
Meeting minutes from the April 6, 2016 City Council Meeting are attached for your review.

Item C <u>Approving Firefighter Completion of Probation Term</u>
The following Fire Fighters have completed their one-year probation and met all qualifications for active status: Justin Szamada and Jim Saenger. The Fire Chief recommends that these Fire Fighters be appointed as active Fire Fighter Status as of April 1, 2016.

Item D <u>Resolution 2016-20, Adopt-A-Park – Bonde Park</u>
The City has received an application for the Adopt-A-Park Program to adopt Bonde Park from the Drake Family. Staff recommends adoption of Resolution 2016-20 recognizing the Drake family's commitment to help maintain Bonde Park as part of the Adopt-A-Park program.

Item E <u>Purchase of Public Works Trailer</u>
As part of the City's Equipment Replacement Program, the City has budgeted $12,000 in 2016 for the purchase of trailer for hauling public works equipment. The department is in need of a 14,000 lb. GVWR trailer with a low fender height for hauling various pieces of equipment including the mini-excavator and lawn maintenance equipment. Staff has checked State contracts for trailers with minimum specifications of a 14,000 lb. GVWR, wide ramps, and low clearance wheel fenders. Staff has reviewed the three options and has determined that the PJ trailer from Central Trailer Sales in East Bethel provides the best value and the lowest cost. The following information provides pricing data for the trailers.
<u>14,000 lb. GVWR Trailer with Low Clearance Fender</u>

Model	Dealer	Cost
PJ 6" Channel Super-Wide	Central Trailer Sales	$6,100
Felling 14 –WD	Lano Equipment	$8,388
Felling 12—FT (Used, fenders too	Minnesota Equipment	$6,000

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tall, only 12,000 lbs)

7.0 Consent Agenda

Funds for this acquisition are provided for in the Equipment Replacement Fund. Funding was budgeted at $12,000. Staff recommends the purchase of the 22-foot PJ trailer from Central Trailer Sales in East Bethel for $6,100. This equipment will meet our current needs and has a projected service life of 12 years.

Item F Supplemental Payment Summary

Harrington stated I'll make a motion to adopt tonight's Consent Agenda. Koller stated I'll second. Voss asked any discussion? All in favor? **All in favor.** Voss asked opposed? That motion passes. **Motion passes unanimously.**

8.0 New Business

Commission, Association and Task Force Reports

8.0A Planning Commission

None.

8.0B Economic Development Authority

None.

8.0C Park Commission

8.0C.1 Shade Tree Ordinance

Davis presented the staff report, indicating as part of the need to maintain trees on City property and requirements for applying for the annual Tree City USA award, the DNR and Arbor Day Council recommend that the City update our Tree Preservation Ordinance. They recommend that a key component of a qualifying Ordinance is one that establishes the Tree Board or Forestry Department that provides for the responsibility of public tree care.

The Ordinance will also provide clear guidance for planting, maintaining and removing trees from streets, parks and other public spaces as well as activities that are required or prohibited.

Attached is a proposed draft for the Shade Tree Ordinance. The Park Commission has reviewed this matter at their February 10th Park Commission meeting and unanimously recommend the addition of the Shade Tree Ordinance to the City Code.

Staff and the Park Commission request that City Council consider the adoption of the Shade Tree Ordinance to the City Code under Chapter 26, Environment as Article IX, Sections 26-316 through 26-329.

Davis stated one thing that I'd like to point out is that the previous City Council actually appointed Mr. Nate Ayshford, our Public Works Manager, as the City Forester a couple years ago. This would be established in Ordinance and the Parks Board would be the Tree Commission. So with that, if you have any questions, Mr. Ayshford is here to answer anything and I'll try to fill in any other areas.

Harrington stated this is just trees on like the easements and right-of-ways. Nobody's trees in their yard are going to be affected by this right? It was brought up last night. Ayshford stated one of the residents brought it up last night. There was a little confusion on it that I

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8.0C.1
Shade Tree
Ordinance

want to clarify. Under Section 26-335, Abuse or Mutilation, it's only public trees that they're referring to. So, this would be, the intent was to be for parks and City property, not including right-of-way. We might want to clarify that in our definitions for that part. We encourage homeowners to take care of trees on their property. It reduces the burden on the City to do pruning and removal if the trees die. We don't want to have any, there's nothing on here that's specific to private property. Everybody, this is just kind of a 'boiler plate' as basic as we could keep it in general that meets the requirements of the DNR and the League of Minnesota Cities.

Mundle asked can we enter in some language to that? Specifying it's not on a person's private, but a person's right-of-way of their residence? Ashland stated yeah. Voss asked couldn't we say 'publicly owned?' This would cover in our parks too. Ayshford stated the title is 'Abuse or Mutilation of Public Trees,' so maybe want to have it say 'Abuse or Mutilation of Trees located in Parks and City property, not including the public road right-of-way,' something along those lines.

Vierling advised for the purpose of the Ordinance, my thought as I looked through it coming in tonight, it really I think would be helpful to have a definition of what is a 'public tree.' Ayshford stated we looked at it. That might be a better way to do it. Vierling stated I think that's a good way to do it. Another thing I would suggest, for my purposes, is I'm sure everybody knew what their intent was but when I looked at the language of 26-336, it seems like that language in there is kind of vague and circuitous and really isn't clearly targeting what you want it to in terms if it comes down to enforcement. So, that language might want to be reworked. Mundle stated yeah.

Ayshford asked is there a specific thing you'd like to see changed in there? Vierling stated probably but I don't have the benefit of having been on the Committee to know what the intent was when that section came in. So I guess I'd almost encourage the Committee to take a look at that and see if it really is directed to what they intended. But I think a definition of what is a public tree, probably, would be very helpful to the Ordinance.

Mundle stated because in 334 it does say, 'including street right-of-way.' Ayshford stated correct. Mundle stated so that could be where some confusion came from. Ayshford stated yup and that section authorizes the City to do the tree removal on the right-of-way, which we already have that under other ordinances. But, that just clarifies it for purposes too.

Voss stated back on 336, the way the first sentence, what I read is trees that are on private property that overhang and interfere with the sidewalks and with streets, we as a City have a right to trim. Ayshford stated correct. Vierling advised that's absolute even under current law so there's no issue there. My problem was in the next sentence that followed. 'Section shall not apply to any tree to which pruning and trimming would endanger the tree's health as determined by a City Forester unless a public nuisance exists.' That's a very subjective call.

Mundle asked do we need to approve this by any certain date? Davis answered no, if there's some questions I would recommend we table it and then bring back the changes for approval at the next meeting.

Ayshford stated that statement there about what would endanger the tree's health, a lot of that is focused on cutting oak trees during the high-risk period for oak wilt, from April 1st through July 15th. So our Department as well as Utilities are not allowed to prune oak trees

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during that time in the City.

8.0C.1 Shade Tree Ordinance

Ronning asked this was discussed at the Park Commission? Ayshford stated correct, yeah. Ronning stated but I, do I recall there was some kind of requirement to update or do something with the language that we do have and this is what? Ayshford stated this is the updated, what their recommendations is. Ronning stated yeah, it was mandated.

Davis stated actually, we do, in our City Code under Subdivisions, have a Tree Preservation Ordinance but that relates to tree plans for removal and replanting in developments for private issues. The distinction here is that this addresses trees and tree care and maintenance on public properties. Voss stated okay.

Ayshford stated and the last section goes into Item 337, if we ever had a disease outbreak. Typically they refer to oak wilt, Dutch elm disease, and now it's going to be emerald ash borer as well. If the Council needs to take action, this gives them some guidance on how to go about doing that. That also falls under Minnesota State Statute 89.

Voss stated so if there's a property that's got a serious oak wilt issue, you're saying State Statute allows the City to go in and address it? Ayshford stated if the Council adopts that program, correct, yeah. Voss stated okay.

Ronning asked does this do anything about addressing the season for cutting oak? The way it's not, April through October or something is a no, no? Ayshford stated it does not address that specifically in here, in this part, no. We put that in our City newsletter as it's more of an educational thing. If people want to prune their oaks in their yard, they certainly can at any time but they're doing it at their own risk. And, once you get oak wilt on your property, it's a nightmare.

Voss stated I want to go back to this clause. Where does this put us building wise? I mean if we were to pass this and had a property? I actually had a call a few weeks ago, that was from a resident whose neighbor's is full of oak wilt and she's wondering what, and the neighbor wouldn't do anything about it. So this sounds like, if this section's passed that we would have the ability to go in and address that oak wilt on a private property? Ayshford stated not under this ordinance. This is the most general, basic portion. The League of Minnesota Cities has a whole specific ordinance that cities have passed, many of the cities south of here have that ordinance where they can go in.

Voss stated okay, I misunderstood. I thought you said that this would enable us to do that. Ayshford stated it provides a very general opening for that if we want to adjust it in the future. But right now, it does not give the power for the City to do that, no.

Vierling stated but to answer your question, Mr. Mayor, I agree with staff. This ordinance wouldn't address that but under your Nuisance Ordinance, if you have infected trees on private property, they, as a nuisance could be enjoined by a court action and that property owner ordered to take them out. That's the action you'd probably go with.

Voss asked does that happen? Do you know? Vierling advised not often. It depends on the nature of the infestation and where it is and how the City wishes to deal with it. Voss stated this resident was really concerned because she had a ton of oaks on her property and oak wilt is slowly getting to her property. The neighbor wouldn't do anything about it. I'd be concerned too because it's only going to spread unless something's done. I'd hate to have a

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property full of oaks and then full of dead oaks.

8.0C.1 Shade Tree Ordinance

Voss asked any other questions? So, do we want to send this back to staff and refine some of the language and give Mark a chance to go through it? Vierling stated it's a small matter but if there's no rush, I'd almost appreciate an opportunity to give them a definition for a public tree that could fit in here and just rework that language on the one paragraphs a little bit.

Mundle stated I'll make a motion to table this until the next meeting to allow staff to go over it along with the City Attorney. Harrington stated I'll second. Voss asked any discussion? I'd just add if you could **redline the changes** so we could see the changes. Voss asked any other discussion? Hearing none, all in favor? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

8.0C.2 2017-2021 Parks Capital Improvement Plan

Davis presented the staff report, indicating the City of East Bethel Parks Commission approved a Parks Capital Improvements Plan for 2017-2021 at their April 13, 2016, meeting. This Plan identified a number of capital projects that are recommended for City parks. From this draft of projects, funding recommendation were developed to produce a prioritized schedule for improvements for the planning period.

A significant portion of the funding required to complete a number of these projects are generated by the Park and Trail Dedication Fees generated from new development. Minimal funds from these fees are anticipated through the remainder of 2016 and into 2017.

Projected revenues are based on the assumption that the City of East Bethel will provide a transfer of $60,000 per year to the Parks Capital Fund and that contribution will increase by $5,000 annually through 2021 and that the City will continue to collect Park Dedication Fees for new home construction and commercial development. The Parks Commission is also requesting a $5,000 annual increase for 2017 in the General Fund transfer to bring the total City contribution to $60,000.

The Parks Commission has identified the projects as in your attachment. Commitment to this Plan requires the dedication of resources <u>only</u> for 2017. Projects beyond 2017 are identified and prioritized by the Parks Commission to provide Council with recommendations for improvements in 2018 through 2021. Commitment to the 2017 projects is required as part of the 2017 budget process, which will be finalized in 2016. Projects beyond 2017 will be addressed in future budget years. This provides the necessary lead time to prepare final plans, specifications and presentations before Council for the following years improvements.

Adoption of this Plan for improvements would result in expenditures estimated at $150,000 for 2017. The cost of these improvements would be funded with the beginning Park Capital Fund balance and the projected revenues from General Fund transfers and Park Dedication Fees estimated at $235,268. Should these projections fall below projections, only amounts equal to fund balances would be expended.

The Park Commission and staff are recommending the approval of the 2017-2021 Parks Capital Improvement Plan and the projects as listed for 2017 implementation.

Mundle stated make a motion to approve the 2017-2021 Parks Capital Improvement Plan and the projects as listed for 2017. Ronning stated second. Voss asked discussion?

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8.0C.2 2017-2021 Parks Capital Improvement Plan

Harrington asked Nate, I see here in next year the skate boarding equipment you're going to replace in Booster West. Is that going to be taken out of there? Or, you're just going to add onto that? Ayshford stated that is planned to be funded through Park Dedication Fees and at this time, we're not anticipating those for this year and looking into next year.

Harrington stated but I mean you're going to do something with this old equipment? Or, is it just going to? Ayshford explained that's a way to kind of itemizing priorities. If we do have money come in, then that one would be one we'd look at. We had it on our last year's Plan as well and with the skateboard equipment, $25,000 does not buy hardly anything. Any park equipment's really expensive just because of all the safety and liability that goes along with it. But, $25,000 wouldn't be enough to replace what we already have out there.

Harrington stated I'm just saying if you're going to get rid of it, over at the Beach that stuff they have over there is junk. If you're going to take something out of here, at least for the five years until you do something in 2021, maybe put it over there. Because, they said the kids do use it a lot in the summer over at the Beach. Ayshford stated yeah. I think part of the Park Commission's recommendation for this Park over here is, if it's still viable, leave it in this Park and then just add onto it. It is a piece of equipment that gets a lot of use from an age group that does not have a lot of other things in the Parks to use.

Voss stated the ballfields, obviously, the bigger expense, Plan expenditure, for next year. Do we know what kind of utilization we expect out of that? What organizations are going to use it? Ayshford stated at our last Park Commission meeting, we invited the local youth organizations to come and talk to our Park Commission and let us know what they thought of our fields, where they saw needs we had. Right now the two fields we have out there are for soccer and they have not been used for a long time. North Metro Soccer has built some big facilities in Andover and Oak Grove. And, even though there's quite a bit of participation from East Bethel residents, they're kind of focused in that area with their fields right now. So, they were going to get back to us but it didn't sound like they needed East Bethel for soccer fields.

Ayshford stated SBAA has been before our Park Commission for quite a few years now on their serious need of regulation-sized baseball fields as well as our East Bethel Town Team. It's a segment of the youth baseball that they don't have enough fields for. They said they could have that thing filled full every night. They also offered to go 50/50 participation on any fixed hard costs like the fencing, dugouts, and things like that. So, we'll have more information as we get it, next year when we start getting quotes and things like that for the Council to review. Right now, it sounds like it is well needed and will get a lot of use.

Voss stated and that's from someone who came out of that organization and others, that's the hardest fields to come by for the older kids. Ayshford stated yeah. Voss stated okay, any other questions? Any other discussion? To the motion, all in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

8.0D Road Commission

None.

9.0 Department

None.

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Reports

9.0A Community Development

9.0B Engineer — None.

9.0C City Attorney — None.

9.0D Finance — None.

9.0E Public Works — None.

9.0F Fire Department — None.

9.0G City Administrator

9.0G.1 BR&E Special Meeting

Davis presented the staff report, indicating the culmination of the Business Retention & Expansion (BR&E) Program is a community commencement meeting. This meeting provides the opportunity for the City to recognize the completion of the BR&E Visitation Program and the beginning of the implementation stage of this program.

The proposed meeting agenda is outlined as follows:

1. Program Introduction
2. Review of the purpose and history of the program
3. Testimonials from business representatives and program accomplishments
4. Presentation of Strategies and Survey Results and Survey Remarks

Attendees at the meeting will include local businesses that participated in the interview process, Program Leadership, Task Force and Interview Members, and local elected officials. Due to the anticipated length of the meeting and importance of this presentation, this was approved as a Special Meeting by City Council on January 20, 2016. The meeting is scheduled for April 27, 2016, at 7 p.m. at City Hall, which is next Wednesday.

Davis stated hopefully all the people that were participants in this, which was over 40, will be present here along with members of the EDA. I think it will be a very interesting meeting. They're going to also outline what some of their programs and goals are. So I think it would be one of the first steps in some of the economic development activities that we're undertaking. And, it's one of the more important ones and that's addressing the needs of our existing businesses. So, I encourage everyone that's interested to attend that meeting. Again, when that meeting occurs, that will be the only item on the agenda. There will be no other items discussed except the BR&E Program.

Voss asked and that meeting's convened by Council? Davis stated correct.

Informational, no action required at this time.

9.0G.2 URRWMO 2017 Draft Budget

Davis presented the staff report, indicating the Upper Rum River Watershed Management Organization (URRWMO) is is a joint powers special purpose unit of government composed of East Bethel, Bethel, St. Francis, Nowthen, Oak Grove, and Ham Lake whose function is to manage water resources within the boundaries of the Watershed. This Joint

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9.0G.2 URRWMO 2017 Draft Budget

Powers Agreement is based upon hydrological boundaries of the drainage area within each respective City. Watershed Management Organizations (WMO's) were created by the Legislature in 1982. As a result of this legislation, all municipalities in the seven county metro area were required to be part of this program.

The Upper Rum River WMO is in the process of developing their 2017 budget and are seeking member comments related to this request prior to May 3, 2016. East Bethel's share of their proposed 2017 budget is $5,298.31 and the total budget of the WMO will be $23,300. East Bethel's 2016 Upper Rum River WMO budget is currently $7,111.

The Upper Rum River WMO is in the process of developing a revised Ten Year Plan. This Plan is required by the Bureau of Water and Soil Resources. It was previously anticipated that the cost for this Plan would be $35,000.00, but the Plan was completed at a cost of under $25,000.00. Half of the anticipated $35,000 cost was included in the total WMO budget in 2016. The savings realized will reduce the cost of this budget item from an expected cost of $17,500 in 2016 to $6,500 for 2017.

Operating costs to the City's within the Upper Rum River WMO watershed are split evenly and project costs are allocated by formula based on population and market value of each city.

The draft budget attached is for discussion purposes and review. Revisions are anticipated by the Upper Rum River WMO after comments from member cities are received. The final budget will be provided in early May for member approval and consideration.

Staff recommends that Council review the proposed 2017 Upper Rum River WMO budget and direct staff to forward any Council comments to the Upper Rum River WMO Board.

Voss stated okay, thanks Jack. To the proposed budget for the WMO, do we need a motion? Ronning asked are they looking for a specific action or comment? Davis stated they're looking for comments on this, any recommendations as to increases, decreases, or whatever we feel is necessary. As you can see, their budget request for 2017 for East Bethel's share will be less than 2016. So, that's a nice reduction. And, this is due to the fact that their Ten Year Plan was completed at a significant less cost than they originally projected.

Ronning stated I move to adopt the proposed 2017 Upper Rum River Water Management budget and direct staff accordingly. Mundle asked do we need a motion on approving this? Or, are they just looking for comments? Davis stated they're looking for comments. We'll actually get their final budget, probably in about another month. If you have any comments that you want us to provide, please give me direction and I'll see they get those. If none are offered, we'll just say there are no comments based on their presentation of this draft budget as reviewed by City Council and, we are accepting what they are proposing. **Ronning stated I'll withdraw.**

Voss asked any comments you want to pass on? None were offered. Voss stated it's nice that the budget went down. Davis agreed and stated it certainly is. And, you know, I commend their efforts too. That group is working very diligently on trying to keep the costs down. All the members, I think they did a great job with that Plan requirement. They had originally allocated $35,000, as you recall, that was quite an issue to get that approved. Then once it was approved, they have completed that study at a significantly less cost than

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was projected. So, they've done an outstanding job on that.

9.0G.2 URRWMO 2017 Draft Budget

Ronning stated just for general information's sake, they're a big part of what has helped clean Coon Lake and that whole, no that's the wrong one. Davis stated yeah, that's the Sunrise. Ronning stated yeah, the Sunrise. They do a lot towards cleaning the water. Davis stated they certainly do and most of the Upper Rum's projects are for the Rum River, Lake George, and the tributaries to the Upper Rum, which in our case are Cedar Creek and Crooked Brook within the City.

Informational, no action required at this time.

9.0G.3 Castle Towers Decommission Report

Davis presented the staff report, indicating as discussed at the April 6, 2016, City Council meeting, staff has acquired permits for lands adjacent to 241st Avenue for disposal of the biosolids that must be removed from the Castle Towers Wastewater Treatment Facility. This cropland is available for land application until April the 22nd and not again until November 1, 2016. Staff requested approval to select and authorize a local contractor to assist with starting the removal and disposal process. Staff received hourly quotes from three contractors. Quotes were received for the three main pieces of equipment needed for the disposal, which include a backhoe, dozer, and dump truck.

Quotes were received from Dirtworks, A+ Outdoor Services, and Arnes Excavating. Quotes ranged from $389 to $440 per hour with Dirtworks providing the low quote. Dirtworks was also the only contractor that had immediate access to the spreading equipment required for application of the material. Staff also acquired a Consent to Enter, Release and Waiver of Trespass from the property owners.

Staff has authorized Dirtworks to begin removing the biosolids and Dirtworks began preparing the site on April the 14th and begin their spreading operation last Monday. They will continue this work through Friday.

Davis stated from what we've seen, they've made a lot of progress, removed a lot of material. The weather's been cooperative and the spreading process is going, so far, without any issues. Voss stated I believe the spreading process was shown on TV last night. Davis stated it certainly was. Voss stated I wondered about that when I saw that. Davis stated that's what it was.

Mundle stated if I can make a comment on that when they are done hauling to send the street sweeper through again. Davis stated absolutely and if it needs to come there before, let us know. Mundle stated I think it will be fine if they're just going to be there through Friday. Let them get done and then send it through. It will be fine.

Voss asked is it tracking onto the street? Mundle stated there's some. It's not a big mess but it should be cleaned up. If we're going to wait for rainfall to clean it, I'd rather have the street sweeper before. Voss stated yeah, have the street sweeper before it rains.

Ayshford stated just to quick clarify, we swept it yesterday, we swept it today, and we left the sweeper up there. We're going to sweep it at the end of each day. Mundle stated okay, that's fantastic then.

Informational; no action required at this time.

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10.0 Other
10.0A
Staff Reports
Recycle Day
Arbor Day

Davis stated Spring Recycle Day, Saturday, April 23rd. Also, as was mentioned, the Arbor Day tree planting is also scheduled for Saturday at Booster East Park, I believe at 10 a.m. That's always a nice little ceremony. The Cub Scouts will be there to assist in the planting of a tree as is the tradition we began two years ago and hope to continue to help reforest Booster East Park. Voss stated that's a good event to be to. Anything else? Davis replied that's it.

10.0B
Council Report – Member Mundle

EDA

Mundle stated I had an EDA meeting on Monday evening and we interviewed applicants for the open position. I believe we had five applicants and that's a pretty impressive number for applicants to commission. We had some really, really good people that applied for it. I'd like to commend all of them for applying for that and of those that weren't selected, keep applying to positions. They open from time to time and I think some of these people were very good fits for a lot of other Commissions. But, EDA did make a recommendation, a vote was had, and EDA did make a recommendation for one candidate that I'm sure will come before Council, probably next meeting.

Heart Safe

Mundle stated of course Tim and I were in St. Francis yesterday. That was a great experience. All too happy to help out with them. If anyone else ever wants to, I'm sure they'd be open to any other volunteers from Council. That's all.

Council Member Koller

Koller stated I don't have anything.

Council Member Ronning

Ronning stated the Park Commission was discussed earlier. I don't have anything.

Council Member Harrington
Fire Dept.

Harrington stated I attended the Fire Department training Monday the 11th. They did a simulated confined space rescue over at that Wastewater Treatment Plant with Coon Rapids. That was very educational. I mean, send somebody down and bring somebody out. It was very interesting.

CLB Recycle Day

Harrington stated I'd just like to add onto Jack's Recycling Day is the 30th for Coon Lake Beach from 8 to 12. That's all I've got.

Mayor Voss
Town Hall

Voss stated last night was Town Hall. Some of you were there, a lot of our residents were there. It was a good turnout and I think a good event.

Chamber Sunrise Breakfast

This past week, the East Bethel Chamber of Commerce sponsored a Sunrise breakfast meeting where Mn/DOT also presented the proposal for, not proposal, but the concept of looking at Highway 65 and Viking. It was interesting and they got some good questions.

Teddy Bear Day Care

Then right after that, I was invited to go to Teddy Bear Day Care and read some books to toddlers. I think I got tougher questions there than I've gotten anywhere. Two of the kids wanted to know where we kept our rhinoceroses. I really struggled to find a good answer for that. But, that was enjoyable. It's actually, I think it was Day Care Week was the designation they had. That's why they asked me there. Other than that, it's been a busy week. And, no more meetings this week as far as I know. Davis stated this is the last one of the week. Voss stated okay, good.

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10.0C Other	None.
10.0D Closed Session Union Negotiations & Attorney Client Privilege	Vierling stated thank you Mr. Mayor. For the benefit of the record and for the members of the public, we'd note that the Council is about to go into Closed Session, authorized under Minnesota Statute 13D to review two matters. The first deals with matters of union negotiations. That matter will be recorded as is required by law with the digital recording maintained for a period of two years. The second item is with regard to aspects of land acquisition and negotiation for land acquisition affecting Parcel ID Nos. 29-33-23-34-0001 and 29-33-23-33-0002. That item will also be tape recorded. With that being said, I'd ask for a motion from Council to go into Closed Session for the purposes I've indicated.
Move to Closed Session	**Mundle stated make a motion to go into Closed Session at 8:33 p.m. for the purposes that City Attorney's indicated. Harrington stated I'll second.** Voss asked any discussion? All in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.** Voss stated we shall return at t time to be determined.
Reconvene Open Session	Vierling stated thank you Mr. Mayor. For the benefit of the public and for the record, we note that Council is coming back from Closed Session where they reviewed matters relative to union negotiation and some real estate acquisitions. They received a report from City staff with regard to the union negotiation with the members of the public employees that are represented by that union. They also received an update from the City Administrator on a possible acquisition and negotiations over acquisition of real estate, gave staff input, and some direction with regard to strategies but no formal motions were made. With that being said, that concludes the report of the Closed Session
11.0 Adjourn	**Mundle stated I'll make a motion to adjourn. Harrington stated I'll second.** Voss asked any discussion? All in favor say? **All in favor.** Voss asked any opposed? Meeting is adjourned. **Motion passes unanimously.**

Meeting adjourned at 9:44 p.m.

Submitted by:
Carla Wirth
TimeSaver Off Site Secretarial, Inc.

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City of East Bethel
City Council
Agenda Information

* *

Date:
May 4, 2016

* *

Agenda Item Number:
Item 7.0 B.1

* *

Agenda Item:
EDA Board Appointment

* *

Requested Action:
Consider Approval of the EDA Recommendation for a Member Appointment

* *

Background Information:
The City of East Bethel's Economic Development Authority is composed of two elected officials and five citizen members. The citizen members are appointed to six year staggered terms.

John Landwher's resignation from the EDA in January, created a vacancy on the Authority Board. Mr. Landwher's term will expire on January 31, 2017.

The position was advertised, applications taken and at their April 18, 2016 meeting the EDA interviewed five applicants for the position. Based on the interviews of the five candidates, the EDA selected Oskar Granquist as their preference to fill the position

* *

Attachments:
None

* *

Fiscal Impact:
None at this time

* *

Recommendation:
The EDA, recommends that City Council consider the appointment of Oskar Granquist to fill the unexpired term of John Landwher.

* *

Economic Development Authority Action

Motion by: _____ Second by: _____

Vote Yes: _____ Vote No: _____

City of East Bethel
City Council
Agenda Information

* *

Date:
May 4, 2016

* *

Agenda Item Number:
Item 7.0 C.1

* *

Agenda Item:
Shade Tree Ordinance

* *

Requested Action:
Consider approval of the Shade Tree Ordinance Section to City Code

* *

Background Information:
As there is a need to address tree care on City property and to meet requirements for eligibility for Tree City USA recognition, the DNR and Arbor Day Council have recommended that the City update our Tree Ordinances. A recommendation for the ordinance update is that a tree board or forestry department be established that provides for the responsibility and oversight of public tree care.

The Park Commission reviewed this matter at their February 10, 2016 Park Commission meeting and unanimously recommended the addition of a Shade Tree Ordinance to the City Code. This matter was presented to City Council at the April 20, 2016 Meeting but the request was tabled. Staff was directed to submit the proposed ordinance to the City Attorney for his comments and revisions and resubmit the proposed Ordinance for Council consideration.

Attached is the updated draft tree ordinance with proposed modifications of the City Council and City Attorney.

Attachment(s):
1) Edited Draft East Bethel Shade Tree Ordinance
2) Final Draft Shade Tree Ordinance

* *

Fiscal Impact:
None at this time

* *

Recommendation(s):
Staff and the Park Commission request that City Council consider the adoption of the Shade Tree Ordinance to the City Code under Chapter 26, Environment as Article IX, Sections 26-316 through 26-329.

* *

City Council Action:
Motion by: _____ Second by: _____

_____

_____

Vote Yes: _____ Vote No: _____

No Action Required: _____

SHADE TREE PRESERVATION ORDINANCE

ORDINANCE NO. 216

CITY OF EAST BETHEL, ANOKA COUNTY, MINNESOTA

Sec. 26-316 – 26-329. - Reserved.

ARTICLE IX. - SHADE TREE PRESERVATION

DIVISION 1. - GENERALLY

Sec. 26-330. – Purpose.

It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare of the citizens of East Bethel by preserving the City's community forest and significant trees. Trees and woodlands provide numerous environmental, economic and scenic benefits including filtering air pollutants, absorbing stormwater runoff, providing wildlife habitat, moderating temperatures, reducing cooling costs, increasing property value, providing scenic beauty, and providing sound and visual buffers.

Sec. 26-331. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hazardous tree means any tree or shrub which in the opinion of the City Forester, which by reason of location, condition, disease or damage has become or threatens to become a hazard so as to adversely affect the public safety, whether such tree or shrub shall be on public or private property.

Shade tree means any deciduous or coniferous tree situated in the City.

Significant tree means any live healthy tree measuring 8 inches in diameter or greater, measured at 4.5 feet above the ground[MV1].

Sec. 26-332. - Tree Commission.

The City Council hereby establishes a Tree Commission. The composition and duties of the Tree Commission may be established and changed from time to time by resolution of the City Council. Until and unless such a resolution is adopted, the Tree Commission shall consist of the members of the City's Park Commission. The Tree Commission shall advise the City Council on matters affecting the community forest, in addition to such other duties as may be established by resolution.

Sec. 26-333. - City Forester.

(a) *Position created.* The position of City Forester is hereby created. The City's Public Works Director shall be the City Forester. The powers and duties set forth in this subchapter are hereby conferred upon the City Forester or his or her duly authorized agent.

(b) *Duties*. It is the duty of the City Forester to coordinate, maintain and administer, under the direction and control of the City Administrator, all activities of the city relating to shade tree management and to the control and prevention of Dutch elm disease, oak wilt disease, emerald ash borer, and other epidemic diseases including insect and fungal infestation of shade trees of public trees in and on City parks, property, open spaces and along the public right-of-way.

Sec. 26-334. - Public tree care.

The city has the right to plant, prune, maintain, remove or perform any other arboricultural practices as reasonably necessary to serve the public good on all public property including the street right-of-way to ensure public safety and to preserve or enhance the symmetry and beauty of such public grounds.

Sec. 26-335. - Abuse or mutilation of public trees on City property, excluding street right-of-way.

Unless specifically authorized by the City Forester, no person shall intentionally damage, cut, carve, transplant, remove any tree, attach any rope, wire, nails, advertising poster, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to come in contact with any tree, or set fire or permit any fire to burn when the heat could injure any portion of any tree, or top a tree by severely cutting back the tree canopy to a stub[MV2] on any City property, excluding street right-of-way~~.~~

Sec. 26-336. - Minimum Height of Tree Limbs.

All limbs of trees or portions of limbs which overhang hang public streets and sidewalks that are less than 14 feet above the surface shall constitute a nuisance and are prohibited. This section shall not apply to any tree to which pruning or trimming would endanger the tree's health as determined by the City Forester.~~, unless a public nuisance exists~~.

Sec. 26-337. - Diseased and Hazardous Trees.

(a) *Findings and declaration of purpose*. The health of trees in the city may be~~is~~ threatened by epidemic shade tree pests. Hazardous trees can cause property damage or personal injury. The loss of trees, ill health of trees, or presence of hazardous trees on public and private

property depreciates the value of property within the city and impairs the safety and general welfare of the public. In addition to, and in accordance with, Minnesota Statutes, sections 89.001, 89.01, and 89.51-.64, the provisions of this section are adopted by reference as an effort to control and prevent the spread of any~~these~~ shade tree pests.

(b) *Declaration of a shade tree pest.* The City Council may declare any vertebrate or invertebrate, animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or the community forest to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest as defined by Minnesota Statute, section 89.001, as adopted or amended.

Sec. 26-338. - Tree Preservation Requirements.

Tree preservation requirements for subdivisions are described in Chapter 66, Article VIII of East Bethel City Code.

Sec. 26-339. – Penalty.

Any person violating the provisions of this article shall be guilty of a misdemeanor and may be punished as provided in section 1-14.

Adopted by the City Council of the City of East Bethel, Minnesota, this 20th day of April, 2016.

_____

Steven R. Voss, Mayor

ATTEST:

_____

Jack Davis, City Administrator

Introduced:_____

Adopted:_____

Published:_____

SHADE TREE PRESERVATION ORDINANCE

ORDINANCE NO. 216

CITY OF EAST BETHEL, ANOKA COUNTY, MINNESOTA

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(b) *Declaration of a shade tree pest.* The City Council may declare any vertebrate or invertebrate, animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or the community forest to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest as defined by Minnesota Statute, section 89.001, as adopted or amended.

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Adopted by the City Council of the City of East Bethel, Minnesota, this 20th day of April, 2016.

_____

Steven R. Voss, Mayor

ATTEST:

_____

Jack Davis, City Administrator

Introduced:_____

Adopted:_____

Published:_____

City of East Bethel
City Council
Agenda Information

* *

Agenda Item Number:
Item 8.0 G.1

* *

Agenda Item:
CST Project EAW

* *

Requested Action:
Consider ordering an Environmental Assessment Worksheet (EAW) for the CST Project

* *

Background Information:
The Minnesota Environmental Quality Board (EQB) received a petition requesting that an Environmental Assessment Worksheet (EAW) be prepared on the project described in the petition, and has determined that the City of East Bethel is the appropriate governmental unit to decide the need for an EAW.

The EAW is a document designed to present the basic facts of a project necessary to determine if an Environmental Impact Statement (EIS) is required for that proposed development. The EAW form consists of questions that provide the information needed to determine if the project will have significant environmental impacts. In addition to the legal purpose of the EAW in determining the need for an EIS, the EAW also provides permit information, informs the public about the project, and helps identify ways to protect the environment. The EAW is not meant to approve or deny a project, but instead act as a source of information to guide other approvals and permitting decisions.

Some projects of a specific size and nature are exempted from the environmental review process as indicated in Minnesota Rules 4410.4600. If a project is identified as exempt, then it is not required to go through environmental review in order to move forward. The CST project does not meet the requirements for exemption.

Projects that meet or exceed the thresholds described in Minnesota Rules 4410.4300 are required to complete an EAW. If a project meets or exceeds the thresholds described in Minnesota Rules 4410.4400, then an EIS is required. When determining if a project meets a **mandatory** environmental review category threshold, it is important to keep in mind any connected actions, phased actions, or project expansions within the last three years that cumulatively may trigger mandatory environmental review. These provisions are described in Minnesota Rules 4410.1000, Subpart 4 and Minnesota Rules 4410.4300, Subpart 1 respectively.

Projects that are not exempt nor require a mandatory environmental review can still go through the EAW process. A government unit with approval authority over a project can order a

discretionary EAW if it determines that the project may have the potential for significant environmental effects. A discretionary EAW can be particularly appropriate for projects with some possibility of significant adverse environmental impacts or the perception of such. A discretionary EAW can help the RGU identify the adverse environmental impacts of a project and their severity. Additionally, discretionary environmental review may be ordered by a RGU in response to a citizen petition or if the project proposer wishes to initiate environmental review to determine if the project has the potential for significant environmental impacts.

No final government approvals may be given to the project named in the petition, nor may construction on the project be started until the need for an EAW has been determined.

Based on the standards and requirements contained in Minnesota Rules 4410, the City should consider ordering an EAW for the CST Project.

Attachment(s):

Attachment 1 – Procedural Guide for RGU's
Attachment 2 – EAW Process Outline
Attachment 3 – Minnesota Rules Chapter 4410
Attachment 4 – Petition for an Environmental Worksheet
Attachment 5 – Resolution 2016-21
Attachment 6 – MEQB Letter of Transmittal

* *

Fiscal Impact:

* *

Recommendation(s):

Staff is requesting that City Council consider approving Resolution 2016-21, Ordering an EAW for the CST Project, as required by and under Minnesota Rules 4410.

* *

City Council Action

Motion by: _____ Second by: _____

_____

_____

_____

Vote Yes: _____ Vote No: _____

Reviewing Petitions: A Procedural Guide for Local RGUs

The Environmental Quality Board (EQB) draws together the Governor's Office, five citizens and the heads of 9 state agencies in order to develop policy, create long-range plans and review proposed projects that would significantly influence Minnesota's environment. The Board staff is housed in the State and Community Services Division of the Department of Administration.

University of Minnesota undergraduate student April Loeding and a team of EQB staff members, including Gregg Downing, Jon Larsen and John Wells, prepared this document to simplify and streamline public understanding of the environmental review process. Heidi Johnson at the Department of Administration provided assistance in the graphic design work of the publication. Dr. Terrence Cooper, a Morse-Alumni Distinguished Professor with the Department of Soil, Water and Climate at the University of Minnesota, served as the supervising faculty member for this project.

This document was prepared as a result of an undergraduate research assistantship provided by the Center for Urban and Regional Affairs (CURA) New Initiatives Program. CURA is an applied research and technical assistance center at the University of Minnesota that connects faculty and students with nonprofit organizations, ethnic and racial minority groups, businesses, rural towns, inner-city neighborhoods, suburban communities, local governments, and public institutions in Minnesota.

This document is not intended as a substitute for Environmental Quality Board rules and should be used in conjunction with the rule provision parts 4410.1000 to 4410.1700. Copies of the rules are available from Minnesota's Bookstore, www.minnesotasbookstore.com, 651-297-3000 or 800-657-3757, or at the Revisor of Statutes homepage at www.revisor.leg.state.mn.us. Further information about the environmental review process is available in the Guide to Minnesota Environmental Review Rules, also located on the EQB website. Upon request, this document will be made available in an alternate format, such as Braille, large print or audiotape. For TTY, contact Minnesota Relay Service at 800-282-5077 and ask for the Minnesota Environmental Quality Board.

Updates and corrections to this document and all its accompanying links, forms, or examples will be posted on the EQB homepage at http://www.eqb.state.mn.us/review.html.

December 2005

For additional information, contact:

ENVIRONMENTAL QUALITY BOARD

Environmental Review Program
300 Centennial Office Building
658 Cedar St.
St. Paul, MN 55155
651-757-2873
web site: www.eqb.state.mn.us
E-mail: env.review@state.mn.us

This document is available as a PDF document on the Environmental Quality Board's Internet site at www.eqb.state.mn.us.

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Local Government Coordination of Petitions for Environmental Review: A Step by Step Guide

By the end of this document, you will learn:

- How to determine whether a project is exempt from environmental review.
- The tasks required to process a citizens' petition for environmental review.
- About the letters and notices the RGU is required to prepare/distribute when processing an environmental review petition.
- Any applicable deadlines in making petition decisions and distributing letters/notices.

Overview - Processing a Petition

Here's an overall summary of the steps involved in processing a petition for environmental review:

Steps	1-2	Preliminary steps
Steps	3-5	Determine whether the project is mandatory or exempt
Steps	6-7	Gather procedural information
Steps	8	Follow-up with the project proposer
Steps	9	Investigate the project and its potential environmental effects
Steps	10-12	Reach an informed decision
Step	13	Notify required parties

Step 1 – Verify the RGU designation is appropriate

The same day that the Responsible Governmental Unit (RGU) receives a citizen petition, staff officials should review its contents and verify that their organization is the appropriate RGU. The RGU is the organization with the most authority to approve or deny the project.

When EQB staff receive a petition, they review its contents and determine the most likely RGU for the project based on the project's size, type and location. Circumstances can change or new information can emerge, however, that may lead the designated RGU to determine that another governmental unit may have the most authority to approve or deny the project. If local government staff officials believe this situation applies to a project for which they received a petition, they should contact the EQB for additional information. The EQB's phone number, E-mail and address are available on the EQB web site, www.eqb.state.mn.us.

> **Helpful Tip**
>
> If a local government would ordinarily be the RGU for a project but has issued all necessary permits and approvals, an RGU staff representative should contact EQB staff for information and assistance. MN Rule 4410.0500 subpart 3 states, "The EQB chair or designee shall not designate as the RGU any governmental unit which has already made its final decisions to grant all permits or approvals required from it to construct the project." In these situations, EQB staff will attempt to identify another organization with a permit or approval decision yet to issue and that could be designated the RGU for the project.

Step 2 – Contact the project proposer

Once RGU staff confirm that their local government is the appropriate RGU, they should contact the project proposer. While citizen petitioners are required to notify the project proposer in writing that a petition has been filed, it is important that RGU staff also contact the proposer and let them know the petition has been received and is under consideration. RGU staff may not have very much information at this point in time (or even know how the environmental review process works), but this

step gives the project proposer notice that a petition decision is required.

RGU staff may want to consider saying:

"This is [name] from [organization name]. I am calling to inform you that we received a citizen petition for environmental review today for your project. We are in the process of reviewing the petition and environmental review requirements at this time, and will contact you again within a few days with additional information. In the meantime, you need to know a prohibition is in effect on the project, and we cannot issue any permitting or other local government approvals until we first make a decision about the citizen petition. We appreciate your patience during this process and would suggest you check out the EQB web site at www.eqb.state.mn.us for more information about the environmental review process if you have questions."

Step 3 – Determine whether the project requires a mandatory EAW

In the environmental review rules, there are criteria established that make EAWs mandatory for many types of projects. These criteria are called "mandatory thresholds" and are listed in Minnesota Rule 4410.4300. If a project's size is above the mandatory threshold for its category, then environmental review becomes mandatory (required).

RGU staff should consult the EQB document, "A Guide to the Environmental Review Rules," for a complete list of the mandatory thresholds for environmental review. If RGU staff officials determine that a petition pertains to a project for which an EAW will be mandatory, they should notify the petitioners' representative and the EQB of their findings. The RGU should then proceed through the steps of preparing an EAW as required by the environmental review rules.

Step 4 – Determine whether the project is exempt from environmental review

If the project does not require a mandatory EAW, RGU staff should determine whether the project is exempt from the environmental review rules. Environmental review rules and procedures can apply to any action or project that meets all the

- The action or project must involve the physical manipulation of the environment, directly or indirectly.
- The action or project must involve at least one governmental approval, one form of governmental financial assistance, or be conducted by a government unit.
- Action or project approval and construction must take place in the future; that is, projects already constructed or those with all required governmental approvals are not subject to further review unless an expansion is proposed.
- The project is not subject to any of the

The term "governmental action" refers to activities including projects conducted, permitted, assisted, financed, regulated or approved by federal, state and/or local governmental units.

The term "permit" means a permit, lease, license, certificate or other entitlement for use or permission to act that may be granted or issued by a governmental unit, or the commitment to issue or the issuance of a discretionary contract, grant, subsidy, loan or other form of financial assistance by a governmental unit.

The term "governmental unit" applies to local government units such as watershed districts, counties, towns, cities, port authorities, housing authorities and the Metropolitan Council with the exception of courts, school districts and regional development

criteria listed below. If the project does not meet these criteria, it is considered exempt and cannot be petitioned for environmental review.

Step 5 – Conduct the required procedures for exempt projects (if necessary)

If the project is exempt from environmental review according to the criteria listed earlier in this guide, RGU staff must, in writing, document the reason for the exemption and notify the petitioners' representative and EQB of their conclusions.

Most of the time, a final decision on whether the project is exempt from environmental review will need to go before the local government's board/council for consideration. Whether or not to bring the issue before the local government board/council is based on local decision-making procedures and ordinances, not by any requirements listed in the environmental review rules.

Helpful Tip

The fact that no application has been filed on a project or that no action has been requested on the project does not mean the petition can be ignored or that an organization designated by the EQB is not the appropriate RGU.

If a local government would ordinarily be the RGU for the project, and/or it expects an application/approval decision would be required at some future time, it should keep the petition on file. A citizen petition for environmental review remains in effect for one year from the date that the petition was received.

Local government staff must then notify the petitioners' representative and the EQB that, while it cannot act on a petition because no permit application has been filed, the petition will remain in effect for one year and apply to any proposed project for which the nature and location is substantially similar to the project identified in the petition.

Step 6 –Identify the local government's decision-making authority

RGU staff should then identify the authority in their organization that can make environmental review decisions (e.g., granting or denying the petition). This varies from one local government to another, but in most cases it will be the board/council. The authority for making environmental review decisions is determined by the local government's procedures/ordinances, not by state environmental review rules, and anyone making environmental review decisions other than the governing body must have a delegated authority to do so. This information will be helpful when notifying the project proposer of environmental review requirements as well as the RGU's policies and procedures regarding petitions for environmental review.

Step 7 – Prepare a draft timetable of events

Next, RGU staff should estimate a date by which their organization can be expected to make a final decision regarding the petition. The decision date is usually determined according to the local government board/council meeting schedule. RGU staff should allow enough time to determine the merits of the issues presented in the petition and prepare required documentation.

It may be useful for RGU staff to outline an anticipated schedule in written form, just in case the project proposer or other local government staff have questions on the petition's status. The timeline should not be considered a guarantee but is just meant to be a planning and information tool for the project proposer, RGU staff, the board/council, etc.

According to MN Rules, RGUs must make a decision on whether an EAW is needed (as a result of a petition) within 15 business days. In the event the decision-making authority of an RGU is a board/council, the board/council has the option of granting itself an additional 15 days to make

a decision – bringing the total to 30 days. In the event an RGU staff person has been delegated as the decision-making authority of the RGU, they also have the opportunity for a 15 day extension, but, according to the rules, they cannot grant it themselves and must request the extension from the EQB.

Step 8 – Follow-up with the project proposer

Once RGU staff have reviewed the petition and determined a likely decision date, it should again contact the project proposer (preferably within 1-2 days of receiving petition) and explain the anticipated decision-making process. RGU staff should once again inform the proposer that, according to environmental review rules, a prohibition is automatically placed on project approvals and construction when environmental review is requested by a citizen petition.

The project proposer should know that the prohibition will be lifted automatically if the petition is denied but will continue if the local government orders an EAW.

The project proposer will probably have a lot of questions at this time about how the petition will affect the approval of their proposal, site plan, permits, etc. In the event RGU staff are unfamiliar with the environmental review process, and/or can't answer some of the project proposer's questions, they should recommend the proposer look at the EQB web site or contact EQB staff.

Helpful Tip

Some proposers think the "sixty day rule" (MN Statute 15.99) continues to apply to projects that are going through the environmental review process, but this is not the case. RGU staff should inform the project proposer that, because environmental review decisions can often take 30+ days to be reached, environmental review is one of the exceptions to the rule. Essentially, the clock stops ticking on the "sixty day rule" until environmental review has been completed and, once environmental review has been completed, the clock is reset at 60 days.

For many local governments, environmental review occurs infrequently and it is common for local government staff members to be unsure about procedures or process steps. In addition to the EQB, RGU staff can talk with zoning administrators in other local governments to see how they may have approached the citizen petition decision-making process.

Step 9 – Determine the merits of the issues listed in the petition

Regardless of who will be making the decision on the petition (planning commission, department head, city council, etc.) RGU staff should review the petition contents and make a list of issues that will need to be examined. The list should include not only those issues listed in the petition, but all other environmental impacts that RGU staff believe could reasonably occur from the project.

According to Minnesota environmental review rules, the RGU is required to examine the following issues when determining whether an EAW should be ordered:

"If the evidence presented by the petitioners, proposers, and other persons or otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects."

When reaching a decision regarding a petition for environmental review, RGU staff should carefully review Minnesota Rules Chapter 4410 to evaluate whether or not to order an EAW. While not a comprehensive list, some definitions/issues that RGU staff may want to research are the potential

for significant environmental effects, cumulative effects, mitigation by ongoing public regulatory authority, and the anticipation and control of potential environmental effects.

Step 10 - Prepare a proposed findings of fact

The "findings of fact" is a written document that lists the RGU's findings regarding issues of fact related to the project, and that were used in reaching an appropriate environmental review decision. In other words, the findings of fact is a summary of the RGU's factual and legal reasons for reaching its conclusion.

Because citizen petitioners or the project proposer have the ability to appeal environmental review decisions to the county district court in which the project would be located, RGU staff should have their local government attorney review the proposed findings of fact and suggest changes if necessary.

Step 11 - Prepare a draft resolution

In most cases, reaching a decision regarding a citizen petition for environmental review will involve the local government's council or board. Exceptions to this would be in cases where another local government authority has been delegated decision-making powers for environmental review. Prior to presenting the information before a board/council for a decision, though, RGU staff may want to consult the local government's attorney when drafting an appropriate resolution.

In cases where the RGU staff are uncertain of how the board/council will vote, two draft resolutions should be prepared; one granting the petition and the other denying the petition.

Step 12 – Reach an official decision

Once the analysis of the project, the proposed findings of fact and the draft resolution are complete, RGU staff should seek appropriate action to deny the petition or order an EAW.

In most cases, this step will involve the local government's board/council. RGU staff should follow regular procedures for including this decision at one of the board/council meetings, such as listing the item on the meeting agenda, circulating copies of project-related documents, preparing presentation materials, circulating copies of the draft resolution and proposed findings of fact and verifying that the project proposer and any other consultants/engineering staff will be available at the meeting for questions.

Step 13– Preparing the record of decision

The "record of decision" is a record of the RGU's investigation and includes various elements related to the project and the environmental review decision. The Record of Decision often includes such items as the meeting minutes and the findings of fact.

As suggested with the findings of fact, RGU staff should have their local government attorney review the Record of Decision and suggest changes, if necessary. The attorney will be able to verify that the RGU has legally "covered all the bases."

Helpful Tip

If an EAW has been ordered, RGU staff will want to schedule a meeting with the project proposer and outline the next steps for preparing the data portions of the EAW. More information on preparing and reviewing EAWs can be found on the EQB's web site or by contacting EQB staff. The EQB's phone number, E-mail, and mailing address are available on the EQB web site at www.eqb.state.mn.us.

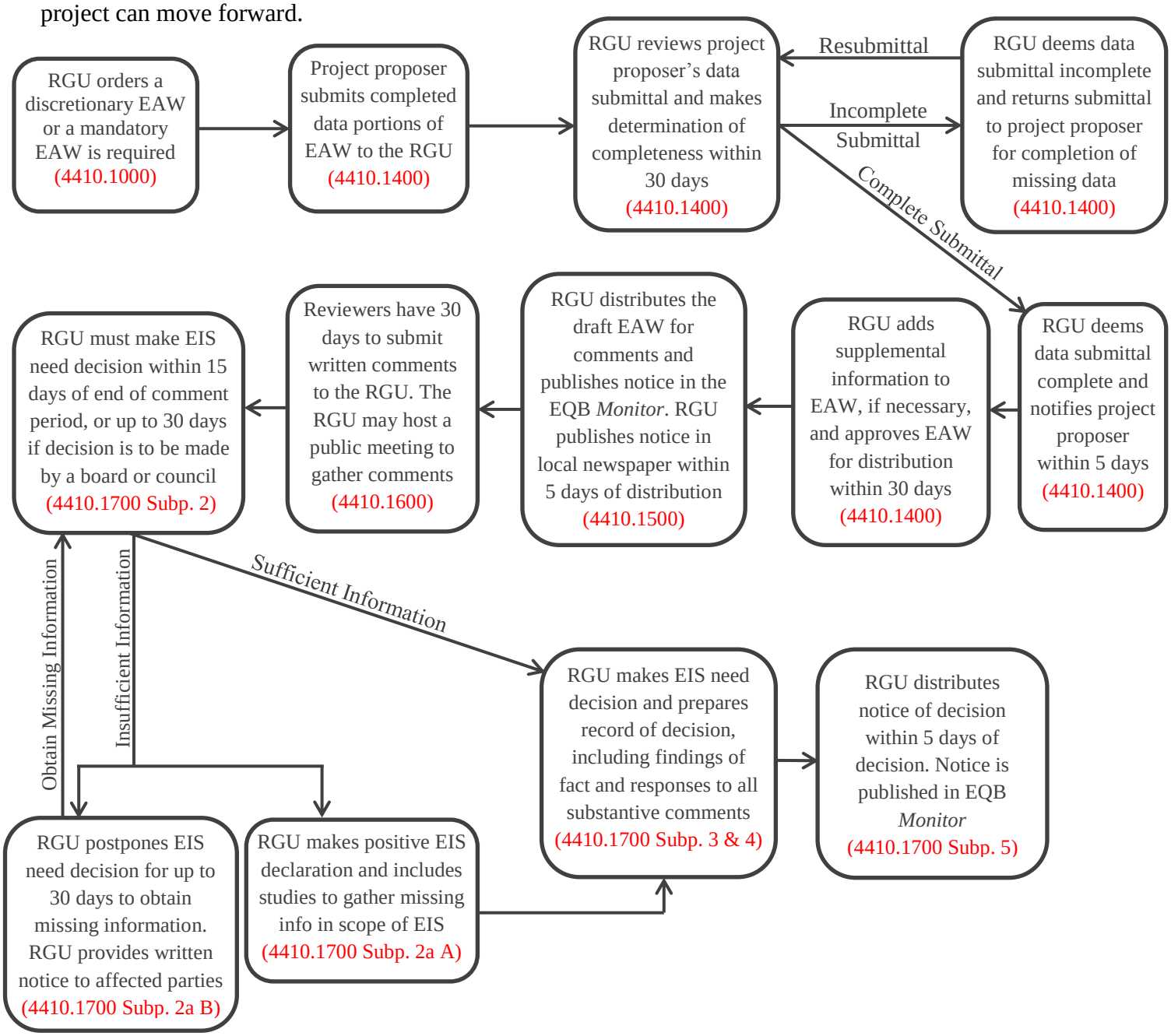
Step 14 – Notify all required parties of the RGU's decision

Regardless of the decision made on the petition, the RGU must notify the petitioners' representative, the project proposer, and anyone else who requested notification of the RGU's decision within five days of the date of decision.

EAW Process Steps

(Minnesota Rules 4410.1000 – 700)

The EAW should be prepared as early as practicable in the project development process. The RGU as designated in Minnesota Rules 4410 is responsible for preparing the EAW based on data submitted by the project proposer. The EAW process includes a comment period and the option for an RGU to host a public meeting to gather additional comments. Once the EAW process is completed, the RGU must make a decision on the need for an EIS. Minnesota Rules 4410.1700, Subpart 1 specifies that a positive EIS decision shall be made for projects that "have the potential for significant environmental effects". If a project does not have the potential for significant environmental effects, then the RGU shall issue a negative EIS decision, and the project can move forward.



Minnesota Environmental Review Program Rules, Chapter 4410.

Unofficial Version, prepared January 2007 by EQB staff, showing amendments effective October 30, 2006. Official version of rules available from Office of Revisor of Statutes or Minnesota's Bookstore.

4410.0200 DEFINITIONS AND ABBREVIATIONS.

Subpart 1. **Scope.** For the purpose of parts 4410.0200 to 4410.6500 the following terms and abbreviations have the meanings given them, unless otherwise provided.

Subp. 1a.

Deleted: Agency. "Agency" means the State Planning ¶ Agency.

Subp. 2. **Agricultural land.** "Agricultural land" means land that is or has, within the last five years, been devoted to the production of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit, vegetables, forage, grains, or bees and apiary products. Wetlands, naturally vegetated lands, and woodlands contiguous to or surrounded by agricultural land shall be considered agricultural lands if under the same ownership or management as that of the agricultural land during the period of agricultural use.

Subp. 3. **Animal units.** "Animal units" has the meaning given in part 7020.0300, subpart 5.

Subp. 4. **Approval.** "Approval" means a decision by a unit of government to issue a permit or to otherwise authorize the commencement of a proposed project.

Subp. 5. **Attached units.** "Attached units" means in groups of four or more units each of which shares one or more common walls with another unit.

Subp. 6. **Biomass sources.** "Biomass sources" means animal waste and all forms of vegetation, natural or cultivated.

Subp. 6a. **Capacity.** "Capacity," as used in parts 4410.4300, subpart 17, and 4410.4400, subpart 13, means the maximum daily operational input volume a facility is designed to process on a continuing basis.

Subp. 7. **Class I dam.** "Class I dam" has the meaning given in part 6115.0340.

Subp. 8. **Class II dam.** "Class II dam" has the meaning given in part 6115.0340.

Subp. 9. **Collector roadway.** "Collector roadway" means a road that provides access to minor arterial roadways from local

streets and adjacent land uses.

Subp. 9a. **Compost facility.** "Compost facility" means a facility used to compost or co-compost solid waste, including:

A. structures and processing equipment used to control drainage or collect and treat leachate; and

B. storage areas for incoming waste, the final product, and residuals resulting from the composting process.

Subp. 9b. **Connected actions.** Two projects are "connected actions" if a responsible governmental unit determines they are related in any of the following ways:

A. one project would directly induce the other;

B. one project is a prerequisite for the other and the prerequisite project is not justified by itself; or

C. neither project is justified by itself.

Subp. 10. **Construction.** "Construction" means any activity that directly alters the environment. It includes preparation of land or fabrication of facilities. It does not include surveying or mapping.

Subp. 11. **Cumulative impact.** "Cumulative impact" means the impact on the environment that results from incremental effects of the project in addition to other past, present, and reasonably foreseeable future projects regardless of what person undertakes the other projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Subp. 12. **Day.** "Day" in counting any period of time shall not include the day of the event from which the designated period of time begins. The last day of the period counted shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is 15 days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the counting of days.

Subp. 13. [Repealed by amendment, L 1983 c 289 s 115 subd 1]

Subp. 14. **Disposal facility.** "Disposal facility" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 10.

Subp. 15. **DNR.** "DNR" means Department of Natural Resources.

Subp. 16. **DOT.** "DOT" means Department of Transportation.

Subp. 17. **EAW.** "EAW" means environmental assessment worksheet.

Subp. 18. **EIS.** "EIS" means environmental impact statement.

Subp. 19. [Repealed, 21 SR 1458]

Subp. 20. [Repealed, 21 SR 1458]

Subp. 21. [Repealed, 21 SR 1458]

Subp. 22. **Emergency.** "Emergency" means a sudden unexpected occurrence, natural or caused by humans, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes fire, flood, windstorm, riot, accident, or sabotage.

Subp. 22a. **Energy recovery facility.** "Energy recovery facility" means a facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion or by first converting the solid waste into an intermediate fuel product. It does not include facilities that produce, but do not burn, refuse-derived fuel.

Subp. 23. **Environment.** "Environment" means physical conditions existing in the area that may be affected by a proposed project. It includes land, air, water, minerals, flora, fauna, ambient noise, energy resources, and artifacts or natural features of historic, geologic, or aesthetic significance.

Subp. 24. **Environmental assessment worksheet.** "Environmental assessment worksheet" means a brief document which is designed to set out the basic facts necessary to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS.

Subp. 25. **Environmental document.** "Environmental document" means EAW, draft EIS, final EIS, substitute review document, and other environmental analysis documents.

Subp. 26. **Environmental impact statement.** "Environmental impact statement" means a detailed written statement as required by Minnesota Statutes, section 116D.04, subdivision 2a.

Subp. 27. **EQB.** "EQB" means Environmental Quality Board.

Subp. 28. **Expansion.** "Expansion" means an extension of the capability of a facility to produce or operate beyond its existing capacity. It excludes repairs or renovations that do not increase the capacity of the facility.

Subp. 29. **First class city.** "First class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 30. **Floodplain.** "Floodplain" has the meaning given

in Minnesota Statutes, section 103F.111.

Subp. 31. [Repealed, 21 SR 1458]

Subp. 32. **Fourth class city.** "Fourth class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 33. **Governmental action.** "Governmental action" means activities including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by governmental units, including the federal government.

Subp. 34. **Governmental unit.** "Governmental unit" means any state agency and any general or special purpose unit of government in the state, including watershed districts organized under Minnesota Statutes, chapter 103D, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council, but not including courts, school districts, and regional development commissions.

Subp. 35. **Gross floor space.** "Gross floor space" means the total square footage of all floors but does not include parking lots or approach areas.

Subp. 35a. **Genetically engineered organism.** "Genetically engineered organism" has the meaning given in part 4420.0010, subpart 14.

Subp. 35b. **Genetic engineering.** "Genetic engineering" has the meaning given in part 4420.0010, subpart 15.

Subp. 36. **Ground area.** "Ground area" means the total surface area of land that would be converted to an impervious surface by the proposed project. It includes structures, parking lots, approaches, service facilities, appurtenant structures, and recreational facilities.

Subp. 37. **Hazardous waste.** "Hazardous waste" has the meaning given in parts 7045.0129 to 7045.0141.

Subp. 38. **High voltage transmission line.** "High voltage transmission line" has the meaning given in part 4410.7015.

Subp. 39. **Highway safety improvement project.** "Highway safety improvement project" means a project designed to improve safety of highway locations that have been identified as hazardous or potentially hazardous. Projects in this category include the removal, relocation, remodeling, or shielding of roadside hazards; installation or replacement of traffic signals; and the geometric correction of identified high accident locations requiring the acquisition of minimal amounts of right-of-way.

Subp. 40. **HVTL.** "HVTL" means high voltage transmission line.

Subp. 40a. **Incinerator.** "Incinerator" means any furnace

used in the process of burning solid waste for the purpose of reducing the volume of waste by removing combustible matter.

Subp. 41. **Large electric power generating plant; LEPGP.** "Large electric power generating plant" or "LEPGP" has the meaning given in part 4410.7015.

Subp. 42. **LEPGP.** "LEPGP" means large electric power generating plant.

Subp. 42a. **Light industrial facility.** "Light industrial facility" means a subcategory of industrial land use with a primary function other than manufacturing and less than 500 employees.

Subp. 43. **Local governmental unit.** "Local governmental unit" means any unit of government other than the state or a state agency or the federal government or a federal agency. It includes watershed districts established pursuant to Minnesota Statutes, chapter 103D, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council. It does not include courts, school districts, and regional development commissions.

Subp. 44. **Marina.** "Marina" has the meaning given in part 6115.0170.

Subp. 45. **MDA.** "MDA" means Minnesota Department of Agriculture.

Subp. 46. **MDH.** "MDH" means Minnesota Department of Health.

Subp. 47. **Mineral deposit evaluation.** "Mineral deposit evaluation" has the meaning given in Minnesota Statutes, section 103I.605, subdivision 2.

Subp. 48. **Minnesota River Project Riverbend area.** "Minnesota River Project Riverbend area" means an area subject to the comprehensive land use plan of the Project Riverbend Board established under Minnesota Statutes, chapter 103F.

Subp. 49. **Mississippi headwaters area.** "Mississippi headwaters area" means an area subject to the comprehensive land use plan of the Mississippi River Headwaters Board established under Minnesota Statutes, chapter 103F.

Subp. 50. **Mississippi headwaters plan.** "Mississippi headwaters plan" means the comprehensive land use plan of the Mississippi River Headwaters Board established under Minnesota Statutes, chapter 103F.

Subp. 51. **Mitigation.** "Mitigation" means:

A. avoiding impacts altogether by not undertaking a certain project or parts of a project;

B. minimizing impacts by limiting the degree of

magnitude of a project;

C. rectifying impacts by repairing, rehabilitating, or restoring the affected environment;

D. reducing or eliminating impacts over time by preservation and maintenance operations during the life of the project;

E. compensating for impacts by replacing or providing substitute resources or environments; or

F. reducing or avoiding impacts by implementation of pollution prevention measures.

Subp. 52. **Mixed municipal solid waste.** "Mixed municipal solid waste" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 21.

Subp. 53. **Natural watercourse.** "Natural watercourse" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 13.

Subp. 54. **Negative declaration.** "Negative declaration" means a written statement by the RGU that a proposed project does not require the preparation of an EIS.

Subp. 55. **Open space land use.** "Open space land use" means a use particularly oriented to and using the outdoor character of an area including agriculture, campgrounds, parks, and recreation areas.

Subp. 55a. **Organism.** "Organism" has the meaning given in part 4420.0010, subpart 18.

Subp. 56. **PCA.** "PCA" means Minnesota Pollution Control Agency.

Subp. 56a. **PCB.** "PCB" has the meaning given in Minnesota Statutes, section 116.36, subdivision 4.

Subp. 57. **Permanent conversion.** "Permanent conversion" means a change in use of agricultural, naturally vegetated, or forest lands that impairs the ability to convert the land back to its agricultural, natural, or forest capacity in the future. It does not include changes in management practices, such as conversion to parklands, open space, or natural areas.

Subp. 58. **Permit.** "Permit" means a permit, lease, license, certificate, or other entitlement for use or permission to act that may be granted or issued by a governmental unit, or the commitment to issue or the issuance of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, by a governmental unit.

Subp. 59. **Person.** "Person" means any natural person, state, municipality, or other governmental unit, political

subdivision, other agency or instrumentality, or public or private corporation, partnership, firm, association, or other organization, receiver, trustee, assignee, agent, or other legal representative of the foregoing, and any other entity.

Subp. 60. **Phased action.** "Phased action" means two or more projects to be undertaken by the same proposer that a RGU determines:

A. will have environmental effects on the same geographic area; and

B. are substantially certain to be undertaken sequentially over a limited period of time.

Subp. 61. **Positive declaration.** "Positive declaration" means a written statement by the RGU that a proposed project requires the preparation of an EIS.

Subp. 62. **Potentially permanent.** "Potentially permanent" means a dwelling for human habitation that is permanently affixed to the ground or commonly used as a place of residence. It includes houses, seasonal and year round cabins, and mobile homes.

Subp. 63. **Preparation notice.** "Preparation notice" means a written notice issued by the RGU stating that an EIS will be prepared for a proposed project.

Subp. 64. **Processing.** "Processing," as used in parts 4410.4300, subpart 16, items B and C, and 4410.4400, subpart 12, item C, has the meaning given in Minnesota Statutes, section 115A.03, subdivision 25.

Subp. 65. **Project.** "Project" means a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project.

Subp. 66. [Repealed, 13 SR 1437]

Subp. 67. **Project Riverbend Plan.** "Project Riverbend Plan" means the comprehensive land use plan of the Project Riverbend Board established under Minnesota Statutes, chapter 103F.

Subp. 68. **Proposer.** "Proposer" means the person or governmental unit that proposes to undertake or to direct others to undertake a project.

Subp. 69. Public **waters.** "Public waters" has the meaning given in Minnesota Statutes, section 103G.005.

Subp. 70. Public waters **wetland.** "Public waters wetland" has the meaning given in Minnesota Statutes, section 103G.005, subdivision

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15a.

Subp. 70a. **PUC.** "PUC" means the Minnesota Public Utilities Commission.

Subp. 71. **Recreational development.** "Recreational development" means facilities for temporary residence while in pursuit of leisure activities. Recreational development includes, but is not limited to, recreational vehicle parks, rental or owned campgrounds, and condominium campgrounds.

Subp. 71a. **Refuse-derived fuel.** "Refuse-derived fuel" means the product resulting from techniques or processes used to prepare solid waste by shredding, sorting, or compacting for use as an energy source.

Subp. 71b. **Release.** "Release" has the meaning given in part 4420.0010, subpart 19.

Subp. 72. [Repealed, 13 SR 1437]

Subp. 73. **Resource recovery.** "Resource recovery" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. 74. [Repealed, 13 SR 1437]

Subp. 75. **Responsible governmental unit.** "Responsible governmental unit" means the governmental unit that is responsible for preparation and review of environmental documents.

Subp. 76. **RGU.** "RGU" means responsible governmental unit.

Subp. 77. **Scientific and natural area.** "Scientific and natural area" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 5.

Subp. 78. **Scram mining operation.** "Scram mining operation" has the meaning given in part 6130.0100.

Subp. 79. **Second class city.** "Second class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 80. **Sewage collection system.** "Sewage collection system" means a piping or conveyance system that conveys wastewater to a wastewater treatment plant.

Subp. 81. **Sewered area.** "Sewered area" means an area:

A. that is serviced by a wastewater treatment facility or a publicly owned, operated, or supervised centralized septic system servicing the entire development; or

B. that is located within the boundaries of the metropolitan urban service area, as defined pursuant to the development framework of the Metropolitan Council.

Subp. 82. **Shoreland.** "Shoreland" has the meaning given in part 6120.2500, subpart 15, of the Department of Natural Resources.

Subp. 83. [Repealed, 21 SR 1458]

Subp. 84. **Solid waste.** "Solid waste" has the meaning given in Minnesota Statutes, section 116.06, subdivision 22.

Subp. 84a. **Sports or entertainment facility.** "Sports or entertainment facility" means a facility intended for the presentation of sports events and various forms of entertainment or amusement. Examples include sports stadiums or arenas, racetracks, concert halls or amphitheaters, theaters, facilities for pageants or festivals, fairgrounds, amusement parks, and zoological gardens.

Subp. 85. **State trail corridor.** "State trail corridor" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 4.

Subp. 86. **Storage.** "Storage," as used in part 4410.4300, subpart 16, item D, has the meaning given in Code of Federal Regulations 1980, title 40, section 260.10 (a)(66).

Subp. 87. **Third class city.** "Third class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 88. **Tiering.** "Tiering" means incorporating by reference the discussion of an issue from a broader or more general EIS. An example of tiering is the incorporation of a program or policy statement into a subsequent environmental document of a more narrow scope, such as a site-specific EIS.

Subp. 89. **Transfer station.** "Transfer station" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 33.

Subp. 89a. **Warehousing facility.** "Warehousing facility" means a subcategory of industrial-commercial land use that has as its primary function the storage of goods or materials. Warehousing facilities may include other uses, such as office space or sales, in minor amounts.

Subp. 90. **Waste.** "Waste" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 34.

Subp. 91. **Waste facility.** "Waste facility" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 35.

Subp. 92. **Wastewater treatment facility.** "Wastewater treatment facility" means a facility for the treatment of municipal or industrial waste water.

Deleted: It includes on-site treatment facilities.

Subp. 92a. **Water-related land use management district.**

"Water-related land use management district" includes:

A. shoreland areas;

B. floodplains;

C. wild and scenic rivers districts;

D. areas subject to the comprehensive land use plan of the Project Riverbend Board under Minnesota Statutes, chapter 103F; and

E. areas subject to the comprehensive land use plan of the Mississippi River Headwaters Board under Minnesota Statutes, chapter 103F.

Subp. 92b. **Water-related land use management district ordinance or plan, approved.** "Water-related land use management district ordinance or plan, approved" means:

A. a state-approved shoreland ordinance;

B. a state-approved floodplain ordinance;

C. a state-approved wild and scenic rivers district ordinance;

D. the comprehensive land use plan of the Project Riverbend Board under Minnesota Statutes, chapter 103F; or

E. the comprehensive land use plan of the Mississippi River Headwaters Board under Minnesota Statutes, chapter 103F.

Subp. 92c. **Waters of the state.** "Waters of the state" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 17.

Subp. 93. **Wetland.** "Wetland" has the meaning given in U.S. Fish and Wildlife Service Circular No. 39 (1971 edition).

Subp. 94. **Wild and scenic rivers district.** "Wild and scenic rivers district" means a river or a segment of the river and its adjacent lands that possess outstanding scenic, recreational, natural, historical, scientific, or similar values and has been designated by the commissioner of the DNR or by the legislature of the state of Minnesota for inclusion within the Minnesota wild and scenic rivers system pursuant to Minnesota Statutes, sections 103F.301 to 103F.345, or by congress for inclusion within the national wild and scenic rivers system pursuant to United States Code 1976, title 16, sections 1274 to 1286.

Subp. 95. **Wild and scenic rivers district ordinances, state approved.** "Wild and scenic rivers district ordinances, state approved" means a local governmental unit ordinance implementing the state management plan for the district. The ordinance must be approved by the commissioner of the DNR

pursuant to parts 6105.0220 to 6105.0250 or 6105.0500 to 6105.0550 of the Department of Natural Resources.

Subp. 96. **Wilderness area.** "Wilderness area" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 6.

4410.0300 AUTHORITY, SCOPE, PURPOSE, AND OBJECTIVES.

Subpart 1. **Authority.** Parts 4410.0200 to 4410.6500 are issued under authority granted in Minnesota Statutes, chapter 116D, to implement the environmental review procedures established by the Minnesota Environmental Policy Act.

Subp. 2. **Scope.** Parts 4410.0200 to 4410.6500 apply to all governmental actions. They shall apply to projects for which environmental review has not been initiated prior to September 28, 1982. For any project for which environmental review has been initiated by submission of a citizens petition, environmental assessment worksheet, environmental impact statement preparation notice, or environmental impact statement to the EQB prior to September 28, 1982, all governmental decisions that may be required for that project shall be acted upon in accord with prior rules.

Subp. 3. **Purpose.** The Minnesota Environmental Policy Act recognizes that the restoration and maintenance of environmental quality is critically important to our welfare. The act also recognizes that human activity has a profound and often adverse impact on the environment.

A first step in achieving a more harmonious relationship between human activity and the environment is understanding the impact which a proposed project will have on the environment. The purpose of parts 4410.0200 to 4410.6500 is to aid in providing that understanding through the preparation and public review of environmental documents.

Environmental documents shall contain information that addresses the significant environmental issues of a proposed action. This information shall be available to governmental units and citizens early in the decision making process.

Environmental documents shall not be used to justify a decision, nor shall indications of adverse environmental effects necessarily require that a project be disapproved. Environmental documents shall be used as guides in issuing, amending, and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.

Subp. 4. **Objectives.** The process created by parts 4410.0200 to 4410.6500 is designed to:

A. provide usable information to the project proposer, governmental decision makers and the public concerning

the primary environmental effects of a proposed project;

B. provide the public with systematic access to decision makers, which will help to maintain public awareness of environmental concerns and encourage accountability in public and private decision making;

C. delegate authority and responsibility for environmental review to the governmental unit most closely involved in the project;

D. reduce delay and uncertainty in the environmental review process; and

E. eliminate duplication.

4410.0400 GENERAL RESPONSIBILITIES.

Subpart 1. **EQB.** The EQB shall monitor the effectiveness of parts 4410.0200 to 4410.6500 and shall take appropriate measures to modify and improve their effectiveness. The EQB shall assist governmental units and interested persons in understanding and implementing the rules.

Subp. 2. **RGU's.** RGU's shall be responsible for verifying the accuracy of environmental documents and complying with environmental review processes in a timely manner.

Subp. 3. **Governmental units, private individuals, citizen groups, and business concerns; trade secret information.** When environmental review documents are required on a project, the proposer of the project and any other person shall supply any data reasonably requested by the RGU which the proposer has in his or her possession or to which the proposer has reasonable access.

Information submitted to the RGU that qualifies as trade secret information under Minnesota Statutes, section 13.37, subdivision 1, paragraph (b), must be treated as nonpublic data in accordance with Minnesota Statutes, chapter 13.

Subp. 4. **Appeal of final decisions.** Decisions by a RGU on the need for an EAW, the need for an EIS and the adequacy of an EIS are final decisions and may be reviewed by a declaratory judgment action initiated within 30 days of the RGU's decision in the district court of the county where the proposed project, or any part thereof, would be undertaken.

4410.0500 RGU SELECTION PROCEDURES.

Subpart 1. **RGU for mandatory categories.** For any project listed in part 4410.4300 or 4410.4400, the governmental unit specified in those rules shall be the RGU unless the project will be carried out by a state agency, in which case that state agency shall be the RGU. For any project listed in both parts

4410.4300 and 4410.4400, the RGU shall be the unit specified in part 4410.4400. For any project listed in two or more subparts of part 4410.4300 or two or more subparts of part 4410.4400, the RGU shall be determined as specified in subpart 5.

Subp. 2. **RGU for discretionary EAW's.** If a governmental unit orders an EAW pursuant to part 4410.1000, subpart 3, item A, that governmental unit shall be designated as the RGU.

Subp. 3. **RGU for petition EAW's.** If an EAW is ordered in response to a petition, the RGU that was designated by the EQB to act on the petition shall be responsible for the preparation of the EAW. The EQB chair or designee shall determine an RGU to act on the petition as follows:

A. if a state agency proposes to carry out the project, it shall be the RGU;

B. for any project of a type for which a mandatory category is listed in part 4410.4300, the RGU shall be the governmental unit specified by the mandatory category for projects of that type, unless the project will be carried out by a state agency; or

C. for any project of a type for which there is no mandatory category listed in part 4410.4300 and which will not be carried out by a state agency, the RGU shall be selected in accordance with subpart 5.

In applying items A, B, and C, the EQB chair or designee shall not designate as the RGU any governmental unit which has already made its final decisions to grant all permits or approvals required from it to construct the project. If as a result, the RGU cannot be designated under item A, B, or C, the RGU shall be designated pursuant to subpart 5, except that no completed data portions of an EAW shall be required for the determination.

Subp. 4. **RGU for EAW by order of EQB.** If the EQB orders an EAW pursuant to part 4410.1000, subpart 3, item C, the EQB shall, at the same time, designate the RGU for that EAW.

Subp. 5. **RGU selection generally.** For any project where the RGU is not listed in part 4410.4300 or 4410.4400 or which falls into more than one category in part 4410.4300 or 4410.4400, or for which the RGU is in question, the RGU shall be determined as follows:

A. When a single governmental unit proposes to carry out or has sole jurisdiction to approve a project, it shall be the RGU.

B. When two or more governmental units propose to carry out or have jurisdiction to approve the project, the RGU shall be the governmental unit with the greatest responsibility for supervising or approving the project as a whole. Where it is not clear which governmental unit has the greatest

responsibility for supervising or approving the project or where there is a dispute about which governmental unit has the greatest responsibility for supervising or approving the project, the governmental units shall either:

(1) by agreement, designate which unit shall be the RGU within five days of receipt of the completed data portion of the EAW; or

(2) submit the question to the EQB chairperson, who shall within five days of receipt of the completed data portions of the EAW designate the RGU based on a consideration of which governmental unit has the greatest responsibility for supervising or approving the project or has expertise that is relevant for the environmental review.

Subp. 6. **Exception.** Notwithstanding subparts 1 to 5, the EQB may designate, within five days of receipt of the completed data portions of the EAW, a different RGU for the project if the EQB determines the designee has greater expertise in analyzing the potential impacts of the project.

4410.1000 PROJECTS REQUIRING AN EAW.

Subpart 1. **Purpose of an EAW.** The EAW is a brief document prepared in worksheet format which is designed to rapidly assess the environmental effects which may be associated with a proposed project. The EAW serves primarily to:

A. aid in the determination of whether an EIS is needed for a proposed project; and

B. serve as a basis to begin the scoping process for an EIS.

Subp. 2. **Mandatory EAW categories.** An EAW shall be prepared for any project that meets or exceeds the thresholds of any of the EAW categories listed in part 4410.4300 or any of the EIS categories listed in part 4410.4400.

Subp. 3. **Discretionary EAWs.** An EAW shall be prepared:

A. when a project is not exempt under part 4410.4600 and when a governmental unit with approval authority over the proposed project determines that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects;

B. when a project is not exempt under part 4410.4600 and when a governmental unit with approval authority over a proposed project determines pursuant to the petition process set forth in part 4410.1100 that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects;

C. whenever the EQB determines that, because of the

nature or location of a proposed project, the project may have the potential for significant environmental effects (this item shall not be applicable to a project exempt under part 4410.4600 or to a project for which a governmental unit, with approval authority over the project, has made a prior negative or positive determination concerning the need for an EAW concerning the project); or

D. when the proposer wishes to initiate environmental review to determine if a project has the potential for significant environmental effects.

Subp. 4. **Connected actions and phased actions.** Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EAW, preparing the EAW, and determining the need for an EIS.

In connected actions and phased actions where it is not possible to adequately address all the project components or stages at the time of the initial EAW, a new EAW must be completed before approval and construction of each subsequent project component or stage. Each EAW must briefly describe the past and future stages or components to which the subject of the present EAW is related.

For proposed projects such as highways, streets, pipelines, utility lines, or systems where the proposed project is related to a large existing or planned network, for which a governmental unit has determined environmental review is needed, the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration in the threshold determination and EAW. These selections must be logical in relation to the design of the total system or network and must not be made merely to divide a large system into exempted segments.

When review of the total of a project is separated under this subpart, the components or stages addressed in each EAW must include at least all components or stages for which permits or approvals are being sought from the RGU or other governmental units.

Subp. 5. **Change in proposed project; new EAW.** If, after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a substantial change has been made in the proposed project or has occurred in the RGU's circumstances, which change ~~that~~ may affect the potential for significant adverse environmental effects that were not addressed in the existing EAW, a new EAW is required.

4410.1100 PETITION PROCESS.

Subpart 1. **Petition.** Any person may request the preparation of an EAW on a project by filing a petition that contains the signatures and mailing addresses of at least 25

individuals.

Subp. 2. **Content.** The petition shall also include:

A. a description of the proposed project;

B. the proposer of the project;

C. the name, address, and telephone number of the representative of the petitioners;

D. a brief description of the potential environmental effects which may result from the project; and

E. material evidence indicating that, because of the nature or location of the proposed project, there may be potential for significant environmental effects.

Subp. 3. **Filing of petition.** The petition shall be filed with the EQB for a determination of the RGU.

Subp. 4. **Notice to proposer.** The petitioners shall notify the proposer in writing at the time they file a petition with the EQB.

Subp. 5. **Determination of RGU.** The EQB's chair or designee shall determine whether the petition complies with the requirements of subparts 1 and 2. If the petition complies, the chair or designee shall designate an RGU pursuant to part 4410.0500 and forward the petition to the RGU within five days of receipt of the petition.

Subp. 6. **EAW decision.** The RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers, and other persons or otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects. The RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects. In considering the evidence, the RGU must take into account the factors listed in part 4410.1700, subpart 7. The RGU shall maintain, either as a separate document or contained within the records of the RGU, a record, including specific findings of fact, of its decision on the need for an EAW.

Subp. 7. **Time limits.** The RGU has 15 days from the date of the receipt of the petition to decide on the need for an EAW.

If the decision must be made by a board, council, or other body which meets only on a periodic basis, the time period may be extended by the RGU for an additional 15 days.

For all other RGU's, the EQB's chair shall extend the 15-day period by not more than 15 additional days upon request of the RGU.

Subp. 8. **Notice of decision.** Within five days of its decision the RGU shall notify, in writing, the proposer, the EQB staff, and the petitioner's representative of its decision. The EQB staff shall publish notice of the RGU's decision concerning the petition in the EQB Monitor.

Subp. 9. **Duration of effect of petition.** If an RGU cannot act on a petition because no permit application has been filed, the application has been withdrawn, or the application has been denied, the petition remains in effect for no more than one year from the date on which it was filed with the EQB. While the petition remains in effect, part 4410.3100, subparts 1 and 2, applies to any proposed project for which the nature and location is substantially similar to the project identified in the petition.

4410.1200 EAW CONTENT.

The EAW shall address at least the following major categories in the form provided on the worksheet:

A. identification including project name, project proposer, and project location;

B. procedural details including identification of the RGU, EAW contact person, and instructions for interested persons wishing to submit comments;

C. description of the project, the purpose of the project, methods of construction, quantification of physical characteristics and impacts, project site description, and land use and physical features of the surrounding area;

D. resource protection measures that have been incorporated into the project design;

E. major issues sections identifying potential environmental impacts and issues that may require further investigation before the project is commenced;

F. known governmental approvals, reviews, or financing required, applied for, or anticipated and the status of any applications made, including permit conditions that may have been ordered or are being considered;

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G. if the project will be carried out by a governmental unit, a brief explanation of the need for the project and an identification of those who will benefit from the project; and

H. an assessment of the compatibility of the project with approved plans of local units of government.

4410.1300 EAW FORM.

The EQB chair shall develop an EAW form to be used by the RGU. The EQB chair may approve the use of an alternative EAW

form if an RGU demonstrates the alternative form will better accommodate the RGU's function or better address a particular type of project and the alternative form will provide more complete, more accurate, or more relevant information.

The EAW form shall be assessed by the EQB chair periodically and may be altered by the EQB chair to improve the effectiveness of the document.

If a federal Environmental Assessment has been prepared for a project, the Environmental Assessment document may be circulated in place of the EAW form, provided that the Environmental Assessment addresses each of the environmental effects identified in the EAW form.

4410.1400 PREPARATION OF AN EAW.

The EAW shall be prepared as early as practicable in the development of the proposed project. The EAW shall be prepared by the RGU or its agents.

When an EAW is to be prepared, the proposer shall submit the completed data portions of the EAW to the RGU. The RGU shall determine whether the proposer's submittal is complete within 30 days or such other time period as agreed upon by the RGU and proposer. If the RGU determines that the submittal is incomplete, the RGU shall return the submittal to the proposer for completion of the missing data. If the RGU determines that the submittal is complete, the RGU shall notify the proposer of the acceptance of the submittal within five days. The RGU shall have 30 days from notification to add supplementary material to the EAW, if necessary, and to approve the EAW for distribution. The RGU shall be responsible for the completeness and accuracy of all information.

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4410.1500 PUBLICATION AND DISTRIBUTION OF AN EAW.

A. The RGU shall provide one copy of the EAW to the EQB staff within five days after the RGU approves the EAW. This copy shall serve as notification to the EQB staff to publish the notice of availability of the EAW in the EQB Monitor. At the time of submission of the EAW to the EQB staff, the RGU shall also submit one copy of the EAW to:

(1) each member of the EQB;

(2) the proposer of the project;

(3) the U.S. Corps of Engineers;

(4) the U.S. Environmental Protection Agency;

(5) the U.S. Fish and Wildlife Service;

(6) the State Historical Society;

(7) the State Archeologist;

(8) the Indian Affairs Council;

(9) the Environmental Conservation Library ;

(~~9~~ 10) the regional development commission and regional development library for the region of the project site;

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(~~10~~ 11) any local governmental unit within which the project will take place;

(~~11~~ 12) the representative of any petitioners pursuant to part 4410.1100; and

(~~12~~ 13) any other person upon written request.

B. Within five days of the date of submission of the EAW to the EQB staff, the RGU shall provide a press release, containing notice of the availability of the EAW for public review, to at least one newspaper of general circulation within the area where the project is proposed. The press release shall include the name and location of the project, a brief description of the project, the location at which copies of the EAW are available for review, the date the comment period expires, and the procedures for commenting. The RGU shall publish legal notice or advertisement of the availability of the EAW if the proposer requests and agrees to pay for the notice or advertisement. The notice or advertisement shall contain the information required in the press release.

C. The EQB staff shall maintain an official EAW distribution list containing the names and addresses of agencies designated to receive EAW's.

4410.1600 EAW COMMENT PERIOD.

A 30-day period for review and comment on the EAW shall begin the day the EAW availability notice is published in the EQB Monitor.

Written comments shall be submitted to the RGU during the 30-day review period. The comments shall address the accuracy and completeness of the material contained in the EAW, potential impacts that may warrant further investigation before the project is commenced, and the need for an EIS on the proposed project.

The RGU may hold one or more public meetings to gather comments on the EAW if it determines that a meeting is necessary or useful. Reasonable public notice of the meetings shall be given prior to the meetings. All meetings shall be open to the public.

4410.1700 DECISION ON NEED FOR EIS.

Subpart 1. **Standard for decision on need for EIS.** An EIS shall be ordered for projects that have the potential for significant environmental effects.

Subp. 2. **Decision-making process.** The decision on the need for an EIS shall be made in compliance with one of the following time schedules:

A. if the decision is to be made by a board, council, or other body which meets only on a periodic basis, the decision shall be made between three and 30 days after the close of the review period; or

B. for all other RGU's the decision shall be made no later than 15 days after the close of the 30-day review period. This 15-day period shall be extended by the EQB chair by no more than 15 additional days upon request of the RGU.

Subp. 2a. **Insufficient information.** If the RGU determines that information necessary to a reasoned decision about the potential for, or significance of, one or more possible environmental impacts is lacking, but could be reasonably obtained, the RGU shall either:

A. make a positive declaration and include within the scope of the EIS appropriate studies to obtain the lacking information; or

B. postpone the decision on the need for an EIS, for not more than 30 days or such other period of time as agreed upon by the RGU and proposer, in order to obtain the lacking information. If the RGU postpones the decision, it shall provide written notice of its action, including a brief description of the lacking information, within five days to the project proposer, the EQB staff, and any person who submitted substantive comments on the EAW.

Subp. 3. **Form and basis for decision.** The RGU's decision shall be either a negative declaration or a positive declaration. The RGU shall base its decision regarding the need for an EIS on the information gathered during the EAW process and the comments received on the EAW.

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Subp. 4. **Record of findings supporting decision.** The RGU shall maintain a record, including specific findings of fact, supporting its decision. The record must include specific responses to all substantive and timely comments on the EAW. This record shall either be a separately prepared document or contained within the records of the governmental unit.

Subp. 5. **Distribution of decision.** The RGU's decision shall be provided, within five days, to all persons on the EAW distribution list pursuant to part 4410.1500, to all persons that commented in writing during the 30-day review period, and to any person upon written request. All persons who submitted timely and substantive comments on the EAW shall be sent a copy of the RGU's response to those comments prepared under subpart 4. Upon notification, the EQB staff shall publish the RGU's decision in the EQB Monitor. If the decision is a positive

declaration, the RGU shall also indicate in the decision the date, time, and place of the scoping review meeting.

Subp. 6. **Standard.** In deciding whether a project has the potential for significant environmental effects the RGU shall compare the impacts that may be reasonably expected to occur from the project with the criteria in this part.

Subp. 7. **Criteria.** In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

A. type, extent, and reversibility of environmental effects;

B. cumulative potential effects of related or anticipated future projects;

C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and

D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

Subp. 8. [Repealed, 13 SR 1437]

Subp. 9. **Connected actions and phased actions.** Connected actions and phased actions shall be considered a single project for purposes of the determination of need for an EIS.

4410.2000 PROJECTS REQUIRING AN EIS.

Subpart 1. **Purpose of EIS.** The purpose of an EIS is to provide information for governmental units, the proposer of the project, and other persons to evaluate proposed projects which have the potential for significant environmental effects, to consider alternatives to the proposed projects, and to explore methods for reducing adverse environmental effects.

Subp. 2. **Mandatory EIS categories.** An EIS shall be prepared for any project that meets or exceeds the thresholds of any of the EIS categories listed in part 4410.4400.

Subp. 3. **Discretionary EIS.** An EIS shall be prepared:

A. when the RGU determines that, based on the EAW and any comments or additional information received during the EAW comment period, the proposed project has the potential for significant environmental effects; or

B. when the RGU and proposer of the project agree that an EIS should be prepared.

Subp. 4. **Connected actions and phased actions.** Multiple

projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EIS and in preparing the EIS.

In connected actions and phased actions where it is not possible to adequately address all the project components or stages at the time of the initial EIS, a supplemental EIS must be completed before approval and construction of each subsequent project component or stage. The supplemental EIS must address the impacts associated with the particular project component or stage that were not addressed in the initial EIS.

For proposed projects such as highways, streets, pipelines, utility lines, or systems where the proposed project is related to a large existing or planned network, for which a governmental unit has determined environmental review is needed, the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration in the threshold determination and EIS. These selections must be logical in relation to the design of the total system or network and must not be made merely to divide a large system into exempted segments.

When review of the total of a project is separated under this subpart, the components or stages addressed in each EIS or supplement must include at least all components or stages for which permits or approvals are being sought from the RGU or other governmental units.

Subp. 5. **Related actions EIS.** An RGU may prepare a single EIS for independent projects with potential cumulative environmental impacts on the same geographic area if the RGU determines that review can be accomplished in a more effective or efficient manner through a related actions EIS. A project must not be included in a related actions EIS if its inclusion would unreasonably delay review of the project compared to review of the project through an independent EIS.

4410.2100 EIS SCOPING PROCESS.

Subpart 1. **Purpose.** The scoping process shall be used before the preparation of an EIS to reduce the scope and bulk of an EIS, identify only those potentially significant issues relevant to the proposed project, define the form, level of detail, content, alternatives, time table for preparation, and preparers of the EIS, and to determine the permits for which information will be developed concurrently with the EIS.

Subp. 2. **EAW as scoping document.** All projects requiring an EIS must have an EAW filed with the RGU. The EAW shall be the basis for the scoping process.

For projects which fall within a mandatory EIS category or if a voluntary EIS is planned, the EAW will be used solely as a scoping document. For such projects, the RGU shall prepare and circulate with the EAW a draft scoping decision document that

addresses the contents specified by subpart 6 to the extent that information is already available. The purpose of the draft scoping decision document is to facilitate the delineation of issues and analyses to be contained in the EIS. The information in a draft scoping decision document shall be considered as preliminary and subject to revision based on the entire record of the scoping process.

If the need for an EIS has not been determined the EAW will have two functions:

A. to identify the need for preparing an EIS pursuant to part 4410.1700; and

B. to initiate discussion concerning the scope of the EIS if an EIS is ordered pursuant to part 4410.1700.

Subp. 3. **Scoping period.** If the EIS is being prepared pursuant to part 4410.2000, subpart 2 or 3, item B, the following schedule applies:

A. The 30-day scoping period will begin when the notice of the availability of the EAW is published in accord with part 4410.1500, items A and B. This notice and press release shall include the time, place, and date of the scoping meeting.

B. The RGU shall provide the opportunity for at least one scoping meeting during the scoping period. This meeting shall be held not less than 15 days after publication of the notice of availability of the EAW. All meetings shall be open to the public.

C. A final scoping decision shall be issued within 15 days after the close of the 30-day scoping period.

Subp. 4. **Scoping period for some discretionary EIS's.** If the EIS is being prepared pursuant to part 4410.2000, subpart 3, item A, the following schedule applies:

A. At least ten days but not more than 20 days after notice is published in the EQB Monitor, a public meeting shall be held to review the scope of the EIS. Notice of the time, date, and place of the scoping meeting shall be published in the EQB Monitor within 10 days of receipt of the proposer's scoping cost payment pursuant to part 4410.6500, subp. 1, item A, and a press release shall be provided to a newspaper of general circulation in the area where the project is proposed. All meetings shall be open to the public.

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B. Within 15 days of the public scoping meeting, the RGU shall issue its final decision regarding the scope of the EIS. If the decision of the RGU must be made by a board, council, or other similar body which meets only on a periodic basis, the decision may be made at the next regularly scheduled meeting of the body following the scoping meeting but not more than 45 days after the positive declaration is published in the EQB Monitor.

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Subp. 5. **Procedure for scoping.** Written comments suggesting issues for scoping or commenting on the EAW must be filed with the RGU during the scoping period. Interested persons may attend the scoping meeting to exercise their right to comment.

Governmental units and other persons shall be responsible for participating in the scoping process within the time limits and in the manner prescribed in parts 4410.0200 to 4410.6500.

Subp. 6. **Scoping decision; contents.** The scoping decision at the least shall contain:

A. the issues to be addressed in the EIS;

B. time limits for preparation, if they are shorter than those allowed by parts 4410.0200 to 4410.6500;

C. identification of the permits for which information will be gathered concurrently with EIS preparation;

D. identification of the permits for which a record of decision will be required;

E. alternatives that will be addressed in the EIS;

F. identification of potential impact areas resulting from the project itself and from related actions which shall be addressed in the EIS; and

G. identification of necessary studies requiring compilation of existing information or the development of new data that can be generated within a reasonable amount of time and at a reasonable cost.

Subp. 7. **Change in form of EIS.** The form of an EIS may be changed during scoping if circumstances indicate the need or appropriateness of an alternative form.

Subp. 8. **Amendments to scoping decision.** After the scoping decision is made, the RGU shall not amend the decision without the agreement of the proposer unless substantial changes are made in the proposed project that affect the potential significant environmental effects of the project or substantial new information arises relating to the proposed project that significantly affects the potential environmental effects of the proposed project or the availability of prudent and feasible alternatives to the project. If the scoping decision is amended after publication of the EIS preparation notice, notice and a summary of the amendment shall be published in the EQB Monitor within 30 days of the amendment. The notice may be incorporated into the notice of the availability of the draft or final EIS.

Subp. 9. **EIS preparation notice.** An EIS preparation notice shall be published within 45 days after the RGU receives the proposer's cash payment pursuant to part 4410.6410, subp. 3,

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or part 4410.6500, subp. 1, item B. The notice shall be published in the EQB Monitor, and a press release shall be provided to at least one newspaper of general circulation in each county where the project will occur. The notice shall contain a summary of the scoping decision.

Subp. 10. **Consultant selection.** The RGU shall be responsible for expediting the selection of consultants for the preparation of the EIS.

Subp. 11. **Modification of project; termination of EIS process.** After initiation of scoping for an EIS, if the proposed project is modified so that an EIS is no longer mandatory, or the reasons for ordering an EIS no longer apply, the RGU may terminate the EIS process as described in items A and B.

A. If the modified project meets or exceeds any threshold for a mandatory EAW listed at part 4410.4300, an EAW must be prepared on the modified project in accordance with parts 4410.1400 to 4410.1700. The EAW shall be accompanied by a notice of termination of the former EIS explaining the changes made in the proposed project and the reasons for the termination of the EIS.

B. If the modified project does not meet or exceed any thresholds for a mandatory EAW listed at part 4410.4300 and is not exempted pursuant to part 4410.4600, the RGU shall send written notice of its intent to terminate the EIS to all persons who submitted comments on the EIS scope and to all persons on the EAW distribution list under part 4410.1500. The notice shall summarize the reasons for the intended termination of the EIS, identify a contact person to whom comments may be sent, and announce the end of the comment period. The EQB staff shall publish notice in the EQB Monitor, and a press release shall be supplied by the RGU to at least one newspaper of general circulation in the area of the project.

A period of not less than ten days from the date of publication of the notice in the EQB Monitor shall be provided for interested persons to comment on the need for an EIS on the modified project and to object to the termination of the EIS. If no written objections are received by the RGU within the comment period, the EIS process is automatically terminated upon the expiration of the comment period. If any written objections are received by the RGU within the comment period, the RGU shall consider the comments received and determine the need to continue the EIS on the modified project in accordance with part 4410.1700.

Subp. 12. **Amendment of scope by order of EQB pursuant to resolution of a cost dispute.** If in resolving an EIS cost disagreement pursuant to part 4410.6410, the EQB finds that the scope of the EIS is not in conformance with parts 4410.2100 to 4410.2500, the EQB may order the RGU to amend the scope of the EIS to the extent necessary to conform to the requirements of those parts, and the new scope of the EIS shall be considered in

resolving the cost dispute.

4410.2200 EIS INTERDISCIPLINARY PREPARATION.

An EIS shall be prepared using an interdisciplinary approach which will ensure the integrated use of the natural, environmental, and social sciences. The RGU may request that another governmental unit help in the completion of the EIS. Governmental units shall provide any unprivileged data or information, to which it has reasonable access, concerning the subjects to be discussed and shall assist in the preparation of environmental documents on any project for which it has special expertise or access to information.

4410.2300 CONTENT OF EIS.

An EIS shall be written in plain and objective language. An RGU shall use a format for an EIS that will encourage good analysis and clear presentation of the proposed action including alternatives to the project. The standard format shall be:

A. Cover sheet: the cover sheet shall include:

(1) the RGU;

(2) the title of the proposed project that is the subject of the statement and, if appropriate, the titles of related actions, together with each county or other jurisdictions, if applicable, where the project is located;

(3) the name, address, and telephone number of the person at the RGU who can supply further information;

(4) the name and address of the proposer and the name, address, and telephone number of the proposer's representative who can supply further information;

(5) a designation of the statement as a draft, final, or supplement;

(6) a one paragraph abstract of the EIS; and

(7) if appropriate, the date of the public meeting on the draft EIS and the date following the meeting by which comments on the draft EIS must be received by the RGU.

B. Summary: the summary shall stress the major findings, areas of controversy, and the issues to be resolved including the choice among alternatives.

C. Table of contents: the table shall be used to assist readers to locate material.

D. List of preparers: this list shall include the names and qualifications of the persons who were primarily responsible for preparing the EIS or significant background

papers.

E. Project description: the proposed project shall be described with no more detail than is absolutely necessary to allow the public to identify the purpose of the project, its size, scope, environmental setting, geographic location, and the anticipated phases of development.

F. Governmental approvals: this section shall list all known governmental permits and approvals required including identification of the governmental unit which is responsible for each permit or approval. Those permits for which all necessary information has been gathered and presented in the EIS shall be identified.

G. Alternatives: the EIS shall compare the potentially significant impacts of the proposal with those of other reasonable alternatives to the proposed project. The EIS must address one or more alternatives of each of the following types of alternatives or provide a concise explanation of why no alternative of a particular type is included in the EIS: alternative sites, alternative technologies, modified designs or layouts, modified scale or magnitude, and alternatives incorporating reasonable mitigation measures identified through comments received during the comment periods for EIS scoping or for the draft EIS. An alternative may be excluded from analysis in the EIS if it would not meet the underlying need for or purpose of the project, it would likely not have any significant environmental benefit compared to the project as proposed, or another alternative, of any type, that will be analyzed in the EIS would likely have similar environmental benefits but substantially less adverse economic, employment, or sociological impacts. Alternatives included in the scope of the EIS as established under part 4410.2100 that were considered but eliminated based on information developed through the EIS analysis shall be discussed briefly and the reasons for their elimination shall be stated. The alternative of no action shall be addressed.

H. Environmental, economic, employment, and sociological impacts: for the proposed project and each major alternative there shall be a thorough but succinct discussion of potentially significant direct or indirect, adverse, or beneficial effects generated. Data and analyses shall be commensurate with the importance of the impact and the relevance of the information to a reasoned choice among alternatives and to the consideration of the need for mitigation measures; the RGU shall consider the relationship between the cost of data and analyses and the relevance and importance of the information in determining the level of detail of information to be prepared for the EIS. Less important material may be summarized, consolidated, or simply referenced. The EIS shall identify and briefly discuss any major differences of opinion concerning significant impacts of the proposed project on the environment.

I. Mitigation measures: this section shall identify those measures that could reasonably eliminate or minimize any

adverse environmental, economic, employment, or sociological effects of the proposed project.

J. Appendix: if a RGU prepares an appendix to an EIS the appendix shall include, when applicable:

(1) material prepared in connection with the EIS, as distinct from material which is not so prepared and which is incorporated by reference;

(2) material which substantiates any analysis fundamental to the EIS; and

(3) permit information that was developed and gathered concurrently with the preparation of the EIS. The information may be presented on the permitting agency's permit application forms. The appendix may reference information for the permit included in the EIS text or the information may be included within the appendix, as appropriate. If the permit information cannot conveniently be incorporated into the EIS, the EIS may simply indicate the location where the permit information may be reviewed.

4410.2400 INCORPORATION BY REFERENCE IN EIS.

An RGU shall incorporate material into an EIS by reference when the effect will be to reduce bulk without impeding governmental and public review of the project. The incorporated material shall be cited in the EIS, and its content shall be briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons within the time allowed for comment.

4410.2500 INCOMPLETE OR UNAVAILABLE INFORMATION.

If information about potentially significant environmental effects is essential to a reasoned choice among alternatives and is not known and the cost of obtaining it is excessive, the information cannot be obtained within the time periods specified in part 4410.2800, subpart 3, or the means to obtain the information are beyond the state of the art, the RGU shall include the following information in the EIS:

A. a statement that the information is incomplete or unavailable and a brief explanation of why it is lacking;

B. an explanation of the relevance of the lacking information to evaluation of potentially significant environmental impacts and their mitigation and to a reasoned choice among alternatives;

C. a brief summary of existing credible scientific evidence that is relevant to evaluating the potential significant environmental impacts; and

D. the RGU's evaluation of such impacts from the project and its alternatives based upon theoretical approaches

or research methods generally accepted in the scientific community.

4410.2600 DRAFT EIS.

Subpart 1. **Preparation.** A draft EIS shall be prepared consistent with parts 4410.0200 to 4410.6500 and in accord with the scoping determination.

Subp. 2. **Review and comment; informational meeting.** When the draft EIS is completed, the RGU shall make the draft EIS available for public review and comment and shall hold an informational meeting in the county where the project is proposed.

Subp. 3. **Distribution of draft.** The entire draft EIS with appendixes shall be provided to:

A. any governmental unit which has authority to permit or approve the proposed project, to the extent known;

B. the proposer of the project;

C. the EQB and EQB staff;

D. the Environmental Conservation Library;

E. the Legislative Reference Library;

F. the Regional Development Commission and Regional Development Library;

G. a public library or public place where the draft will be available for public review in each county where the project will take place, to the extent known; and

H. to the extent possible, to any person requesting the entire EIS.

Subp. 4. **Distribution of summary.** The summary of the draft EIS shall be provided to all members of the EAW distribution list that do not receive the entire draft EIS; any person that submitted substantive comments on the EAW that does not receive the entire draft EIS; and any person requesting the summary.

Subp. 5. **Notice to publish in EQB Monitor.** The copy provided to the EQB staff shall serve as notification to publish notice of availability of the draft EIS in the EQB Monitor.

Subp. 6. **Press release.** The RGU shall supply a press release to at least one newspaper of general circulation within the area where the project is proposed.

Subp. 7. **Contents of published notices.** The notice of availability in the EQB Monitor and the press release shall contain notice of the date, time, and place of the informational

meeting, notice of the location of the copy of the draft EIS available for public review, and notice of the date of termination of the comment period.

Subp. 8. **Time of meeting; transcript.** The informational meeting must be held not less than 15 days after publication of the notice of availability in the EQB Monitor. A typewritten or audio-recorded transcript of the meeting shall be made.

Subp. 9. **Public comment.** The record shall remain open for public comment not less than ten days after the last date of the informational meeting. Written comments on the draft EIS may be submitted any time during the comment period.

Subp. 10. **RGU's response.** The RGU shall respond to the timely substantive comments received on the draft EIS and prepare the final EIS.

4410.2700 FINAL EIS.

Subpart 1. **Contents.** The final EIS shall respond to the timely substantive comments on the draft EIS consistent with the scoping decision. The RGU shall discuss at appropriate points in the final EIS any responsible opposing views relating to scoped issues which were not adequately discussed in the draft EIS and shall indicate the RGU's response to the views.

Subp. 2. **Treatment of major or minor changes to draft EIS.** If only minor changes in the draft EIS are suggested in the comments on the draft, the written comments and the responses may be attached to the draft or bound as a separate volume and circulated as the final EIS. If other than minor changes are required, the draft text shall be rewritten so that necessary changes in the text are incorporated in the appropriate places.

Subp. 3. **Distribution of copies.** The RGU shall provide copies of the final EIS to all persons receiving copies of the entire draft EIS pursuant to part 4410.2600, subpart 3; any person who submitted substantive comments on the draft EIS; and to the extent possible, to any person requesting the final EIS.

Subp. 4. **Notice to publish in EQB Monitor.** The copy provided to the EQB staff shall serve as notification to publish notice of availability of the final EIS in the EQB Monitor.

Subp. 5. **Press release.** The RGU shall supply a press release to at least one newspaper of general circulation within the area where the project is proposed.

Subp. 6. **Contents of published notices.** The notice of availability in the EQB Monitor and the press release shall contain notice of the location of the copy of the final EIS available for public review and notice of the opportunity for public comment on the adequacy of the final EIS.

4410.2800 DETERMINATION OF ADEQUACY.

Subpart 1. **Who is to determine.** The RGU shall determine the adequacy of the final EIS unless notified by the EQB, on its own initiative or at the request of the RGU, the proposer of the project, or other interested persons, that the EQB will determine the adequacy. The EQB shall notify the RGU no later than 60 days following publication of the preparation notice in the EQB Monitor. The EQB shall intervene only if the EQB determines that:

A. the RGU is or will be unable to provide an objective appraisal of the potential impacts of the project;

B. the project involves complex issues which the RGU lacks the technical ability to assess; or

C. the project has multijurisdictional effects.

Subp. 1a. **Decision by EQB; information needs.** If the EQB will be determining the adequacy of the EIS, the RGU shall submit to the EQB the following information within five days of the filing of the final EIS:

A. evidence of compliance with distribution requirements for the scoping EAW, draft EIS, and final EIS;

B. copies of press releases giving notice of EIS scoping, the EIS preparation notice, the draft EIS, and the final EIS, and evidence of submission of each in accordance with the applicable requirements of the rules;

C. copies of all written comments received during the scoping period;

D. a transcript, minutes, or summary of the public scoping meeting;

E. a copy of the scoping decision document;

F. a transcript, minutes, or summary of the public meeting on the draft EIS; and

G. copies of any comments the RGU has received on the final EIS that have not also been supplied to the EQB.

Subp. 2. **Written comments.** Interested persons may submit written comments on the adequacy of the final EIS to the RGU or the EQB, if applicable, for a period of not less than ten days following publication in the EQB Monitor of the notice of availability of the final EIS. The notice of availability of the final EIS shall indicate when the comment period expires.

Subp. 3. **Time limits.** The determination of adequacy of the final EIS shall be made at least ten days after publication in the EQB Monitor of the notice of availability of the final EIS. The determination of adequacy of the final EIS shall be made within 280 days after the preparation notice was published

in the EQB Monitor unless the time is extended by consent of the proposer and the RGU or by the governor for good cause.

Subp. 4. **Conditions.** The final EIS shall be determined adequate if it:

A. addresses the potentially significant issues and alternatives raised in scoping so that all significant issues for which information can be reasonably obtained have been analyzed in conformance with part 4410.2300, items G and H;

B. provides responses to the substantive comments received during the draft EIS review concerning issues raised in scoping; and

C. was prepared in compliance with the procedures of the act and parts 4410.0200 to 4410.6500.

Subp. 5. **Inadequacy.** If the RGU or the EQB determine that the EIS is inadequate, the RGU shall have 60 days in which to prepare an adequate EIS. The revised EIS shall be circulated in accord with part 4410.2700, subpart 3.

Subp. 6. **Notice of determination.** The RGU shall notify all persons receiving copies of the final EIS pursuant to part 4410.2700, subpart 3, of its adequacy decision within five days of the adequacy decision. Public notice of the decision shall be published in the EQB Monitor.

4410.2900 PERMIT DECISIONS IN CASES REQUIRING EIS.

Within 90 days after the determination of adequacy of a final EIS, final decisions shall be made by the appropriate governmental units on those permits which were identified as required in the scoping process and for which information was developed concurrently with the preparation of the EIS. The 90-day period may be extended with the consent of the permit applicant or where a longer period is required by federal law or state statute.

At the time of its permit decision, for those permits that were identified during the scoping process as requiring a record of decision, each permitting unit of government shall prepare a concise public record of how it considered the EIS in its decision. That record shall be supplied to the EQB for the purpose of monitoring the effectiveness of the process created by parts 4410.0200 to 4410.6500 and to any other person requesting the information. The record may be integrated into any other record prepared by the permitting unit of government.

The RGU or other governmental unit shall, upon request, inform commenting governmental units and interested parties on the progress in carrying out mitigation measures which the commenting governmental units have proposed and which were adopted by the RGU making the decision.

4410.3000 SUPPLEMENTING AN EIS.

Subpart 1. **Applicability.** An RGU shall supplement an EIS by preparing a supplemental EIS document in accordance with this part.

Subp. 2. **EIS addendum.** An RGU may make minor revisions to a final EIS by use of an EIS addendum. An EIS addendum may not be used to make revisions required under subpart 3. The addendum shall be distributed to the EQB, to any person who received the final EIS document, and to any other person upon written request. The EQB shall publish notice of the availability of the addendum in the EQB Monitor.

Subp. 3. **Supplement to an EIS.** An RGU shall prepare a supplement to an EIS under any of the following circumstances:

A. whenever after a final EIS has been determined adequate, but before the project becomes exempt under part 4410.4600, subpart 2, item B or D, the RGU determines that either:

(1) substantial changes have been made in the proposed project that affect the potential significant adverse environmental effects of the project; or

(2) there is substantial new information or new circumstances that significantly affect the potential environmental effects from the proposed project that have not been considered in the final EIS or that significantly affect the availability of prudent and feasible alternatives with lesser environmental effects;

B. whenever an EIS has been prepared for an ongoing governmental action and the RGU determines that the conditions of item A, subitem (1) or (2), are met with respect to the action; or

C. whenever an EIS has been prepared for one or more phases of a phased action or one or more components of a connected action and a later phase or another component is proposed for approval or implementation that was not evaluated in the initial EIS.

Subp. 4. **Request for supplement to an EIS.** Any person may request preparation of a supplement to an EIS by submitting a written request to the RGU containing material evidence that a supplement is required under subpart 3. A copy of the request must be sent to the EQB. The RGU shall make a decision on the need for a supplement within 30 days of receipt of the request, and shall notify the requesting person and the EQB staff of its decision within five days. If the RGU denies the request, the notice must explain the basis for its decision and respond to the issues raised by the requesting person. If the RGU orders a supplement, its basis for the decision must be incorporated into the supplement preparation notice.

Subp. 5. **Procedure for preparing a supplement to an EIS.**

A supplement to an EIS shall be prepared, circulated, and reviewed according to the procedures in items A to E.

A. The scope of a supplement to an EIS must be limited to impacts, alternatives, and mitigation measures not addressed or inadequately addressed in the final EIS. The RGU shall adopt a scope for the supplement as part of the preparation notice. The RGU may consult with any person in order to obtain information relevant to the scoping of a supplement, and may hold public meetings to obtain the information. Reasonable notice must be given of any meetings. All meetings must be open to the public.

B. The RGU shall adopt and distribute a notice of the preparation of the supplement to the EIS. The notice must contain:

(1) the title of the EIS being supplemented and its approximate date of completion;

(2) a brief description of the situation necessitating the preparation of the supplement, including a description of how the changes in the proposed project or new information may affect the potential significant environmental effects from the project or the availability of prudent and feasible alternatives;

(3) the scope of the supplement including issues to be analyzed, alternatives to be examined, and studies to be undertaken; and

(4) the proposed time schedule for the preparation of the supplement.

The preparation notice must be distributed to all persons who received the final EIS, to all persons on the EAW distribution list under part 4410.1500, and to any person who requested that a supplement be prepared under subpart 4, provided that if more than one person signed a letter or other document requesting a supplement, notice need only be distributed to their representative or to the person whose signature first appears on the document. The EQB shall publish a summary of the preparation notice in the EQB Monitor.

If, within 20 days of publication of the preparation notice in the EQB Monitor, any person submits written comments to the RGU objecting to the scope of the supplement, the RGU shall give due consideration to modifying its scope based on the comments. The RGU shall include in the draft supplement document a copy of any timely comments received objecting to the scope and its response to the comments.

C. The RGU shall prepare a draft supplement for the purposes of receiving public comments. The draft document must conform to the requirements of parts 4410.2300, items D to J, 4410.2400, and 4410.2500. The draft supplement must be distributed and reviewed in accordance with part 4410.2600,

subparts 2 to 10, except that the informational meeting must be held not less than ten days after publication of notice in the EQB Monitor.

D. The RGU shall prepare and distribute a final supplement to an EIS in accordance with part 4410.2700.

E. The determination of adequacy of the final supplement to an EIS must be made in accordance with part 4410.2800.

Subp. 6. **Time limit for supplement to an EIS.** A determination of the adequacy of a supplement to an EIS must be made within 120 days of the order for preparation of the supplement, unless the time is extended by the consent of the proposer and RGU or by the governor for good cause.

Subp. 7. **Treatment of expansions of a project for which an EIS was prepared.** Subsequent expansions of, or additions to, implemented projects for which an EIS was prepared must be treated as independent projects for the determination of the need for environmental review and must be reviewed in accordance with parts 4410.1000 to 4410.2800 rather than according to this part, unless the expansion or addition is part of a phased action or connected action requiring review under subpart 3, item C. Tiering of information from the original EIS may be used to minimize duplication of paperwork, provided that the original EIS is reasonably available for public and agency review.

4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.

Subpart 1. **Prohibitions.** If an EAW or EIS is required for a governmental action under parts 4410.0200 to 4410.6500, or if a petition for an EAW is filed under part 4410.1100 that complies with the requirements of subparts 1 and 2 of that part, a project may not be started and a final governmental decision may not be made to grant a permit, approve a project, or begin a project, until:

A. a petition for an EAW is dismissed;

B. a negative declaration on the need for an EIS is issued;

C. an EIS is determined adequate; or

D. a variance is granted under subparts 3 to 7 or the action is an emergency under subpart 8.

To start or begin a project includes taking any action within the meaning of “construction,” as defined at part 4410.0200, subp. 10.

Subp. 2. **Public projects, prohibitions.** If a project subject to review under parts 4410.0200 to 4410.6500 is proposed to be carried out or sponsored by a governmental unit, the governmental unit shall not take any action with respect to the

project, including the acquisition of property, if the action will prejudice the ultimate decision on the project, until a petition has been dismissed, a negative declaration has been issued, or until the final EIS has been determined adequate by the RGU or the EQB, unless the project is an emergency under subpart 9 or a variance is granted under subparts 4 to 8. An action prejudices the ultimate decision on a project if it tends to determine subsequent development or to limit alternatives or mitigative measures.

Subp. 3. [Repealed, 13 SR 1437]

Subp. 4. **Variance.** Construction may begin on a project if the proposer applies for and is granted a variance from subparts 1 and 2. A variance for certain governmental approvals to be granted prior to completion of the environmental review process may also be requested. A variance may be requested at any time after the commencement of the 30-day review period following the filing of an EAW. The proposer shall submit an application for a variance to the EQB together with:

A. a detailed explanation of the construction proposed to be undertaken or the governmental approvals to be granted;

B. the anticipated environmental effects of undertaking the proposed construction or granting the governmental approvals;

C. the reversibility of the anticipated environmental effects;

D. the reasons necessitating the variance; and

E. a statement describing how approval would affect subsequent approvals needed for the project and how approval would affect the purpose of environmental review.

Subp. 5. **Variance applications.** The EQB chair shall publish a notice of the variance application in the EQB Monitor within 15 days after receipt of the application. The EQB chair shall issue a press release to at least one newspaper of general circulation in the area where the project is proposed. The notice and press release shall summarize the reasons given for the variance application and specify that comments on whether a variance should be granted must be submitted to the EQB within 20 days after the date of publication in the EQB Monitor.

Subp. 6. **Granting variance.** At its first meeting more than ten days after the comment period expires, the EQB shall grant or deny the variance. A variance shall be granted if:

A. the RGU consents to a variance;

B. on the basis of the variance application and the comments, construction is necessary in order to avoid excessive and unusual economic hardship, or avoid a serious threat to

public health or safety. Unusual economic hardship is hardship caused by unique conditions and circumstances which are peculiar to the project and are not characteristic of other similar projects or general economic conditions of the area or state. It does not include hardship caused by the proposer's own action, or inaction, if the hardship was reasonably foreseeable;

C. on the basis of the variance application and the comments, the construction for which the variance is sought will not have a serious adverse effect on the environment; and

D. on the basis of the variance application and the comments, the construction for which the variance is sought is separable from the remainder of the project and would not have the effect of eliminating from consideration any feasible and prudent alternatives or mitigation measures likely to be presented in an EIS.

Subp. 7. **Written notice.** The EQB shall set forth in writing its reasons for granting or denying each request for a variance.

Subp. 8. **Construction or government approvals.** Only the construction or governmental approvals necessary to avoid the consequences listed in subpart 6 shall be undertaken or granted.

Subp. 9. **Emergency action.** In the rare situation when immediate action by a governmental unit or person is essential to avoid or eliminate an imminent threat to the public health or safety or a serious threat to natural resources, a proposed project may be undertaken without the environmental review which would otherwise be required by parts 4410.0200 to 4410.6500. The governmental unit or person must demonstrate to the EQB chair, either orally or in writing, that immediate action is essential and must receive authorization from the EQB chair to proceed. Authorization to proceed shall be limited to those aspects of the project necessary to control the immediate impacts of the emergency. Other aspects of the project remain subject to review under parts 4410.0200 to 4410.6500.

4410.3200 [Repealed, 21 SR 1458]

4410.3600 ALTERNATIVE REVIEW.

Subpart 1. **Implementation.** Governmental units may request EQB approval of an alternative form of environmental review for categories of projects which undergo environmental review under other governmental processes. The governmental processes must address substantially the same issues as the EAW and EIS process and use procedures similar in effect to those of the EAW and EIS process. The EQB shall approve the governmental process as an alternative form of environmental review if the governmental unit demonstrates the process meets the following conditions:

A. the process identifies the potential environmental impacts of each proposed project;

B. the aspects of the process that are intended to substitute for an EIS process address substantially the same issues as an EIS and uses procedures similar to those used in preparing an EIS but in a more timely or more efficient manner;

C. alternatives to the proposed project are considered in light of their potential environmental impacts in those aspects of the process that are intended to substitute for an EIS process;

D. measures to mitigate the potential environmental impacts are identified and discussed;

E. a description of the proposed project and analysis of potential impacts, alternatives (in those aspects of the process intended to substitute for an EIS), and mitigating measures are provided to other affected or interested governmental units and the general public;

F. the governmental unit shall provide notice of the availability of environmental documents to the general public in at least the area affected by the project (a copy of environmental documents on projects reviewed under an alternative review procedure shall be submitted to the EQB; the EQB shall be responsible for publishing notice of the availability of the documents in the EQB Monitor);

G. other governmental units and the public are provided with a reasonable opportunity to request environmental review and to review and comment on the information concerning the project (the process must provide for RGU response to timely substantive comments relating to issues discussed in environmental documents relating to the project); and

H. the process must routinely develop the information required in items A to E and provide the notification and review opportunities in items F and G for each project that would be subject to environmental review.

Subp. 2. **Exemption.** If the EQB accepts a governmental unit's process as an adequate alternative review procedure, projects reviewed under that alternative review procedure shall be exempt from environmental review under parts 4410.1100 to 4410.1700, and 4410.2100 to 4410.3000 but the EQB retains its authority under part 4410.2800 to determine the adequacy of the environmental documents that substitute for the EIS in the approved process. On approval of the alternative review process, the EQB shall provide for periodic review of the alternative procedure to ensure continuing compliance with the requirements and intent of these environmental review procedures. The EQB shall withdraw its approval of an alternative review procedure if review of the procedure indicates that the procedure no longer fulfills the intent and requirements of the Minnesota Environmental Policy Act and parts 4410.0200 to 4410.6500. A project in the process of undergoing review under an approved alternative process shall not be affected by the EQB's withdrawal of approval.

4410.3610 ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS.

Subpart 1. **Applicability.** A local unit of government may use the procedures of this part instead of the procedures of parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.3000 to review anticipated residential, commercial, warehousing, and light industrial development and associated infrastructure in a particular geographic area within its jurisdiction, if the local unit has adopted a comprehensive plan that includes at least the elements in items A to C. The procedures of this part may not be used to review any project meeting the requirements for a mandatory EAW in part 4410.4300, subparts 2 to 13, 15 to 17, 18, items B or C, or 24, or a mandatory EIS in part 4410.4400, subparts 2 to 10, 12, 13, or 25. The local unit of government is the RGU for any review conducted under this part.

Deleted: For purposes of this part, "light industrial development, facility, or project" includes a development, facility, or project engaged in the assembly of products from components that are not produced at the site, but does not include any development, facility, or project, including an assembly development, facility, or

Deleted: ,

A. A land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, commercial, industrial, agricultural, and other public and private purposes.

B. A public facilities plan describing the character, location, timing, sequence, function, use, and capacity of existing and future public facilities of the local governmental unit. The public facilities plan must include at least the following parts:

(1) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services; and

(2) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted.

C. An implementation program describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan. The implementation plan must include a description of official controls addressing the matters of zoning, subdivision, and private sewage treatment systems, a schedule for the implementation of those controls, and a capital improvements program for public facilities.

A local governmental unit that has an adopted comprehensive plan that lacks any of the elements required by this subpart may qualify for the use of the procedures of this part upon a demonstration to the EQB chair that the lacking element would have no substantial effect on the purpose of or outcome of the environmental review and upon receiving authorization from the EQB chair to use these procedures.

Subp. 2. **Relationship to specific development projects.** Upon completion of review under this part, residential, commercial, warehousing, and light industrial development projects and associated infrastructure within the boundaries established under subpart 3 that are consistent with development assumptions established under subpart 3 are exempt from review under parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.3000 as long as the approval and construction of the project complies with the conditions of the plan for mitigation developed under subpart 5.

If a specific residential, commercial, warehousing, light industrial, or associated infrastructure project, that is subject to an EAW or EIS, is proposed within the boundaries of an area for which an alternative review under this part is planned but has not yet been completed, the RGU may, at its discretion, review the specific project either through the alternative areawide review procedures or through the EAW or EIS procedures. If the project is reviewed through the alternative areawide review procedures, at least one set of development assumptions used in the process must be consistent with the proposed project, and the project must incorporate the applicable mitigation measures developed through the process.

The prohibitions of part 4410.3100, subparts 1 to 3, apply to all projects for which review under this part substitutes for review under parts 4410.1100 to 4410.1700 or 4410.2100 to 4410.3000. These prohibitions terminate upon the adoption by the RGU of the environmental analysis document and plan for mitigation under subpart 5.

Subp. 3. **Order for review; geographic area designation and specification of development.** The RGU shall adopt an order for each review under this part that specifies the boundaries of the geographic area within which the review will apply and specifies the anticipated nature, location, and intensity of residential, commercial, warehousing, and light industrial development and associated infrastructure within those boundaries. The RGU may specify more than one scenario of anticipated development provided that at least one scenario is consistent with the adopted comprehensive plan. At least one scenario must be consistent with any known development plans of property owners within the area. The RGU may delineate subareas within the area, as appropriate to facilitate planning and review of future development, and allocate the overall anticipated development among the subareas.

Subp. 4. **Environmental analysis document; form and content.** The content and format must be similar to that of the EAW, but must provide for a level of analysis comparable to that of an EIS for impacts typical of urban residential, commercial, warehousing, and light industrial development and associated infrastructure. The content and format must provide for a certification by the RGU that the comprehensive plan requirements of subpart 1 are met.

Subp. 5. **Procedures for review.** The procedures in items A

to H must be used for review under this part.

A. The RGU shall prepare a draft environmental analysis document addressing each of the development scenarios selected under subpart 2 using the standard content and format provided by the EQB under subpart 4. A draft version of the mitigation plan as described under item C must be included. The draft document must be distributed and noticed in accordance with part 4410.1500.

B. Reviewers shall have 30 days from the date of notice of availability of the draft environmental analysis in the EQB Monitor to submit written comments to the RGU. Reviewers that are governmental units shall be granted a 15-day extension by the RGU upon a written request for good cause. A copy of the request must be sent to the EQB.

Comments must address the accuracy and completeness of the information provided in the draft analysis, potential impacts that warrant further analysis, further information that may be required in order to secure permits for specific projects in the future, ~~and~~ mitigation measures or procedures necessary to prevent significant environmental impacts within the area when actual development occurs and the need to analyze additional development scenarios as required by this part.

Governmental units shall also state in their comments whether or not they wish to be notified by the RGU upon receipt of applications for specific development projects within the area.

C. The RGU shall revise the environmental analysis document based on comments received during the comment period. The RGU shall include in the document a section specifically responding to each timely, substantive comment received that indicates in what way the comment has been addressed. If the RGU believes a request for additional analysis is unreasonable, it may consult with the EQB chair before responding to the comment.

The RGU shall include in the document a plan for mitigation specifying the mitigation measures that will be imposed upon future development within the area in order to avoid or mitigate potential environmental impacts. The plan shall contain a description of how each mitigation measure will be implemented, including a description of the involvement of other agencies, if appropriate.

D. The RGU shall distribute the revised environmental analysis document in the same manner as the draft document and also to any persons who commented on the draft document and to the EQB staff. State agencies and the Metropolitan Council of the Twin Cities have ten days from the date of receipt of the revised document to file an objection to the document with the RGU. A copy of any letter of objection must be filed with the EQB staff. An objection may be filed only if the agency filing the objection has evidence that the revised document contains

inaccurate or incomplete information relevant to the identification and mitigation of potentially significant environmental impacts, that the review has not analyzed sufficient development scenarios as required by this part, or that the proposed plan for mitigation will be inadequate to prevent potentially significant environmental impacts from occurring.

E. Unless an objection is filed in accordance with item D, the RGU shall adopt the revised environmental analysis document, including ~~and~~ the plan for mitigation, at its first regularly scheduled meeting held 15 or more days after the distribution of the revised document. The RGU shall submit evidence of the adoption of the document and plan for mitigation to the EQB staff and all agencies that have stated that they wish to be informed of any future projects within the area as part of their comments on the draft environmental analysis document. The EQB shall publish a notice of the adoption of the documents and the completion of the review process in the EQB Monitor.

Upon adoption of the environmental analysis document, including ~~and~~ the plan for mitigation, residential, commercial, warehousing, and light industrial projects and associated infrastructure within the area that are consistent with the assumptions of the document and that comply with the plan for mitigation are exempt from review under parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.2800.

F. If an objection is filed with the RGU in accordance with item D, within five days of receipt of the objection the RGU shall consult with the objecting agency about the issues raised in the objection and shall advise the EQB staff of its proposed response to the objection. At the request of the RGU, the objecting agency, the EQB staff, and any other affected agency shall meet with the RGU as soon as practicable to attempt to resolve the issues raised in the objection.

Within 30 days after receipt of the objection the RGU shall submit a written response to the objecting agency and the EQB chair. The response shall address each of the issues raised in the objection. The RGU may address an issue by either revising the environmental analysis document or plan for mitigation, or by refuting the comment ~~explaining why it believes that the issue is not relevant to the identification and mitigation of potentially significant environmental impacts~~.

G. Within five days of receipt of the RGU's response to the objection, the objecting agency shall advise the EQB chair of whether it accepts the response and withdraws its objection or continues to object. If the objecting agency continues to object, the EQB chair shall place the matter on the agenda of the next regularly scheduled EQB meeting or of a special meeting.

H. If the matter is referred to the EQB under item G, the EQB shall determine whether the environmental analysis document, including the ~~and~~ plan for mitigation, ~~are~~ is adequate, conditionally adequate, or inadequate. If the EQB finds the document~~s~~

conditionally adequate or inadequate, the EQB shall specify the revisions necessary for adequacy. The EQB shall only find the document~~s~~ inadequate if ~~it~~ the EQB determines that ~~they~~ it contains inaccurate or incomplete information necessary to the identification and mitigation of potentially significant environmental impacts, that the review of development scenarios is not in compliance with this part, or that the proposed plan for mitigation will be inadequate to prevent the occurrence of potentially significant environmental impacts.

If the EQB finds the document~~s~~ adequate or conditionally adequate, the RGU shall adopt the document~~s~~ under item E. If the document~~s~~ ~~were~~ is found conditionally adequate by the EQB, the RGU shall first revise the document~~s~~ as directed by the EQB. If the EQB finds the document~~s~~ inadequate, the RGU has 30 days to revise the document~~s~~ and circulate ~~them~~ it for review in accordance with items D to H.

Subp. 6. **Time limit.** Unless an objection is filed under subpart 5, item D, the RGU shall adopt the environmental analysis document and plan for mitigation no later than at its first meeting held more than 120 days after the date on which the RGU ordered review under this part. The time limit may be extended upon the agreement of all proposers whose project schedules are affected by the review.

Subp. 7. **Updating the review.** To remain valid as a substitute form of review, the environmental analysis document and the plan for mitigation must be revised if any of the circumstances in items A to H apply.

A. Five years have passed since the RGU adopted the original environmental analysis document and plan for mitigation or the latest revision. This item does not apply if all development within the area has been given final approval by the RGU.

B. A comprehensive plan amendment is proposed that would allow an increase in development over the levels assumed in the environmental analysis document.

C. Total development within the area would exceed the maximum levels assumed in the environmental analysis document.

D. Development within any subarea delineated in the environmental analysis document would exceed the maximum levels assumed for that subarea in the document.

E. A substantial change is proposed in public facilities intended to service development in the area that may result in increased adverse impacts on the environment.

F. Development or construction of public facilities will occur on a schedule other than that assumed in the environmental analysis document or plan for mitigation so as to substantially increase the likelihood or magnitude of potential adverse environmental impacts or to substantially postpone the

implementation of identified mitigation measures.

G. New information demonstrates that important assumptions or background conditions used in the analysis presented in the environmental analysis document are substantially in error and that environmental impacts have consequently been substantially underestimated.

H. The RGU determines that other substantial changes have occurred that may affect the potential for, or magnitude of, adverse environmental impacts.

The environmental analysis document and plan for mitigation must be revised by preparing, distributing, and reviewing revised documents in accordance with subpart 5, items D to H, except that the documents must be distributed to all persons on the EAW distribution list under part 4410.1500. Persons not entitled to object to the documents under subpart 5, item D, may submit comments to the RGU suggesting changes in the documents.

Subp. 8. **Report to EQB.** The EQB chair may ask the RGU to report on the status of actual development within the area, and on the status of implementation of the plan for mitigation. Upon request, the RGU shall report to the EQB chair within 30 days.

4410.3700 MODEL ORDINANCE.

Subpart 1. **Application.** The model ordinance set out in subpart 3 may be utilized by any local governmental unit that adopts the ordinance in lieu of parts 4410.1000 to 4410.3100 for projects that qualify for review under the ordinance.

Subp. 2. **Notice.** If a local governmental unit adopts the ordinance exactly as set out in subpart 3 it shall be effective without prior approval by the EQB. A copy of the adopted ordinance shall be forwarded to the EQB. Notice of adoption of the ordinance shall be made in the EQB Monitor.

Subp. 3. **Model ordinance.**

AN ORDINANCE RELATING TO THE PREPARATION AND

REVIEW OF ENVIRONMENTAL ANALYSIS

The (county board) (town board) (city council) (watershed board) of _____ ordains:

Section 1. Application. This ordinance shall apply to all projects that:

A. are consistent with any applicable comprehensive plan; and

B. do not require a state permit; and

C. the (board) (council) determines that, because of the

nature or location of the project, the project may have the potential for significant environmental effects; or

D. are listed in a mandatory EAW or EIS category of the state environmental review program, Minnesota Rules, parts 4410.4300 and 4410.4400, one copy of which is on file with the (county auditor) (town clerk) (city clerk) (watershed district board of managers).

This ordinance shall not apply to projects which are exempted from environmental review by Minnesota Rules, part 4410.4600 or to projects which the (board) (council) determines are so complex or have potential environmental effects which are so significant that review should be completed under the state environmental review program, Minnesota Rules, parts 4410.0200 to 4410.6500.

Section 2. Preparation. Prior to or together with any application for a permit or other form of approval for a project, the proposer of the project shall prepare an analysis of the project's environmental effects, reasonable alternatives to the project and measures for mitigating the adverse environmental effects. The analysis should not exceed 25 pages in length. The (board) (council) shall review the information in the analysis and determine the adequacy of the document. The (board) (council) shall use the standards of the state's environmental review program rules in its determination of adequacy. If the (board) (council) determines the document is inadequate, it shall return the document to the proposer to correct the inadequacies.

Section 3. Review. Upon filing the analysis with the (board) (council), the (board) (council) shall publish notice in a newspaper of general circulation in the (county) (city) (town) (district) that the analysis is available for review. A copy of the analysis shall be provided to any person upon request. A copy of the analysis shall also be provided to every local governmental unit within which the proposed project would be located and to the EQB. The EQB shall publish notice of the availability of the analysis in the EQB Monitor.

Comments on the analysis shall be submitted to the (board) (council) within 30 days following the publication of the notice of availability in the EQB Monitor. The (board) (council) may hold a public meeting to receive comments on the analysis if it determines that a meeting is necessary or useful. The meeting may be combined with any other meeting or hearing for a permit or other approval for the project. Public notice of the meeting to receive comments on the analysis shall be provided at least ten days before the meeting.

Section 4. Decision. In issuing any permits or granting any other required approvals for a project subject to review under this ordinance, the (board) (council) shall consider the analysis and the comments received on it. The (board) (council) shall, whenever practicable and consistent with other laws, require that mitigation measures identified in the analysis be

incorporated in the project's design and construction.

4410.3800 GENERIC EIS.

Subpart 1. **Order for.** A generic EIS may be ordered by the EQB to study types of projects that are not adequately reviewed on a case-by-case basis.

Subp. 2. **RGU.** The EQB may be the RGU for the generic EIS or may designate another governmental unit to be the RGU, if that governmental unit consents to be the RGU. In determining which governmental unit should be the RGU for a generic EIS, the EQB shall consider the following factors with respect to each prospective RGU:

A. the nature and extent of the permit or approval authority;

B. expertise in the subject matter of the generic EIS, including the ability to address any complex issues;

C. available resources to complete the generic EIS; and

D. ability to provide an objective appraisal of potential impacts.

Whether the generic EIS is done by the EQB or another governmental unit, the document must be prepared using an interdisciplinary approach in accordance with part 4410.2200.

Subp. 3. **Public requests for generic EIS.** A governmental unit or any other person may request the EQB to order a generic EIS.

Subp. 4. **Timing.** Time deadlines for the preparation of a generic EIS shall be set at the scoping meeting.

Subp. 5. **Criteria.** In determining the need for a generic EIS, the EQB shall consider:

A. if the review of a type of action can be better accomplished by a generic EIS than by project specific review;

B. if the possible effects on the human environment from a type of action are highly uncertain or involve unique or unknown risks;

C. if a generic EIS can be used for tiering in a subsequent project specific EIS;

D. the amount of basic research needed to understand the impacts of such projects;

E. the degree to which decision makers or the public have a need to be informed of the potential impacts of such

projects;

F. the degree to which information to be presented in the generic EIS is needed for governmental or public planning;

G. the potential for significant environmental effects as a result of the cumulative impacts of such projects;

H. the regional and statewide significance of the impacts and the degree to which they can be addressed on a project-by-project basis;

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I. the degree to which governmental policies affect the number or location of such projects or the potential for significant environmental effects;

J. the degree to which the cost of basic information ought to be borne by the public rather than individual project proposers;

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K. the need to explore issues raised by a type of project that go beyond the scope of review of individual projects; and

L. the need to understand the long-term past, present, and future effects of a type of action upon the economy, environment, and way of life of residents of the state.

Subp. 6. **Scoping.** The generic EIS shall be scoped. Scoping shall be coordinated by the RGU and shall identify the issues and geographic areas to be addressed in the generic EIS. Scoping procedures shall follow the procedures in part 4410.2100 except for the identification of permits for which information is to be gathered concurrently with the EIS preparation, the preparation and circulation of the EAW, and the time requirements.

Subp. 7. **Content.** In addition to content requirements specified by the scoping process, the generic EIS shall contain the following:

A. any new data that has been gathered or the results of any new research that has been undertaken as part of the generic EIS preparation;

B. a description of the possible impacts and likelihood of occurrence, the extent of current use, and the possibility of future development for the type of action;

C. alternatives including recommendations for geographic placement of the type of action to reduce environmental harm, different methods for construction and operation, and different types of actions that could produce the same or similar results as the subject type of action but in a less environmentally harmful manner; and

D. if appropriate, a description of an alternative form of review that is proposed to be used to review specific projects whose impacts have been considered in the generic EIS.

An alternative review proposal contained in a generic EIS must be approved by the EQB under part 4410.3600 prior to use.

Subp. 8. **Relationship to project-specific review.** Preparation of a generic EIS does not exempt specific activities from project-specific environmental review.

Deleted: Project-specific ¶ environmental review shall use information in the generic EIS by ¶ tiering and shall reflect the recommendations contained in the ¶ generic EIS if the EQB determines that the generic EIS remains ¶ adequate at the time the specific project is subject to review.

Subp. 9. **Relationship to projects.** The fact that a generic EIS is being prepared shall not preclude the undertaking and completion of a specific project whose impacts are considered in the generic EIS.

4410.3900 JOINT FEDERAL AND STATE ENVIRONMENTAL DOCUMENTS.

Subpart 1. **Cooperative processes.** Governmental units shall cooperate with federal agencies to the fullest extent possible to reduce duplication between Minnesota Statutes, chapter 116D, and the National Environmental Policy Act, United States Code 1976, title 42, sections 4321 to 4361.

Subp. 2. **Joint responsibility.** Where a joint federal and state environmental document is prepared, the RGU and one or more federal agencies shall be jointly responsible for its preparation. Where federal laws have environmental document requirements in addition to but not in conflict with those in Minnesota Statutes, section 116D.04, governmental units shall cooperate in fulfilling these requirements as well as those of state laws so that one document can comply with all applicable laws.

Subp. 3. **Federal EIS as draft EIS.** If a federal EIS will be or has been prepared for a project, the RGU shall utilize the draft or final federal EIS as the draft state EIS for the project if the federal EIS addresses the scoped issues and satisfies the standards set forth in part 4410.2300.

4410.4000 TIERED EIS.

An RGU may use a series of tiered EISs to fulfill environmental review requirements for an action where decisions on which alternative to select must be made in stages, progressing from the general to the specific. Prior to each decision which would eliminate from further consideration any alternatives under consideration, a tiered EIS must be completed which addresses the issues and alternatives relevant to the decisions to be made in that tier, at a level of detail appropriate to that tier. The level of detail in earlier tiers need not be as great as that in later tiers, provided that it is sufficient to reasonably inform decision makers of the significant environmental, economic, employment, and sociological impacts of the choices made in that tier.

The procedures for preparing tiered EISs shall be the same as those for a regular EIS, as specified in parts 4410.2100 to 4410.3000.

A tiered EIS may incorporate by reference material

developed in an earlier tier.

4410.4300 MANDATORY EAW CATEGORIES.

Subpart 1. **Threshold test.** An EAW must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 36, unless the project meets or exceeds any thresholds of part 4410.4400, in which case an EIS must be prepared.

If the proposed project is an expansion or additional stage of an existing project, the cumulative total of the proposed project and any existing stages or components of the existing project must be included when determining if a threshold is met or exceeded if construction was begun within three years before the date of application for a permit or approval from a governmental unit for the expansion or additional stage but after April 21, 1997, except that any existing stage or component that was reviewed under a previously completed EAW or EIS need not be included.

Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when comparing the project or projects to the thresholds of this part and part 4410.4400.

Subp. 2. **Nuclear fuels and nuclear waste.** Items A to F designate the RGU for the type of project listed:

A. For construction or expansion of a facility for the storage of high level nuclear waste, the EQB shall be the RGU.

B. For construction or expansion of a facility for the storage of low level nuclear waste for one year or longer, the MDH shall be the RGU.

C. For expansion of a high level nuclear waste disposal site, the EQB shall be the RGU.

D. For expansion of a low level nuclear waste disposal site, the MDH shall be the RGU.

E. For expansion of an away-from-reactor facility for temporary storage of spent nuclear fuel, the EQB shall be the RGU.

F. For construction or expansion of an on-site pool for temporary storage of spent nuclear fuel, the EQB shall be the RGU.

Subp. 3. **Electric generating facilities.** For construction of an electric power generating plant and associated facilities designed for or capable of operating at a capacity of between 25 megawatts and 50 megawatts, the EQB shall be the RGU. For electric power generating plants and associated facilities designed for and capable of operating at a capacity of 50 megawatts or more, environmental review shall be conducted

according to parts 4410.7010 to 4410.7070 and chapter 4400.

Subp. 4. **Petroleum refineries.** For expansion of an existing petroleum refinery facility that increases its capacity by 10,000 or more barrels per day, the PCA shall be the RGU.

Subp. 5. **Fuel conversion facilities.** Items A and B designate the RGU for the type of project listed:

A. For construction of a facility for the conversion of coal, peat, or biomass sources to gaseous, liquid, or solid fuels if that facility has the capacity to utilize 25,000 dry tons or more per year of input, the PCA shall be the RGU.

B. For construction or expansion of a facility for the production of alcohol fuels which would have or would increase its capacity by 5,000,000 or more gallons per year of alcohol produced, the PCA shall be the RGU.

Subp. 6. **Transmission lines.** For construction of a transmission line at a new location with a nominal capacity of between 70 kilovolts and 100 kilovolts with 20 or more miles of its length in Minnesota, the EQB shall be the RGU. For transmission lines and associated facilities designed for and capable of operating at a nominal voltage of 100 kilovolts or more, environmental review shall be conducted according to parts 4410.7010 to 4410.7070 and chapter 4400.

Subp. 7. **Pipelines.** Items A to D designate the RGU for the type of project listed:

A. For routing of a pipeline, greater than six inches in diameter and having more than 0.75 miles of its length in Minnesota, used for the transportation of coal, crude petroleum fuels, or oil or their derivates, the EQB shall be the RGU.

B. For the construction of a pipeline for distribution of natural or synthetic gas under a license, permit, right, or franchise that has been granted by the municipality under authority of Minnesota Statutes, section 216B.36, designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than:

(1) five miles if the pipeline will occupy streets, highways, and other public property; or

(2) 0.75 miles if the pipeline will occupy private property;

the EQB or the municipality is the RGU.

C. For construction of a pipeline to transport natural or synthetic gas subject to regulation under the federal Natural Gas Act, United States Code, title 15, section 717, et. seq., designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than:

(1) five miles if the pipeline will be constructed and operated within an existing right-of-way; or

(2) 0.75 miles if construction or operation will require new temporary or permanent right-of-way;

the EQB is the RGU. This item shall not apply to the extent that the application is expressly preempted by federal law, or under specific circumstances when an actual conflict exists with applicable federal law.

D. For construction of a pipeline to convey natural or synthetic gas that is not subject to regulation under the federal Natural Gas Act, United States Code, title 15, section 717, et. seq.; or to a license, permit, right, or franchise that has been granted by a municipality under authority of Minnesota Statutes, section 216B.36; designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than 0.75 miles, the EQB is the RGU.

Items A to D do not apply to repair or replacement of an existing pipeline within an existing right-of-way or to a pipeline located entirely within a refining, storage, or manufacturing facility.

Subp. 8. **Transfer facilities.** Items A and B designate the RGU for the type of project listed:

A. For construction of a facility designed for or capable of transferring 300 tons or more of coal per hour or with an annual throughput of 500,000 tons of coal from one mode of transportation to a similar or different mode of transportation; or the expansion of an existing facility by these respective amounts, the PCA shall be the RGU.

B. For construction of a new facility or the expansion by 50 percent or more of an existing facility for the bulk transfer of hazardous materials with the capacity of 10,000 or more gallons per transfer, if the facility is located in a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district Minnesota River Project Riverbend area, or the Mississippi headwaters area, the PCA shall be the RGU.

Subp. 9. **Underground storage.** Items A and B designate the RGU for the type of project listed:

A. For expansion of an underground storage facility for gases or liquids that requires a permit, pursuant to Minnesota Statutes, section 103I.681, subdivision 1, paragraph (a), the DNR shall be the RGU.

B. For expansion of an underground storage facility for gases or liquids, using naturally occurring rock materials, that requires a permit pursuant to Minnesota Statutes, section 103I.681, subdivision 1, paragraph (b), the DNR shall be the RGU.

Subp. 10. **Storage facilities.** Items A to C designate the RGU for the type of project listed:

A. For construction of a facility designed for or capable of storing more than 7,500 tons of coal or with an annual throughput of more than 125,000 tons of coal; or the expansion of an existing facility by these respective amounts, the PCA shall be the RGU.

B. For construction of a facility on a single site designed for or capable of storing 1,000,000 gallons or more of hazardous materials, the PCA shall be the RGU.

C. For construction of a facility designed for or capable of storing on a single site 100,000 gallons or more of liquefied natural gas, synthetic gas, or anhydrous ammonia, the PCA shall be the RGU.

Subp. 11. **Metallic mineral mining and processing.** Items A to C designate the RGU for the type of project listed:

A. For mineral deposit evaluation of metallic mineral deposits other than natural iron ore and taconite, the DNR shall be the RGU.

B. For expansion of a stockpile, tailings basin, or mine by 320 or more acres, the DNR shall be the RGU.

C. For expansion of a metallic mineral plant processing facility that is capable of increasing production by 25 percent per year or more, provided that increase is in excess of 1,000,000 tons per year in the case of facilities for processing natural iron ore or taconite, the DNR shall be the RGU.

Subp. 12. **Nonmetallic mineral mining.** Items A and B designate the RGU for the type of project listed:

A. For development of a facility for the extraction or mining of peat which will result in the excavation of 160 or more acres of land during its existence, the DNR shall be the RGU.

B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of land to a mean depth of ten feet or more during its existence, the local government unit shall be the RGU.

Subp. 13. **Paper or pulp processing mills.** For expansion of an existing paper or pulp processing facility that will increase its production capacity by 50 percent or more, the PCA shall be the RGU.

Subp. 14. **Industrial, commercial, and institutional facilities.** Items A and B designate the RGU for the type of project listed, except as provided in items C and D:

A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit shall be the RGU:

(1) unincorporated area, 150,000;

(2) third or fourth class city, 300,000;

(3) second class city, 450,000;

(4) first class city, 600,000.

B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local government unit shall be the RGU:

(1) unincorporated area, 100,000 square feet;

(2) third or fourth class city, 200,000 square feet;

(3) second class city, 300,000 square feet;

(4) first class city, 400,000 square feet.

C. This subpart applies to any industrial, commercial, or institutional project which includes multiple components, if there are mandatory categories specified in subparts 2 to 13, 16, 17, 20, 21, 23, 25, or 29, or part 4410.4400, subparts 2 to 10, 12, 13, 15, or 17, for two or more of the components, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the entire project must be compared to the thresholds specified in items A and B to determine the need for an EAW. If the project meets or exceeds the thresholds specified in any other subpart as well as that of item A or B, the RGU must be determined as provided in part 4410.0500, subpart 1.

D. This subpart does not apply to projects for which there is a single mandatory category specified in subparts 2 to 13, 16, 17, 20, 23, 25, 29, or 34, or part 4410.4400, subparts 2 to 10, 12, 13, 17, or 22, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the need for an EAW must be determined by comparison of the project to the threshold specified in the applicable subpart, and the RGU must be the governmental unit assigned by that subpart.

Subp. 15. **Air pollution.**

For construction of a stationary source facility that generates 250 tons or more per year or modification of a

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stationary source facility that increases generation by 250 tons or more per year of any single air pollutant after installation of air pollution control equipment, the PCA shall be the RGU.

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Subp. 16. **Hazardous waste.** Items A to D designate the RGU for the type of project listed:

A. For construction or expansion of a hazardous waste disposal facility, the PCA shall be the RGU.

B. For construction of a hazardous waste processing facility with a capacity of 1,000 or more kilograms per month, the PCA shall be the RGU.

C. For expansion of a hazardous waste processing facility that increases its capacity by ten percent or more, the PCA shall be the RGU.

D. For construction or expansion of a facility that sells hazardous waste storage services to generators other than the owner and operator of the facility or construction of a facility at which a generator's own hazardous wastes will be stored for a time period in excess of 90 days, if the facility is located in a water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be the RGU.

Deleted: B. For construction of a new parking facility for ¶ 2,000 or more vehicles, the PCA shall be the RGU, except that ¶ this category does not apply to any parking facility which is ¶ part of a project reviewed pursuant to part 4410.4300, subpart ¶ 14, 19, 32, or 34, or part 4410.4400, subpart 11, 14, 21, or 22. ¶

Subp. 17. **Solid waste.** Items A to G designate the RGU for the type of project listed:

A. For construction of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU.

B. For expansion by 25 percent or more of previous capacity of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU.

C. For construction or expansion of a mixed municipal solid waste transfer station for 300,000 or more cubic yards per year, the PCA is the RGU.

D. For construction or expansion of a mixed municipal solid waste energy recovery facility or incinerator, or the utilization of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a capacity of 30 or more tons per day of input, the PCA is the RGU.

E. For construction or expansion of a mixed municipal solid waste compost facility or a refuse-derived fuel production facility with a capacity of 50 or more tons per day of input, the PCA is the RGU.

F. For expansion by at least ten percent but less than 25 percent of previous capacity of a mixed municipal solid

waste disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.

G. For construction or expansion of a mixed municipal solid waste energy recovery facility ash landfill receiving ash from an incinerator that burns refuse-derived fuel or mixed municipal solid waste, the PCA is the RGU.

Subp. 18. **Wastewater systems.** Items A to C designate the RGU for the type of project listed:

A. For expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 1,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with a capacity less than 20 million gallons per day, or for expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 2,000,000 gallons per day or more if the discharge is to a wastewater treatment facility with the capacity of 20 million gallons or greater, the PCA shall be the RGU.

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B. For expansion or reconstruction of an existing municipal or domestic wastewater treatment facility which results in an increase by 50 percent or more and by at least 200,000 gallons per day of its average wet weather design flow capacity, or construction of a new municipal or domestic wastewater treatment facility with an average wet weather design flow capacity of 200,000 gallons per day or more, the PCA shall be the RGU.

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C. For expansion or reconstruction of an existing industrial process wastewater treatment facility which increases its design flow capacity by 50 percent or more and by at least 200,000 gallons per day or more, or construction of a new industrial process wastewater treatment facility with a design flow capacity of 200,000 gallons per day or more, 5,000,000 gallons per month or more, or 20,000,000 gallons per year or more, the PCA shall be the RGU. This category does not apply to industrial process wastewater treatment facilities that discharge to a publicly-owned treatment works or to a tailings basin reviewed pursuant to subpart 11, item B.

Subp. 19. **Residential development.** An EAW is required for residential development if the total number of units that may ultimately be developed on all contiguous land owned or under an option to purchase by the proposer, ~~and that is zoned for residential development or is identified for residential development~~ except land identified by an applicable comprehensive plan, ordinance, resolution, or agreement of a local governmental unit for a future use other than residential development, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer; for land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the product of the number of acres multiplied by the maximum number of units per acre allowable under the

applicable zoning ordinance or, if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plans of the proposer for those lands for which plans exist. If the total project requires review but future phases are uncertain, the RGU may review the ultimate project sequentially in accordance with part 4410.1000, subpart 4.

If a project consists of mixed unattached and attached units, an EAW must be prepared if the sum of the quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold, plus the quotient obtained by dividing the number of attached units by the applicable attached unit threshold, equals or exceeds one.

The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development of:

A. 50 or more unattached or 75 or more attached units in an unsewered unincorporated area or 100 unattached units or 150 attached units in a sewered unincorporated area;

B. 100 unattached units or 150 attached units in a city that does not meet the conditions of item D;

C. 100 unattached units or 150 attached units in a city meeting the conditions of item D if the project is not consistent with the adopted comprehensive plan; or

D. 250 unattached units or 375 attached units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, section 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the following elements:

(1) a land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, industrial, agricultural, and other public and private purposes;

(2) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services;

(3) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted;

(4) a capital improvements plan for public facilities; and

(5) an implementation plan describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan, and a description of official controls addressing the matters of zoning, subdivision, private sewage systems, and a schedule for the implementation of those controls. The EQB chair may specify the form to be used for making a certification under this item.

Subp. 20. **Campgrounds and RV parks.** For construction of a seasonal or permanent recreational development, accessible by vehicle, consisting of 50 or more sites, or the expansion of such a facility by 50 or more sites, the local government unit shall be the RGU.

Subp. 21. **Airport projects.** Items A and B designate the RGU for the type of project listed:

A. For construction of a paved, new airport runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU.

B. For construction of a runway extension that would upgrade an existing airport runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway, the DOT, local government unit, or the Metropolitan Airports Commission shall be the RGU. The RGU shall be selected according to part 4410.0500, subpart 5.

Subp. 22. **Highway projects.** Items A to C designate the RGU for the type of project listed:

A. For construction of a road on a new location over one mile in length that will function as a collector roadway, the DOT or local government unit shall be the RGU.

B. For construction of additional travel lanes on an existing road for a length of one or more miles, the DOT or local government unit shall be the RGU.

C. For the addition of one or more new interchanges to a completed limited access highway, the DOT or local government unit shall be the RGU.

Subp. 23. **Barge fleeting.** For construction of a new or expansion of an existing barge fleeting facility, the DOT or port authority shall be the RGU.

Subp. 24. **Water appropriation and impoundments.** Items A to C designate the RGU for the type of project listed:

A. For a new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30,000,000 gallons per month; or a new appropriation of either ground water or surface water for irrigation of 540 acres or more in one continuous parcel from one source of water, the DNR shall be the RGU.

B. For a new permanent impoundment of water creating additional water surface of 160 or more acres or for an additional permanent impoundment of water creating additional water surface of 160 or more acres, the DNR shall be the RGU.

C. For construction of a dam with an upstream drainage area of 50 square miles or more, the DNR shall be the RGU.

Subp. 25. **Marinas.** For construction or expansion of a marina or harbor that results in a 20,000 or more square foot total or a 20,000 or more square foot increase of water surface area used temporarily or permanently for docks, docking, or maneuvering of watercraft, the local government unit shall be the RGU.

Subp. 26. **Stream diversion.** For a diversion, realignment, or channelization of any designated trout stream, or affecting greater than 500 feet of natural watercourse with a total drainage area of ten or more square miles unless exempted by part 4410.4600, subpart 14, item E, or 17, the local government unit shall be the RGU.

Subp. 27. **Wetlands and public waters.** Items A and B designate the RGU for the type of project listed:

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A. For projects that will change or diminish the course, current, or cross-section of one acre or more of any public water or public waters wetland except for those to be drained without a permit pursuant to Minnesota Statutes, chapter 103G, the local government unit shall be the RGU.

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B. For projects that will change or diminish the course, current, or cross-section of 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or more, excluding public waters wetlands, if any part of the wetland is within a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local government unit shall be the RGU.

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Subp. 28. **Forestry.** Items A and B designate the RGU for the type of project listed:

A. For harvesting of timber for commercial purposes on public lands within a state park, historical area, wilderness area, scientific and natural area, wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area, or critical area that does not have an approved plan under Minnesota Statutes, section 86A.09 or 116G.07, the DNR shall be the RGU.

B. For a clearcutting of 80 or more contiguous acres of forest, any part of which is located within a shoreland area and within 100 feet of the ordinary high water mark of the lake or river, the DNR shall be the RGU.

Subp. 29. **Animal feedlots.** The PCA is the RGU for the types of projects listed in items A and B unless the county will issue the feedlot permit, in which case the county is the RGU. However, the county is not the RGU prior to January 1, 2001.

A. For the construction of an animal feedlot facility with a capacity of 1,000 animal units or more or the expansion of an existing facility by 1,000 animal units or more if the facility is not in an area listed in item B.

B. For the construction of an animal feedlot facility of more than 500 animal units or expansion of an existing animal feedlot facility by more than 500 animal units if the facility is located wholly or partially in any of the following sensitive locations: shoreland; a delineated flood plain, except that in the flood plain of the Red River of the North the sensitive area includes only land within 1,000 feet of the ordinary high water mark; a state or federally designated wild and scenic river district; the Minnesota River Project Riverbend area; the Mississippi headwaters area; or an area within a drinking water supply management area delineated under chapter 4720 where the aquifer is identified in the wellhead protection plan as vulnerable to contamination; or within 1,000 feet of a known sinkhole, cave, resurgent spring, disappearing spring, Karst window, blind valley, or dry valley.

The provisions of part 4410.1000, subpart 4, regarding connected actions do not apply to animal feedlots. The provisions of part 4410.1000, subpart 4, regarding phased actions apply to feedlots.

With the agreement of the proposers, the RGU may prepare a single EAW to collectively review individual sites of a multisite feedlot proposal.

Subp. 30. **Natural areas.** For projects resulting in the permanent physical encroachment on lands within a national park, state park, wilderness area, state lands and waters within the boundaries of the Boundary Waters Canoe Area, scientific and natural area, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit, the DNR or local government unit shall be the RGU.

Subp. 31. **Historical places.** For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local unit of government shall be the RGU, except this does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, United States Code, title 16, section 470, the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply to a property located

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within a designated historic district if the property is listed as "noncontributing" in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.

Subp. 32. **Mixed residential and industrial-commercial projects.** If a project includes both residential and industrial-commercial components, the project must have an EAW prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 19, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the applicable industrial-commercial threshold of subpart 14, equals or exceeds one. The local governmental unit is the RGU.

Subp. 33. **Communications towers.** For construction of a communications tower equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of any ~~protected~~ public water or ~~protected~~ public waters wetland or within two miles of the Mississippi, Minnesota, Red, or St. Croix rivers or Lake Superior, the local governmental unit is the RGU.

Subp. 34. **Sports or entertainment facilities.** For construction of a new sports or entertainment facility designed for or expected to accommodate a peak attendance of 5,000 or more persons, or the expansion of an existing sports or entertainment facility by this amount, the local governmental unit is the RGU.

Subp. 35. **Release of genetically engineered organisms.** For the release of a genetically engineered organism that requires a release permit from the EQB under chapter 4420, the EQB is the RGU. For all other releases of genetically engineered organisms, the RGU is the permitting state agency. This subpart does not apply to the direct medical application of genetically engineered organisms to humans or animals.

Subp. 36. **Land use conversion, including golf courses.** Items A and B designate the RGU for the type of project listed:

A. For golf courses, residential development where the lot size is less than five acres, and other projects resulting in the permanent conversion of 80 or more acres of agricultural, native prairie, forest, or naturally vegetated land, the local government unit shall be the RGU, except that this subpart does not apply to agricultural land inside the boundary of the Metropolitan Urban Service Area established by the Metropolitan Council.

B. For projects resulting in the conversion of 640 or more acres of forest or naturally vegetated land to a different open space land use, the local government unit shall be the RGU.

Subp. 37. **Recreational trails.** If a project listed in items A to

grant-in-aid funds administered by the DNR, the DNR is the RGU. For other projects, if a governmental unit is sponsoring the project, in whole or in part, that governmental unit is the RGU. If the project is not sponsored by a unit of government, the RGU is the local governmental unit. For purposes of this subpart, "existing trail" means an established corridor in current legal use.

A. Constructing a trail at least ten miles long on forested or other naturally vegetated land for a recreational use other than snowmobiling or cross-country skiing, unless exempted by part 4410.4600, subpart 14, item D, or constructing a trail at least 20 miles long on forested or other naturally vegetated land exclusively for snowmobiling or cross-country skiing.

B. Designating at least 25 miles of an existing trail for a new motorized recreational use other than snowmobiling.

In applying items A and B, if a proposed trail will contain segments of newly constructed trail and segments that will follow an existing trail but be designated for a new motorized use, an EAW must be prepared if the sum of the quotients obtained by dividing the length of the new construction by ten miles and the length of the existing but newly designated trail by 25 miles, equals or exceeds one.

C. Paving ten or more miles of an existing unpaved trail, unless exempted by part 4410.4600, subpart 27, item B or F. Paving an unpaved trail means to create a hard surface on the trail with a material impervious to water.

D. Constructing an off-highway vehicle recreation area of 80 or more acres, or expanding an off-highway vehicle recreation area by 80 or more acres, on agricultural land or forested or other naturally vegetated land.

E. Constructing an off-highway vehicle recreation area of 640 or more acres, or expanding an off-highway vehicle recreation area by 640 or more acres, if the land on which the construction or expansion is carried out is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities such as mineral mining.

F. Some recreation areas for off-highway vehicles may be constructed partially on agricultural naturally vegetated land and partially on land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities. In that case, an EAW must be prepared if the sum of the quotients obtained by dividing the number of acres of agricultural or naturally vegetated land by 80 and the number of acres of land that is not agricultural, is not forested or otherwise naturally vegetated, or has been significantly disturbed by past human activities by 640, equals or exceeds one.

4410.4400 MANDATORY EIS CATEGORIES.

Subpart 1. **Threshold test.** An EIS must be prepared for projects that meet or exceed the threshold of any of subparts 2 to 25. Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when comparing the project or projects to the thresholds of this part.

Subp. 2. **Nuclear fuels and nuclear waste.** Items A to D designate the RGU for the type of project listed:

A. For the construction or expansion of a nuclear fuel or nuclear waste processing facility, including fuel fabrication facilities, reprocessing plants, and uranium mills, the DNR shall be the RGU for uranium mills; otherwise, the PCA shall be the RGU.

B. For construction of a high level nuclear waste disposal site, the EQB shall be the RGU.

C. For construction of an away-from-reactor facility for temporary storage of spent nuclear fuel, the EQB shall be the RGU.

D. For construction of a low level nuclear waste disposal site, the MDH shall be the RGU.

Subp. 3. **Electric generating facilities.** For construction of a large electric power generating plant, environmental review shall be conducted according to parts 4410.7010 to 4410.7070 and chapter 4400.

Subp. 4. **Petroleum refineries.** For construction of a new petroleum refinery facility, the PCA shall be the RGU.

Subp. 5. **Fuel conversion facilities.** Items A and B designate the RGU for the type of project listed:

A. For construction of a facility for the conversion of coal, peat, or biomass sources to gaseous, liquid, or solid fuels if that facility has the capacity to utilize 250,000 dry tons or more per year of input, the PCA shall be the RGU.

B. For construction or expansion of a facility for the production of alcohol fuels which would have or would increase its capacity by 50,000,000 or more gallons per year of alcohol produced if the facility will be in the seven-county Twin Cities metropolitan area or by 125,000,000 or more gallons per year of alcohol produced if the facility will be outside the seven-county Twin Cities metropolitan area, the PCA shall be the RGU.

Subp. 6. **Transmission lines.** For construction of a high voltage transmission line, environmental review shall be conducted according to parts 4410.7010 to 4410.7070 and chapter 4400.

Subp. 7. **Underground storage.** Items A and B designate the RGU for the type of project listed:

A. For construction of an underground storage facility for gases or liquids that requires a permit pursuant to Minnesota Statutes, section 103I.681, subdivision 1, paragraph (a), the DNR shall be the RGU.

B. For construction of an underground storage facility for gases or liquids, using naturally occurring rock materials, that requires a permit pursuant to Minnesota Statutes, section 103I.681, subdivision 1, paragraph (b), the DNR shall be the RGU.

Subp. 8. **Metallic mineral mining and processing.** Items A to C designate the RGU for the type of project listed:

A. For mineral deposit evaluation involving the extraction of 1,000 tons or more of material that is of interest to the proposer principally due to its radioactive characteristics, the DNR shall be the RGU.

B. For construction of a new facility for mining metallic minerals or for the disposal of tailings from a metallic mineral mine, the DNR shall be the RGU.

C. For construction of a new metallic mineral processing facility, the DNR shall be the RGU.

Subp. 9. **Nonmetallic mineral mining.** Items A and B designate the RGU for the type of project listed:

A. For development of a facility for the extraction or mining of peat which will utilize 320 acres of land or more during its existence, the DNR shall be the RGU.

B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat, which will excavate 160 acres of land or more to a mean depth of ten feet or more during its existence, the local government unit shall be the RGU.

Subp. 10. **Paper or pulp processing.** For construction of a new paper or pulp processing mill, the PCA shall be the RGU.

Subp. 11. **Industrial, commercial, and institutional facilities.** Items A and B designate the RGU for the type of project listed, except as provided in items C and D:

A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit is the RGU:

(1) unincorporated area, 375,000;

(2) third or fourth class city, 750,000;

(3) second class city, 1,000,000;

(4) first class city, 1,500,000.

B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local government unit shall be the RGU:

(1) unincorporated area, 250,000 square feet;

(2) third or fourth class city, 500,000 square feet;

(3) second class city, 750,000 square feet;

(4) first class city, 1,000,000 square feet.

C. This subpart applies to any industrial, commercial, or institutional project which includes multiple components, if there are mandatory categories specified in subparts 2 to 10, 12, 13, 15, or 17, or part 4410.4300, subparts 2 to 13, 16, 17, 20, 21, 23, 25, or 29 for two or more of the components, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the entire project must be compared to the thresholds specified in items A and B to determine the need for an EIS. If the project meets or exceeds the thresholds specified in any other subparts as well as those in item A or B, the RGU must be determined as provided in part 4410.0500, subpart 1.

D. This subpart does not apply to projects for which there is a single mandatory category specified in subparts 2 to 10, 12, 13, 17, or 22, or part 4410.4300, subparts 2 to 13, 16, 17, 20, 23, 25, 29, or 34, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the need for an EIS or an EAW must be determined by comparison of the project to the threshold specified in the applicable subpart, and the RGU must be the governmental unit assigned by that subpart.

Subp. 12. **Hazardous waste.** Items A to C designate the RGU for the type of project listed:

A. For construction or expansion of a hazardous waste disposal facility for 1,000 or more kilograms per month, the PCA shall be the RGU.

B. For the construction or expansion of a hazardous waste disposal facility in a water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be the RGU.

C. For construction or expansion of a hazardous waste processing facility if the facility is located in a water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be the RGU.

Subp. 13. **Solid waste.** Items A to E designate the RGU for the type of project listed:

A. For construction of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.

B. For construction or expansion of a mixed municipal solid waste disposal facility in a water-related land use management district, or in an area characterized by soluble bedrock, the PCA is the RGU.

C. For construction or expansion of a mixed municipal solid waste energy recovery facility or incinerator, or the utilization of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a capacity of 250 or more tons per day of input, the PCA is the RGU.

D. For construction or expansion of a mixed municipal solid waste compost facility or a refuse-derived fuel production facility with a capacity of 500 or more tons per day of input, the PCA is the RGU.

E. For expansion by 25 percent or more of previous capacity of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU.

Subp. 14. **Residential development.** An EIS is required for residential development if the total number of units that the proposer may ultimately develop on all contiguous land owned by the proposer or for which the proposer has an option to purchase, ~~and that is zoned for residential development or is identified for residential development~~ except land identified by an applicable comprehensive plan, ordinance, resolution, or agreement of a local governmental unit for a future use other than residential development, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer; for land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the product of the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance, or if the maximum number of units allowable per acre is not specified in an applicable zoning ordinance, by the overall average number of units per acre indicated in the plans of the proposer for those lands for which plans exist. If the total project requires review but future phases are uncertain, the RGU may review the ultimate project sequentially in accordance with part 4410.2000, subpart 4.

The RGU may review an initial stage of the project, that may not exceed ten percent of the applicable EIS threshold, by means of the procedures of parts 4410.1200 to 4410.1700 instead of the procedures of parts 4410.2000 to 4410.2800. If the RGU determines that this stage requires preparation of an EIS under

part 4410.1700, it may be reviewed through a separate EIS or through an EIS that also covers later stages of the project.

If a project consists of mixed unattached and attached units, an EIS must be prepared if the sum of the quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold, plus the quotient obtained by dividing the number of attached units by the applicable attached unit threshold, equals or exceeds one.

The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development of:

A. 100 or more unattached or 150 or more attached units in an unsewered unincorporated area or 400 unattached units or 600 attached units in a sewered unincorporated area;

B. 400 unattached units or 600 attached units in a city that does not meet the conditions of item D;

C. 400 unattached units or 600 attached units in a city meeting the conditions of item D if the project is not consistent with the adopted comprehensive plan; or

D. 1,000 unattached units or 1,500 attached units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, section 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the following elements:

(1) a land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, industrial, agricultural, and other public and private purposes;

(2) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services;

(3) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted;

(4) a capital improvements plan for public facilities; and

(5) an implementation plan describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan, and a description of official controls addressing the matters of zoning, subdivision, private sewage systems, and a schedule for the implementation of the

controls. The EQB chair may specify the form to be used for making a certification under this item.

Subp. 15. **Airport runway projects.** For construction of a paved and lighted airport runway of 5,000 feet of length or greater, the DOT or local government unit shall be the RGU.

Subp. 16. **Highway projects.** For construction of a road on a new location which is four or more lanes in width and two or more miles in length, the DOT or local government unit shall be the RGU.

Subp. 17. **Barge fleeting facilities.** For construction of a barge fleeting facility at a new off-channel location that involves the dredging of 1,000 or more cubic yards, the DOT or port authority shall be the RGU.

Subp. 18. **Water appropriation and impoundments.** For construction of a Class I dam, the DNR shall be the RGU.

Subp. 19. **Marinas.** For construction of a new or expansion of an existing marina, harbor, or mooring project on a state or federally designated wild and scenic river, the local government unit shall be the RGU.

Subp. 20. **Wetlands and public waters.** For projects that will eliminate a public water or ~~protected~~ public waters wetland, the local government unit shall be the RGU.

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Subp. 21. **Mixed residential and commercial-industrial projects.** If a project includes both residential and commercial-industrial components, the project must have an EIS prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 14, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the applicable industrial-commercial threshold of subpart 11, equals or exceeds one.

Subp. 22. **Sports or entertainment facilities.** For construction of a new outdoor sports or entertainment facility designed for or expected to accommodate a peak attendance of 20,000 or more persons or a new indoor sports or entertainment facility designed for or expected to accommodate a peak attendance of 30,000 or more persons, or the expansion of an existing facility by these amounts, the local governmental unit is the RGU.

Subp. 23. **Water diversions.** For a diversion of waters of the state to an ultimate location outside the state in an amount equal to or greater than 2,000,000 gallons per day, expressed as a daily average over any 30-day period, the DNR is the RGU.

Subp. 24. **Pipelines.** For routing of a pipeline subject to the full route selection procedures under Minnesota Statutes, section 116I.015, the EQB is the RGU.

Subp. 25. **Incineration of wastes containing PCBs.** For the incineration of wastes containing PCB's for which an EIS is required by Minnesota Statutes, section 116.38, subdivision 2, the PCA shall be the RGU.

4410.4500 DISCRETIONARY EAW.

A governmental unit with jurisdiction may order the preparation of an EAW for any project that does not exceed the mandatory thresholds designated in part 4410.4300 or 4410.4400 if the governmental unit determines that because of the nature or location of the proposed project the project may have the potential for significant environmental effects, and the project is not exempted pursuant to part 4410.4600.

4410.4600 EXEMPTIONS.

Subpart 1. **Scope of exemption.** Projects within subparts 2 and 26 are exempt from parts 4410.0200 to 4410.6500. Projects within subparts 3 to 25 are exempt from parts 4410.0200 to 4410.6500, unless they have characteristics which meet or exceed any of the thresholds specified in part 4410.4300 or 4410.4400.

Subp. 2. **Standard exemptions.** The following projects are standard exemptions:

A. projects for which no governmental decisions are required;

B. projects for which all governmental decisions have been made. However, this exemption does not in any way alter the prohibitions on final governmental decisions to approve a project under part 4410.3100;

C. projects for which, and so long as, a governmental unit has denied a required governmental approval;

D. projects for which a substantial portion of the project has been completed and an EIS would not influence remaining construction; and

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E. projects for which environmental review has already been completed or for which environmental review is being conducted pursuant to part 4410.3600 or 4410.3700.

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Subp. 3. **Electric generating facilities.** Construction of an electric generating plant or combination of plants at a single site with a combined capacity of less than five megawatts is exempt.

Subp. 4. **Fuel conversion facilities.** Expansion of a facility for the production of alcohol fuels that would have or would increase its capacity by less than 500,000 gallons per year of alcohol produced is exempt.

Subp. 5. **Transmission lines.** Construction of a

transmission line with a nominal capacity of 69 kilovolts or less is exempt.

Subp. 6. **Transfer facilities.** Construction of a facility designed for or capable of transferring less than 30 tons of coal per hour or with an annual throughput of less than 50,000 tons of coal from one mode of transportation to a similar or different mode of transportation, or the expansion of an existing facility by these respective amounts, is exempt.

Subp. 7. **Storage facilities.** Construction of a facility designed for or capable of storing less than 750 tons of coal or more, with an annual throughput of less than 12,500 tons of coal, or the expansion of an existing facility by these respective amounts, is exempt.

Subp. 8. **Mining.** The following projects are exempt:

A. General mine site evaluation activities that do not result in a permanent alteration of the environment, including mapping, aerial surveying, visual inspection, geologic field reconnaissance, geophysical studies, and surveying, but excluding exploratory borings, are exempt.

B. Expansion of metallic mineral plant processing facilities that are capable of increasing production by less than ten percent per year, provided the increase is less than 100,000 tons per year in the case of facilities for processing natural iron ore or taconite, is exempt.

C. Scram mining operations are exempt.

Subp. 9. **Paper or pulp processing facilities.** Expansion of an existing paper or pulp processing facility that will increase its production capacity by less than ten percent is exempt.

Subp. 10. **Industrial, commercial, and institutional facilities.** The following projects are exempt:

A. Construction of a new or expansion of an existing warehousing, light industrial, commercial, or institutional facility of less than the following thresholds, expressed as gross floor space:

(1) third or fourth class city or unincorporated area, 50,000 square feet,

(2) second class city, 75,000 square feet, or

(3) first class city, 100,000 square feet, if no part of the development is within a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, is exempt.

B. The construction of a warehousing, light

industrial, commercial, or institutional facility with less than 4,000 square feet of gross floor space, and with associated parking facilities designed for 20 vehicles or less, is exempt.

C. Construction of a new parking facility for less than 100 vehicles if the facility is not located in a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area is exempt.

Subp. 11. **Sewage systems.** Construction of a new wastewater treatment facility with a capacity of less than 5,000 gallons per day average wet weather flow or the expansion of an existing wastewater treatment facility by less than 5,000 gallons per day average wet weather flow or the expansion of a sewage collection system by less than 5,000 gallons per day design daily average flow or a sewer line of 1,000 feet or less and eight-inch diameter or less, is exempt.

Subp. 12. **Residential development.** The following projects are exempt:

A. Construction of a sewered residential development, of:

(1) less than ten units in an unincorporated area,

(2) less than 20 units in a third or fourth class city,

(3) less than 40 units in a second class city, or

(4) less than 80 units in a first class city, no part of which is within a shoreland area, delineated flood plain state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, is exempt.

B. Construction of a single residence or multiple residence with four dwelling units or less and accessory appurtenant structures and utilities is exempt.

Subp. 13. **Airport projects.** The following projects are exempt:

A. Runway, taxiway, apron, or loading ramp construction or repair work including reconstruction, resurfacing, marking, grooving, fillets, and jet blast facilities is exempt, except where the project will create environmental impacts off airport property.

B. Installation or upgrading of airfield lighting systems, including beacons and electrical distribution systems, is exempt.

C. Construction or expansion of passenger handling or

parking facilities, including pedestrian walkway facilities, is exempt.

D. Grading or removal of obstructions and erosion control projects on airport property is exempt, except where the projects will create environmental impacts off airport property.

Subp. 14. **Highway projects.** The following projects are exempt:

A. Highway safety improvement projects are exempt.

B. Installation of traffic control devices, individual noise barriers, bus shelters and bays, loading zones, and access and egress lanes for transit and paratransit vehicles is exempt.

C. Modernization of an existing roadway or bridge by resurfacing, restoration, or rehabilitation that may involve the acquisition of minimal amounts of right-of-way is exempt.

D. Roadway landscaping, construction of bicycle and pedestrian lanes, paths, and facilities within existing right-of-way are exempt.

E. Any stream diversion or channelization within the right-of-way of an existing public roadway associated with bridge or culvert replacement is exempt.

F. Reconstruction or modification of an existing bridge structure on essentially the same alignment or location that may involve the acquisition of minimal amounts of right-of-way is exempt.

Subp. 15. **Water impoundments.** A new or additional permanent impoundment of water creating a water surface of less than ten acres is exempt.

Subp. 16. **Marinas.** Construction of private residential docks for use by four or less boats and utilizing less than 1,500 square feet of water surface is exempt.

Subp. 17. **Ditch maintenance or repair.** Routine maintenance or repair of a drainage ditch within the limits of its original construction flow capacity, performed within 20 years of construction or major repair, is exempt.

Subp. 18. **Agriculture and forestry.** The following projects are exempt:

A. Harvesting of timber for maintenance purposes is exempt.

B. Public and private forest management practices, other than clearcutting or the application of pesticides, that involve less than 20 acres of land, are exempt.

Subp. 19. **Animal feedlots.** The activities in items A to D are exempt.

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A. Construction of an animal feedlot facility with a capacity of less than 1,000 animal units, or the expansion of an existing animal feedlot facility to a total cumulative capacity of less than 1,000 animal units, if all the following apply:

(1) the feedlot is not in an environmentally sensitive location listed in part 4410.4300, subpart 29, item B;

(2) the application for the animal feedlot permit includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with PCA feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days prior to the PCA or county issuing a feedlot permit for the facility, unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted.

B The construction of an animal feedlot facility of less than 300 animal units or the expansion of an existing facility by less than 100 animal units, no part of either of which is located within a shoreland area; delineated flood plain; state or federally designated wild and scenic rivers district; the Minnesota River Project Riverbend area; the Mississippi headwaters area; an area within a drinking water supply management area designated under chapter 4720 where the aquifer is identified in the wellhead protection plan as vulnerable to contamination; or 1,000 feet of a known sinkhole, cave, resurgent spring, disappearing spring, Karst window, blind valley, or dry valley.

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C. The construction or expansion of an animal feedlot facility with a resulting capacity of less than 50 animal units regardless of location.

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D. The modification without expansion of capacity of any feedlot of no more than 300 animal units if the modification is necessary to secure a Minnesota feedlot permit.

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Subp. 20. **Utilities.** Utility extensions are exempt as follows:

A. water service mains of 500 feet or less and 1-1/2 inches diameter or less;

B. local electrical service lines;

C. gas service mains of 500 feet or less and one inch diameter or less; and

D. telephone services lines.

Subp. 21. **Construction projects.** The following projects are exempt:

A. Construction of accessory appurtenant structures including garages, carports, patios, swimming pools,

agricultural structures excluding feedlots, or other similar buildings not changing land use or density is exempt.

B. Accessory signs appurtenant to any commercial, industrial, or institutional facility are exempt.

C. Operation, maintenance, or repair work having no substantial impact on existing structures, land use, or natural resources is exempt.

D. Restoration or reconstruction of a structure is exempt, provided that the structure is not of historical, cultural, architectural, archaeological, or recreational value.

E. Demolition or removal of buildings and related structures is exempt, except where they are of historical, archaeological, or architectural significance.

Subp. 22. **Land use.** The following projects are exempt:

A. Individual land use variances, including minor lot line adjustments and side yard and setback variances not resulting in the creation of a new subdivided parcel of land or any change in land use character or density, are exempt.

B. Minor temporary uses of land having negligible or no permanent effect on the environment are exempt.

C. Maintenance of existing landscaping, native growth, and water supply reservoirs, excluding the use of pesticides, is exempt.

Subp. 23. **Research and data collection.** Basic data collection, training programs, research, experimental management, and resource evaluation projects that do not result in an extensive or permanent disturbance to an environmental resource, and do not constitute a substantial commitment to a further course of action having potential for significant environmental effects, are exempt.

Subp. 24. **Financial transactions.** The following projects are exempt:

A. Acquisition or disposition of private interests in real property, including leaseholds, easements, right-of-way, or fee interests, is exempt.

B. Purchase of operating equipment, maintenance equipment, or operating supplies is exempt.

Subp. 25. **Licenses.** The following decisions are exempt:

A. Licensing or permitting decisions related to individual persons or activities directly connected with an individual's household, livelihood, transportation, recreation, health, safety, and welfare, such as motor vehicle licensing or individual park entrance permits, are exempt.

B. All licenses required under electrical, fire, plumbing, heating, mechanical and safety codes and regulations, but not including building permits, are exempt.

Subp. 26. **Governmental activities.** Proposals and enactments of the legislature, rules or orders of governmental units, executive orders of the governor or their implementation by governmental units, judicial orders, and submissions of proposals to a vote of the people of the state are exempt.

Subp. 27. **Recreational trails.** The projects listed in items A to F are exempt. For purposes of this subpart, "existing trail" means an established corridor in current legal use.

A. Rerouting less than one continuous mile of a recreational trail if the reroute is necessary to avoid sensitive areas or to alleviate safety concerns. Multiple reroutes on the same trail must be treated as independent projects, except that where the cumulative length of currently proposed reroutes exceeds one mile on any five-mile segment of trail, as measured along the rerouted trail, those reroutes are not exempt.

B. Reconstructing, rehabilitating, or maintaining an existing trail involving no changes in designated use.

C. Constructing less than one continuous mile of trail for use by snowmobiles or cross-country skiers.

D. Constructing a trail for winter-only use across agricultural land or across frozen water.

E. Designating an existing trail for use by snowmobiles or cross-country skiers.

F. Constructing or rehabilitating a nonmotorized trail within the Twin Cities Metropolitan Regional Park System.

4410.5000 AUTHORITY AND PURPOSE.

Subpart 1. **Bulletin.** To provide early notice of impending projects which may have significant environmental effects, the EQB shall, pursuant to Minnesota Statutes, section 116D.04, subdivision 8, publish a bulletin with the name of "EQB Monitor" containing all notices as specified in part 4410.5200. The EQB chair may prescribe the form and manner in which the governmental units submit any material for publication in the EQB Monitor, and the EQB chair may withhold publication of any material not submitted according to the form or procedures the EQB chair has prescribed.

Subp. 2. **Purpose.** These rules are intended to provide a procedure for notice to the EQB and to the public of natural resource management and development permit applications, and impending governmental and private projects that may have significant environmental effects. The notice through the early

notice procedures is in addition to public notices otherwise required by law, rule, or regulation.

4410.5100 EXEMPTIONS.

Subpart 1. **EPA permit exemption.** All national pollutant discharge elimination system permits granted by the PCA, under the authority given by the Environmental Protection Agency, shall be exempt from parts 4410.5000 to 4410.5600 unless otherwise provided by resolution of the EQB.

Subp. 2. **Nonstrict observance.** Where, in the opinion of any governmental unit, strict observance of parts 4410.5000 to 4410.5400 would jeopardize the public health, safety, or welfare or would otherwise generally compromise the public interest, the governmental unit shall comply with these rules as far as practicable. In such cases, the governmental unit shall carry out alternative means of public notification and shall communicate the same to the EQB chairperson.

Subp. 3. **Federal permits exemption.** Any federal permits for which review authority has been delegated to a nonfederal governmental unit by the federal government may be exempted by resolution of the EQB.

4410.5200 EQB MONITOR PUBLICATION REQUIREMENTS.

Subpart 1. **Required notices.** Governmental units are required to publish notice of the items listed in items A to P in the EQB Monitor, except that this part constitutes a request and not a requirement with respect to federal agencies.

A. When a project has been noticed pursuant to item D, separate notice of individual permits required by that project need not be made unless changes in the project are proposed that will involve new and potentially significant environmental effects not considered previously. No decision granting a permit application for which notice is required to be published by this part shall be effective until 30 days following publication of the notice.

(1) For all public hearings conducted pursuant to water resources permit applications, Minnesota Statutes, chapter 103G, the DNR is the permitting authority.

(2) For notice of public sales of permits for or leases to mine iron ore, copper-nickel, or other minerals on state-owned or administered mineral rights, Minnesota Statutes, sections 93.16, 93.335, and 93.351, and part 6125.0500, the DNR is the permitting authority.

(3) For section 401 certifications, United States Code 1976, title 33, section 1341, and Minnesota Statutes, section 115.03, the PCA is the permitting authority.

(4) For construction of a public use airport, Minnesota Statutes, section 360.018, subdivision 6, the DOT is

the permitting authority.

~~(5) For special local need registration for pesticides, Minnesota Statutes, section 18A.23, and parts 1505.0870 to 1505.0930, the MDA is the permitting authority.~~

B. Impending projects proposed by state agencies when the proposed project may have the potential for significant environmental effects.

C. Notice of the decision on the need for an EAW pursuant to part 4410.1100, subpart 6.

D. Notice of the availability of a completed EAW pursuant to part 4410.1500, item A.

E. RGU's decision on the need to prepare an EIS pursuant to part 4410.1700, subpart 2, item D.

F. Notice of the time, place, and date of the EIS scoping meeting pursuant to part 4410.2100, subpart 2, items A, subitem (2) and B, subitem (1).

G. EIS preparation notices pursuant to part 4410.2100, subpart 9.

H. Amendments to the EIS scoping decision pursuant to part 4410.2100, subpart 8.

I. Availability of draft and final EIS pursuant to parts 4410.2600, subpart 5 and 4410.2700, subpart 4.

J. Notice of draft EIS informational meetings to be held pursuant to part 4410.2600, subpart 7.

K. RGU's adequacy decision of the final EIS pursuant to part 4410.2800, subpart 6.

L. Notice of activities undergoing environmental review under alternative review processes pursuant to part 4410.3600, subpart 1, item F.

M. Adoption of model ordinances pursuant to part 4410.3700, subpart 2.

N. Environmental analyses prepared under adopted model ordinances pursuant to part 4410.3700, subpart 3.

O. Notice of the application for a certificate of need for a large energy facility, pursuant to Minnesota Statutes, section 216B.243.

P. Notice of the availability of a draft ~~environmental report, pursuant to part 4410.7100, subp. 6~~ Alternative Urban Areawide Review document.

Q. Notice of the ~~availability~~adoption of a final

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~~environmental report, pursuant to part 4410.7100, subp. 10~~
Alternative Urban Areawide Review document.

R. Notice of other actions that the EQB may specify by resolution.

Subp. 2. **Optional notices.** Governmental units may publish notices of general interest or information in the EQB Monitor.

Subp. 3. **Required EQB notices.** The EQB is required to publish the following in the EQB Monitor:

A. receipt of a valid petition and assignment of a RGU pursuant to part 4410.1100, subparts 3 and 5;

B. decision by the EQB that it will determine the adequacy of a final EIS pursuant to part 4410.2800, item A;

C. EQB's adequacy decision of the final EIS pursuant to part 4410.2800, item G;

D. receipt by the EQB of an application for a variance pursuant to part 4410.3100, subpart 4, item D;

E. the EQB's decision to hold public hearings on a recommended critical area pursuant to Minnesota Statutes, section 116G.06, subdivision 1, clause (c);

F. notice of application for a site permit for a large electric power generating plant or a route permit for a high voltage transmission line pursuant to Minnesota Statutes, sections 116C.51 to 116C.69;

G. receipt of a consolidated permit application pursuant to part 4350.3030, subpart 1; and

H. notice of the availability of an environmental report, pursuant to part 4410.7030, subpart 10.

4410.5300 CONTENT OF NOTICE.

The information to be included in the notice for natural resources management and development permit applications and other items in part 4410.5200, subpart 1, items A and B shall be submitted by the governmental unit on a form approved by the EQB. This information shall include but not be limited to:

A. identification of applicant, by name and mailing address;

B. the location of the proposed project, or description of the area affected by the project by county, minor civil division, public land survey township number, range number, and section number;

C. the name of the permit applied for, or a description of the proposed project or other action to be undertaken in sufficient detail to enable other state agencies to determine whether they have jurisdiction over the proposed project;

D. a statement of whether the agency intends to hold public hearings on the proposed project, along with the time and place of the hearings if they are to be held in less than 30 days from the date of this notice; and

E. the identification of the governmental unit publishing the notice, including the manner and place at which comments on the project can be submitted and additional information can be obtained.

4410.5400 STATEMENT OF COMPLIANCE.

Each governmental permit or agency authorizing order subject to the requirements of part 4410.5200, subpart 1, item A issued or granted by a governmental unit shall contain a statement by the unit concerning whether the provisions of parts 4410.5000 to 4410.5400 have been complied with, and publication dates of the notices, if any, concerning that permit or authorization.

4410.5500 PUBLICATION.

The EQB shall publish the EQB Monitor whenever it is necessary, except that material properly submitted to the EQB shall not remain unpublished for more than 13 working days.

4410.5600 COST AND DISTRIBUTION.

Subpart 1. **Costs of publication.** When a governmental unit properly submits material to the EQB for publication, the EQB shall then be accountable for the publication of the same in the EQB Monitor. The EQB shall require each governmental unit which is required to publish material or requests the publication of material in the EQB Monitor, including the EQB itself, to pay its proportionate cost of the EQB Monitor unless other funds are provided and are sufficient to cover the cost of the EQB Monitor.

Subp. 2. **Distribution.** The EQB Monitor may be published by electronic means, including by posting at the EQB internet website and by electronic mail to persons who have registered with the EQB to receive the EQB Monitor.

Deleted: The EQB may further provide at least one copy to the Print Communications Division for the mailing of the EQB Monitor to any person, governmental unit, or organization if so requested. The EQB may assess reasonable costs to the requesting party. Ten copies of each issue of the ¶ EQB Monitor, however, shall be provided without cost to the Legislative Reference Library, ten copies to the State Law Library, and at least one copy to designated EQB depositories. ¶

4410.6000 PROJECTS REQUIRING AN ASSESSMENT OF EIS PREPARATION COST.

The RGU shall assess the project proposer for its reasonable costs of preparing and distributing an EIS in accord with parts 4410.6100 to 4410.6500.

4410.6100 DETERMINING EIS ASSESSED COST.

Subpart 1. **Proposer and RGU agreement.** Within 30 days after the RGU's scoping decision has been issued, the RGU shall submit to the proposer a draft cost agreement. The agreement shall include the EIS estimated cost and a brief description of the tasks and the cost of each task to be performed by each party in preparing and distributing the EIS. Those items identified in part 4410.6200 may be used as a guideline in determining the EIS estimated cost. The proposer may request changes in the cost agreement. If, within 30 days after the proposer receives the draft cost agreement, the RGU and proposer have not signed a cost agreement, either party may refer the matter to the EQB pursuant to part 4410.6410. If the RGU and proposer sign the cost agreement, the RGU shall submit a copy to the EQB.

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Deleted: If an agreement cannot be reached, the RGU or the proposer shall so notify the EQB.

[Subps. 2 & 3 -- repealed]

Subp. 4. **Federal-state EIS.** When a joint federal-state EIS is prepared pursuant to part 4410.3900 and the EQB designates a nonfederal agency as the RGU, only those costs of the state RGU may be assessed to the proposer.

Subp. 5. **Related actions EIS.** When specific projects are included in a related actions EIS, only the portion of the EIS cost that is attributable to each specific project may be used in determining the EIS assessed cost for its proposer.

4410.6200 DETERMINING EIS COST.

Subpart 1. **EIS cost inclusions.** In determining the reasonable cost of preparing and distributing an EIS, the following items shall be included:

A. the cost of the RGU's staff time including direct salary and fringe benefit costs, unless the RGU elects to waive these costs;

B. the cost of consultants hired by the RGU;

C. other direct costs of the RGU for the collection and analysis of information or data necessary for the preparation of the EIS;

D. indirect costs of the RGU not to exceed the RGU's normal operating overhead rate, unless the RGU elects to waive these costs;

E. the cost of printing and distributing the scoping EAW and draft scoping decision document, draft EIS and the final EIS and of public notices of the availability of the documents; and

F. the cost of any public hearings or public meetings held in conjunction with the preparation of the EIS.

Subp. 2. **EIS cost exclusions.** The following items shall not be included in the cost assessed to the project proposer for the preparation and distribution of an EIS:

A. the cost of collecting and analyzing information and data incurred before the final determination has been made that an EIS will be prepared, unless the information and data were obtained for the purpose of being included in the EIS;

B. costs incurred by a private person other than the proposer or a governmental unit other than the RGU, unless the costs are incurred at the direction of the RGU for the preparation of material to be included in the EIS; and

C. the capital costs of equipment purchased by the RGU or its consultants for the purpose of establishing a data collection program, unless the proposer agrees to include such costs.

Subp. 3. **EIS scoping costs.** The cost of any items specified in subpart 1 incurred by the RGU during the scoping of an EIS are part of the reasonable costs of preparing and distributing an EIS and are to be assessed to the project proposer by the RGU.

Subp. 4. **Change in EIS scope.** If the RGU alters the scope of an EIS pursuant to part 4410.2100, subpart 8, the EIS cost shall be revised to reflect the change in scope.

Subp. 5. **Termination of project.** If the proposer decides not to proceed with the proposed project while the EIS is under preparation, the proposer shall immediately notify the RGU in writing. The RGU shall immediately cease expending and obligating the proposer's funds for the preparation of the EIS. If the cash payments previously made by the proposer exceed the RGU's expenditures or irrevocable obligations at the time of the notification, the RGU shall refund the remaining funds within 30 days. If the previous cash payments are less than the RGU's expenditures or irrevocable obligations at the time of notification, the RGU shall notify the proposer of the balance due within ten days of the notice. The proposer shall pay the balance due within 30 days.

4410.6410 DISAGREEMENTS REGARDING EIS ASSESSED COST.

Subpart 1. **EQB to determine cost.** If, after the RGU has issued its scoping decision under part 4410.2100, the RGU and the proposer disagree about the cost assessed by the RGU to the proposer, either party may request in writing that the EQB determine the appropriate cost assessment. The request must be accompanied by a description of the cost dispute together with relevant supporting documentation; a copy of the request must be supplied to the other party. The other party shall provide a written explanation of its position on the cost dispute, together with any relevant supporting information, to the EQB and the other party within ten days of receipt of its copy of

the request to the EQB. The chair of the EQB may request any additional information from either party that is needed to understand and resolve the cost dispute.

Subp. 2. **Issuance of determination.** The EQB shall determine the appropriate cost in dispute at its first meeting held 15 or more days after receipt of complete information from both parties. The EQB may order a contested case hearing if it determines that a hearing is necessary to obtain the information necessary to make a decision. If the EQB orders a hearing it shall determine the appropriate cost at its first meeting held 15 or more days after receipt of the report from the administrative law judge.

Subp. 3. **Half cash payment.** Nothing in subparts 1 and 2 shall prevent the proposer from making one-half of the cash payment as recommended by the RGU's proposed EIS cost for the purpose of commencing preparation of the draft EIS. If the proposer makes the above cash payment, preparation of the draft EIS shall immediately begin. If the required cash payment is altered by the EQB's determination, the remaining cash payments shall be adjusted accordingly.

4410.6500 PAYMENT OF EIS COST.

Subpart 1. **Schedule of payments.** The proposer shall make all cash payments to the RGU according to the following schedule:

A. The proposer shall pay the RGU for the full cost estimated by the RGU to be necessary for the scoping of the EIS not later than the date of submission by the proposer of the completed data portions of the scoping EAW or within 5 days of issuance of a positive declaration. The RGU shall not proceed with the scoping process until this payment is made. Upon issuance of the scoping decision, the RGU shall provide the proposer with a written accounting of the scoping expenditures. If the payment made by the proposer exceeds the expenditures, the balance shall be credited against the cash payments required from the proposer for preparation of the draft EIS. If the RGU's reasonable expenditures for scoping exceed the cash payment received, the proposer shall pay the balance before the RGU commences preparation of the draft EIS.

B. At least one-half of the proposer's cash payment shall be paid within ten days after the RGU and the proposer agree to the estimated cost of preparing and distributing an EIS in accordance with the scoping decision issued under part 4410.2100 or the cost has been determined by the EQB pursuant to part 4410.6410, subpart 2. The RGU shall not proceed to prepare the draft EIS until this payment has been received.

C. The remainder of the proposer's cash payment shall be paid on a schedule agreed to by the RGU and the proposer.

D. If there is a disagreement over the EIS cost, such payment shall be made within 30 days after the EQB has determined the EIS cost pursuant to part 4410.6410.

If the cash payments made by the proposer exceed the RGU's actual EIS costs, the RGU shall refund the overpayment. The refund shall be paid within 30 days of completion of the RGU of the accounting of the EIS costs.

[Subps. 2 to 5 – repealed]

Subp. 6. **Prohibition on state agency permits until notice of final payment.** Upon receipt of final payment from the proposer, the RGU shall promptly notify each state agency having a possible governmental permit interest in the project that the final payment has been received.

Other laws notwithstanding, a state agency shall not issue any governmental permits for the construction or operation of a project for which an EIS is prepared until the required cash payments of the EIS assessed cost for that project or that portion of a related actions EIS have been paid in full.

Deleted: the EQB of receipt of ¶ final payment, unless the EIS cost is in dispute under part ¶ 4410.6410. Upon notice of receipt of the final payment by the ¶ proposer, the EQB shall notify

RECEIVED
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BY:_____

PETITION FOR AN ENVIRONMENTAL WORKSHEET

This petition is to request the preparation of an environmental assessment worksheet (EAW) for the CST project described below. The petitioners believe that the CST project exceeds the thresholds of Minnesota Rules 4410.4300, Subp. 14. and an EAW is mandatory. In the alternative, the petitioners request the preparation of an EAW pursuant to Minnesota Rule 4410.1100.

Description of the Proposed Project (4410.1100 Subp. 2.A.):

CST Companies, LLC proposes to relocate their existing operation in Elk River to a property adjacent to existing single-family residential home. The proposed operation will be located on 39 acres and include multiple building and outdoor operations, including bulk storage and material stockpiling. The operation involves the processing, packaging, and distribution of mulch. A site plan application dated February 24, 2016 has been submitted to the City of East Bethel.

Proposer of Project (4410.1100 Subp. 2.B.):

CST Companies, LLC; Registered office: 21897 S. Diamond Lake Rd #400, Rogers, MN 55374

Name, Address, and telephone number of the representative of the petitioners (4410.1100 Subp. 2.C.):

Dave Landes, 1747 - 237th Avenue NE, East Bethel, MN 55005, 763/571-9070

Brief description of the potential environmental effects which may result from the project (4410.1100 Subp. 2.D.):

Impacts to the health, safety, and welfare of residential neighbors: dust and particulate air pollution, noise, vibration, and odors from significant outdoor storage of bulk materials, diesel equipment use and semi-trucks; light pollution from near around-the-clock operations; significant fire hazard due to stockpiles of flammable materials; significant increase of traffic due to employees and semi-trucks.

Impacts to ground water: well and septic on site; significant outdoor storage of bulk materials, use of chemicals for coloration.

Impacts to storm water: significant outdoor storage of bulk materials, large areas of gravel surface, use and parking of large equipment and semi-trucks.

Impacts to wildlife and the natural environment: wetlands on the site and the site is in close proximity to Cedar Creek Ecosystem Science Reserve.

Material evidence indicating that, because of the nature or location of the proposed project, there may be potential for significant environmental effects, which physically accompany this petition (4410.1100 Subp. 2.E.):

The proposed use is very large; the property itself is 39.2 acres, of which 970,740 square feet will be put to an industrial use - not including storm water ponds and wetlands. (See #1 below.) This exceeds the minimum thresholds of Minnesota Rule 4410.1100 Subp. 14.A. The operations will not be fully enclosed and will include vast outdoor storage with towering stockpiles of

flammable material. (See #1, 2, 3, 4, 5, 8.) Large diesel equipment and semi-trucks will be operating on gravel surfaces on the majority of the site, including near wetlands and borders shared with residential property. (See #1, 2, 4, 5.) Operations run from 6AM to 2:30AM. (See # 2.) The site is bordered by residential properties to the south and east; additional residential properties are located in close proximity to the north. (See attached #6 below.) The site includes existing wetlands. (See attached #7 below.) CST's current operation in Elk River results in significant, dust, noise, vibration, and odor that extend beyond the limits of the site. (See # 5, 8.)

MATERIAL EVIDENCE

The following items of evidence are attached:

1. Site Plan Narrative from Stotko Speedling dated March 1, 2016;
2. CST Companies, LLC undated, provided by city attorney on March 15, 2016;
3. CST site map date February 5, 2016;
4. CST drainage map dated March 1, 2016;
5. Photos of Existing CST operation in Elk River;
6. City of East Bethel Existing Land Use Map;
7. City of East Bethel Zoning Map; and
8. Fire Article from August 7, 2015.

STOTKO SPEEDLING
A NAME TO BUILD ON
1303 EDDY STREET • HASTINGS, MN 55033
Phone 651-480-0055 • Fax 651-480-0079
www.stotkospeedling.com

ERICKSON CIVIL SITE
333 North Main Street, Suite 201
Stillwater, Minnesota 55082
Phone (612) 309-3804
www.ericksoncivilsite.com

CST Companies, LLC

Site Plan Narrative

March 1, 2016

PROJECT DESCRIPTION

The CST Companies project is located on 237th Avenue NE, and also fronts Highway 65 in East Bethel. The property is approximately 39.2 acres in size and is currently farmed. The current zoning for the parcel is I-1, Light Industrial. The majority of the site is open farm land with two wetlands in the southeast and northeast portion of the property. There is also one single family home located in the northwest portion of the property.

The proposed use will encompass 56.85% of the property, with the remainder utilized for storm water ponding, preservation of the existing wetlands, berming and drainage swales.

The site access is shown with one existing access point on Baltimore Street and the second access located further east at the existing Davenport Street location. The Baltimore Street access will be limited to an employee and future retail access point. The Davenport Street access will provide the main truck access for the site.

A 24,600 Sq. Ft. Office and Maintenance Facility is proposed in the northwest portion of the property. A 6,000 Sq. Ft. future addition is also identified on the site plan. Directly to the east, an additional 9,600 Sq. Ft. Mulch Bagging Facility is proposed that will house the bagging operation of the colored and raw mulch product. The remainder of the paved surface area will include storage for raw mulch, bins for the coloration of mulch and a defined area for truck parking.

Evidence No. 1

The remainder of the utilized hard surface area will be used for storage of pallets. This area will be a gravel surface as defined on the site layout plan. The area defined as the travel route is proposed as gravel with this plan, with the plan to pave the travel surface after a season of truck activity.

UTILITIES

The site will be serviced with a single well for both the coloration and for the operations of the truck maintenance and office facility. Septic for the site will be provided by an on-site drain field located north of the proposed office. The area defined for this use is over 18,000 sq. ft. This are will require testing and a design for the system to meet with the requirements of the County.

STORM SEWER, PONDING AND WETLANDS

The site is currently designed to meet/exceed the requirements of rate and volume control for the proposed operation. The ponding system has been designed assuming all hard surface areas, including gravel, defined as a bituminous surface, so no additional ponding or calculations would be required if the owner chose to pave the entire surface. An offline infiltration area has also been defined to meet the MPCA 1.1 inch volume control rule. With this amount of infiltration provided, the water used by this facility will be infiltrated with a little over two typical summer storm rainfall events. A system of swales and culverts will deliver the water to the proposed ponding system. The long linear swales will also allow for good treatment and an extended time of concentration of the water prior to entering the ponding and wetlands.

The existing wetlands have been incorporated into the design and the proposed plan provides for typical bounces within 1-ft of the existing conditions. The proposed grading will maintain the natural connection between the wetlands as it exists today. The wetland delineation currently is provided by the National Wetland Inventory GIS database and will require a final determination in the spring. A buffer has been provided surrounding the wetlands and a double row of silt fencing has been incorporated into the plan to prevent any sediment from reaching the wetlands.

BUFFERING AND LANDSCAPING

The site is currently designed with a naturalized 8-ft vegetative berm. The sites remaining open areas, including the berm are planned to be seeded with a low grow fescue grass that is adaptable to this soil type and requires no irrigation. The infiltration area is also planned to be vegetated with a defined MnDOT seed mix, appropriate for this type of use. The infiltration area will also be planted with trees that grow well in wet conditions. Landscaping will also be provided for the office building.

Evidence No. 1

SITE LIGHTING

The sites lighting is proposed to be wall mounted LED units located around each of the proposed buildings. Additional lighting may be required, but due to the size of this site it is stated that no light will be cast past the property limits.

ENGINEER/PLANNER/SURVEYOR

Todd A. Erickson, PE
Paul A. Johnson, LS
EricksonCivil
333 North Main Street, Suite 201
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BUILDER/PROJECT MANAGER

Greg Stotko, President
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Hastings, MN 55033
Phone 651-480-0055
Fax 651-480-0079
Cell 651-329-2021
www.stotkospeedling.com

Evidence No. 1

CST COMPANIES, LLC

CST Distribution, LLC, operating since 1/2011, and CST Transportation, Inc., operating since 2/2012, are owned by Chad & Megan Toft. Chad has worked in the distribution and trucking industries since 1996 and he has been involved in the mulch industry since 1997. Megan has worked in the staffing/ HR industry since 1994. Opening CST Distribution & Transportation has been an easy progression for Chad with his history in the industries and he runs all operations. Megan's background in Human Resources and Finance/Accounting has made it good partnership. She runs all financial/purchasing/HR and customer service operations. 2015 combined Gross Revenues were $14 million.

CST Distribution

CST Distribution, LLC is a Wholesale Distributor of Softener Salt, Mulch, Ice Melt, Firewood, Washer Fluid and Bottled Water and also a Contract Packager of primarily Mulch and Soils. Our distribution facility is located in Rogers, MN and our bagging facility operates in Elk River, MN.

We serve a diverse customer base, including roughly 2,500 C-Stores, grocery stores, quick lubes, manufacturing plants, car washes, lawn/garden stores and hardware stores. We currently serve Minnesota, Wisconsin, North Dakota, South Dakota, Iowa & Michigan. Some of our larger customers include: SuperAmerica, Holiday Station Stores, Menards, Patio Town, Hedberg, Cub Foods, Home Depot and HyVee.

- 9 FT Employees, 12 Seasonal (March 1st thru Dec 23rd), 1 PT Mechanic
- Office wages: $45k – 60k, depending on position (Customer Service – Office Manager)
- Mechanic wages: $20 per hour
- Mulch wages: $37k – 60k, depending on position (Yard asst. – Shift Supervisor – Yard Foreman)
- Mulch Labor wages: $12-14 (1st shift) $14-16 (2nd shift) (Labor – Forklift)
- 1st shift: M-F 7am to 3:30pm with some overtime in the spring loading trucks on Saturday to ship to Home Depot/Menards. Supervisors start at 6:30am (startup machines & load/unload trucks)
- 2nd shift: M-TH 4pm to 2:30am
- Office hours: M-F 8am to 5pm with shorter hours in the winter, closing at 4pm.
- Expansion

  CST Distribution has grown by 20% yearly, since starting in 2011. We are over capacity at our current facility and can't accommodate any further growth on either the Mulch or Distribution sides. In order to continue the growth with Mulch, acreage is needed to store pallets in the winter and stock additional raw materials in the winter. On the distribution side we have opportunity for expansion of our Softener Salt business but need the additional warehouse space for stocking. We have added one automated bagging machine for Mulch packaging and would like to add a 2nd line for growth, along with a 3rd line for Softener Salt and Ice Melt bagging in the future.

Evidence No. 2

CST Transportation

CST Transportation, Inc. is a Local/Regional Transport Trucking Company, specializing in forklift mounted flatbed trucks, with occasional over the road capabilities. The current location is in Rogers, MN. We currently serve the upper Midwest with occasional over the road to the East Coast. Some of our larger customers include: Cemstone (Twin City Concrete), Morton Salt, North American Salt, Menards, Home Depot, Progressive Rail, Timber Products, Forest Specialties, Patio Town & Pipe Fabricators.

- 4 FT Office Employees, 1 FT Mechanic, 1 FT Warehouse employee, 27 FT Drivers
- Office wages: $31k - $55k, depending on position (Dispatch Asst. – Dispatcher)
- Mechanic wages: $60k – 75k, depending on overtime
- Warehouse wages: $15 – 16 per hour, forklift operator
- Drivers: $55k - $75k depending on driver
- Office hours: M-F 7am to 4pm
- Driver/Mechanic/Warehouse hours: Drivers start leaving as early at 4:30am, depending on delivery times and as late as 8am. They come back anywhere from 2pm to 9pm.
- Expansion

  CST Transportation has been adding 3-4 trucks per year, since opening in 2012. We are over capacity at our current facility and can't accommodate any further growth due to lack of space for truck & trailer parking. Not all 27 trucks park at our facility, some drivers keep at rented spaces around metro (closer to their residence) or at their residence if meets city requirements. Currently only 14 park at our facility.

Summary

- 42 Full-Time employees, 12 Seasonal employees, 1 Part-time employee
- Wages range from $31k - $75k, depending on position
- Hours of operation: vary depending on position and time of year
- Expansion plans:
  1. Mulch growth of 10-15% per year
  2. Opportunity to grow palletized Softener Salt business if space is acquired
  3. Opportunity for additional bagging capabilities if space is acquired
  4. Retail Center located where old house is
  5. Would need 2nd location with rail access
  6. Add 3-4 drivers per year
  7. Add 1 Salesperson and 1-2 Customer service employees
  8. Add 1 Full-time 2nd shift Mechanic and 1-2 Warehouse Forklift drivers
  9. Would like to acquire 20 acres to the North for future expansion

- Screening: Berm running the perimeter of 237th & behind Coopers Corner - see attached site drawing
- Runoff: 2 ponds built for runoff – see attached rough site drawing
- Right of way on Davenport: CST is ok with Right of way on Davenport for future road, 80 ft. easement

Timeline

- Property: Purchase agreement is finished and will close upon final approval from City of East Bethel
- Construction: Would commence immediately upon final approval from City of East Bethel
- Partial Occupancy needed by 8/1/16, Bagging facility must move by then as there is only one chance to move per year. We start bagging for next season during the month of August.
- 2nd building is estimated to be done at the same time or within 30 days. Total move by 11/1/2016 at latest.

Evidence No. 2

CST site

1 in = 376 ft

N

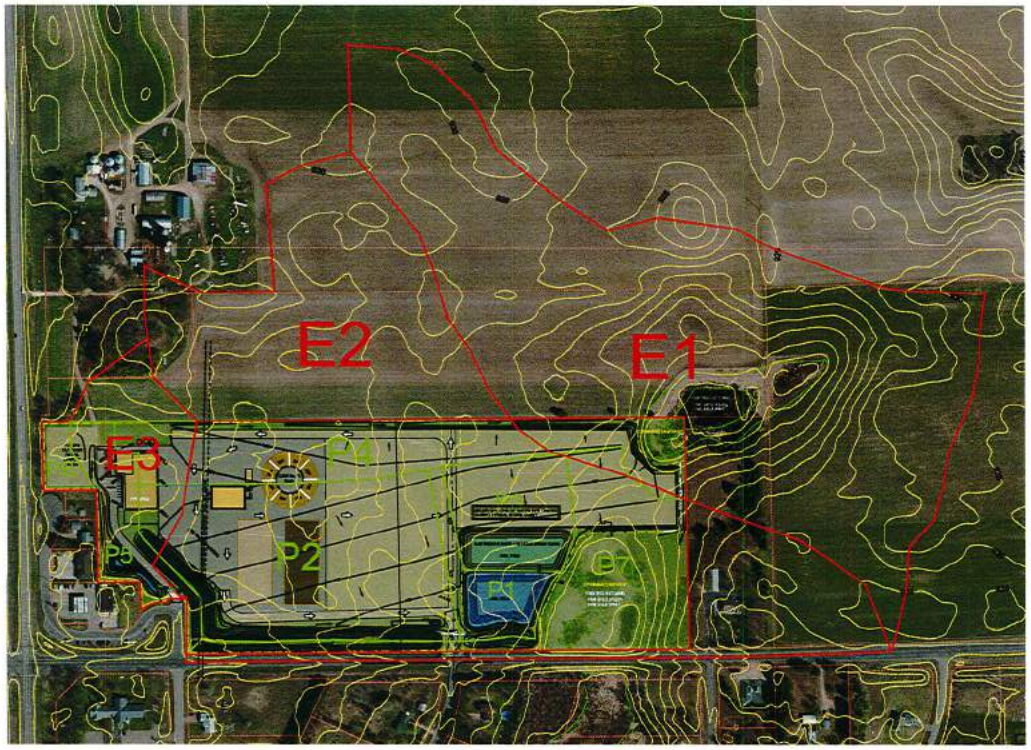
Evidence No. 3

East City of Bethel

February 5, 2016

Map Powered by DataLink from WSB & Associates

DRAINAGE MAP



SCALE 1" = 200'

200 0 200 400 600 FEET

GRAPHIC SCALE

LEGEND:

- EXISTING 1-FT CONTOUR INTERVAL
- 914 PROPOSED 2-FT CONTOUR INTERVAL
- DRAINAGE ARROW
- PROPOSED DRAINAGE AREA
- EXISTING DRAINAGE AREA

NOTES:

1) AN INFILTRATION RATE OF 0.8 IN/HR WAS USED FOR THE INFILTRATION BASIN. THIS WILL BE CONFIRMED WITH A SOIL BORING TAKEN AT SITE OF INFILTRATION BASIN.

SURFACE AREA ANALYSIS

TOTAL PROPERTY AREA	= 1,709,135 Sq. Ft.
PROPOSED IMPERVIOUS SURFACE	= 971,670 Sq. Ft. (56.85%)
BIT. SURFACE = 338,570 Sq. Ft. BUILDINGS = 42,000 Sq. Ft. (Includes Expansion) GRAVEL = 591,100 Sq. Ft.	
PROPOSED PERVIOUS SURFACE	= 737,465 Sq. Ft. (43.15%)

RUNOFF SUMMARY COMPARISON

	RATE DISCHARGE COMPARISON (CFS)	
STORM EVENT	EXISTING TOTAL	PROPOSED TOTAL
2-YEAR	4.39	1.56
10-YEAR	11.54	3.36
100-YEAR	29.57	19.08

MPCA - 1.1 Inch Event

NEW IMPERVIOUSNESS = 971,670 Sq. Ft.
VOLUME TO INFILTRATE = 89,070 Cu. Ft., INFILTRATION VOLUME = 101,431 CU. FT. > 89,070 CU. FT.

INFILTRATION RATE = 0.80 INCH/HOUR
INFILTRATION BASIN DRAW DOWN = 2.0 FT DEPTH / 0.80 INCH/HOUR = 39 HOURS

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DRAWING PHASE
- OWNER REVIEW
- ✓ AGENCY REVIEW
- BID DOCUMENT
- PERMIT SET
- AS-BUILT DOCUMENT

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

TODD A. ERICKSON, PE
LICENSE NO. 40418
DATE: 03/01/2016

OWNER/DEVELOPER: CST COMPANIES, LLC
21897 S. Diamond Lake Rd., #400
Rogers, Minnesota 55374

PROJECT TITLE: CST COMPANIES, LLC
EAST BETHEL, MINNESOTA

NO.	REVISION DESCRIPTION	DATE

JOB NO. 16-107

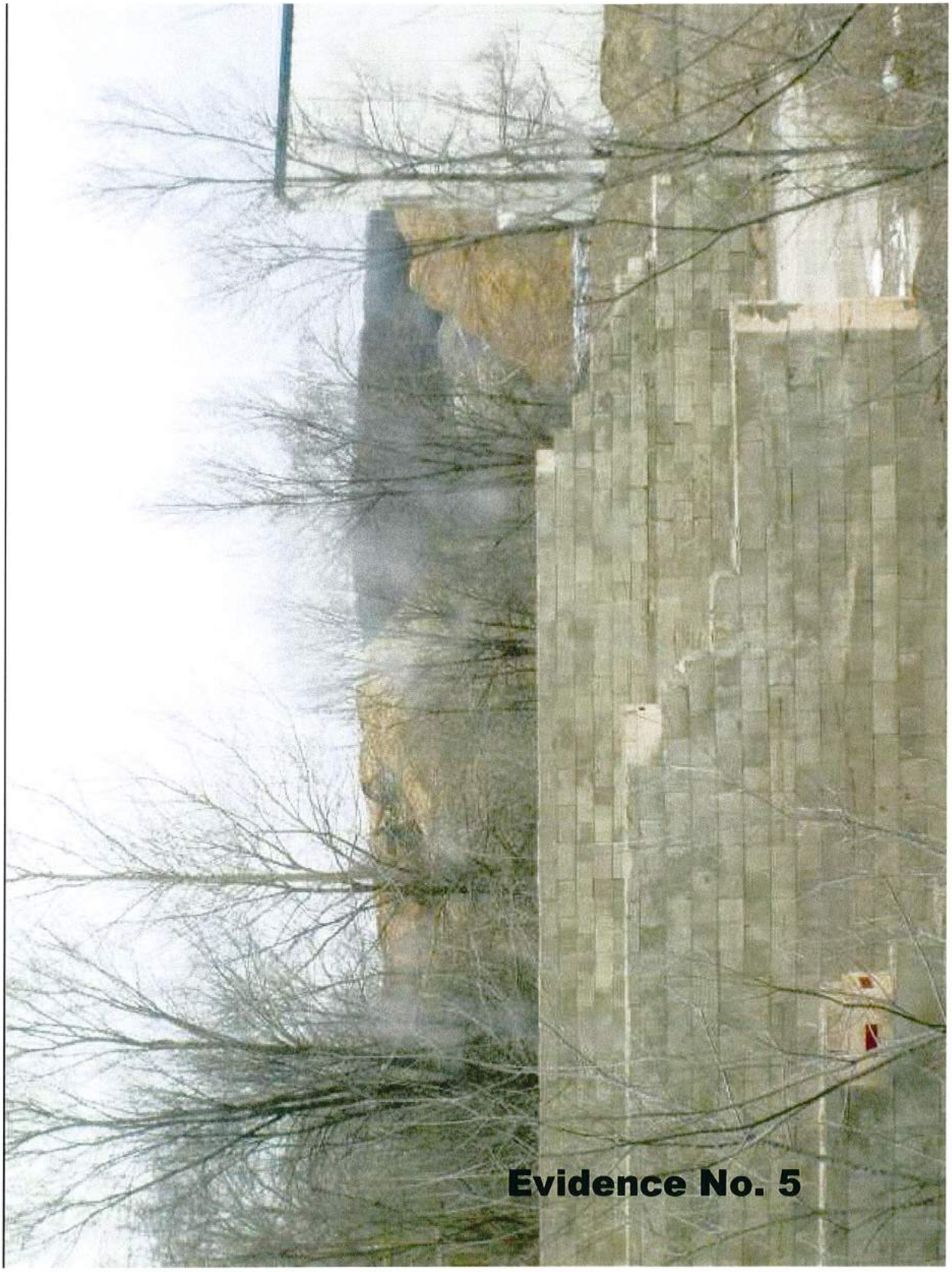
SHEET TITLE: DRAINAGE MAP AND SUMMARY

SHEET NO. D1

SHEET 1 OF 1

Evidence No. 5

Evidence No. 5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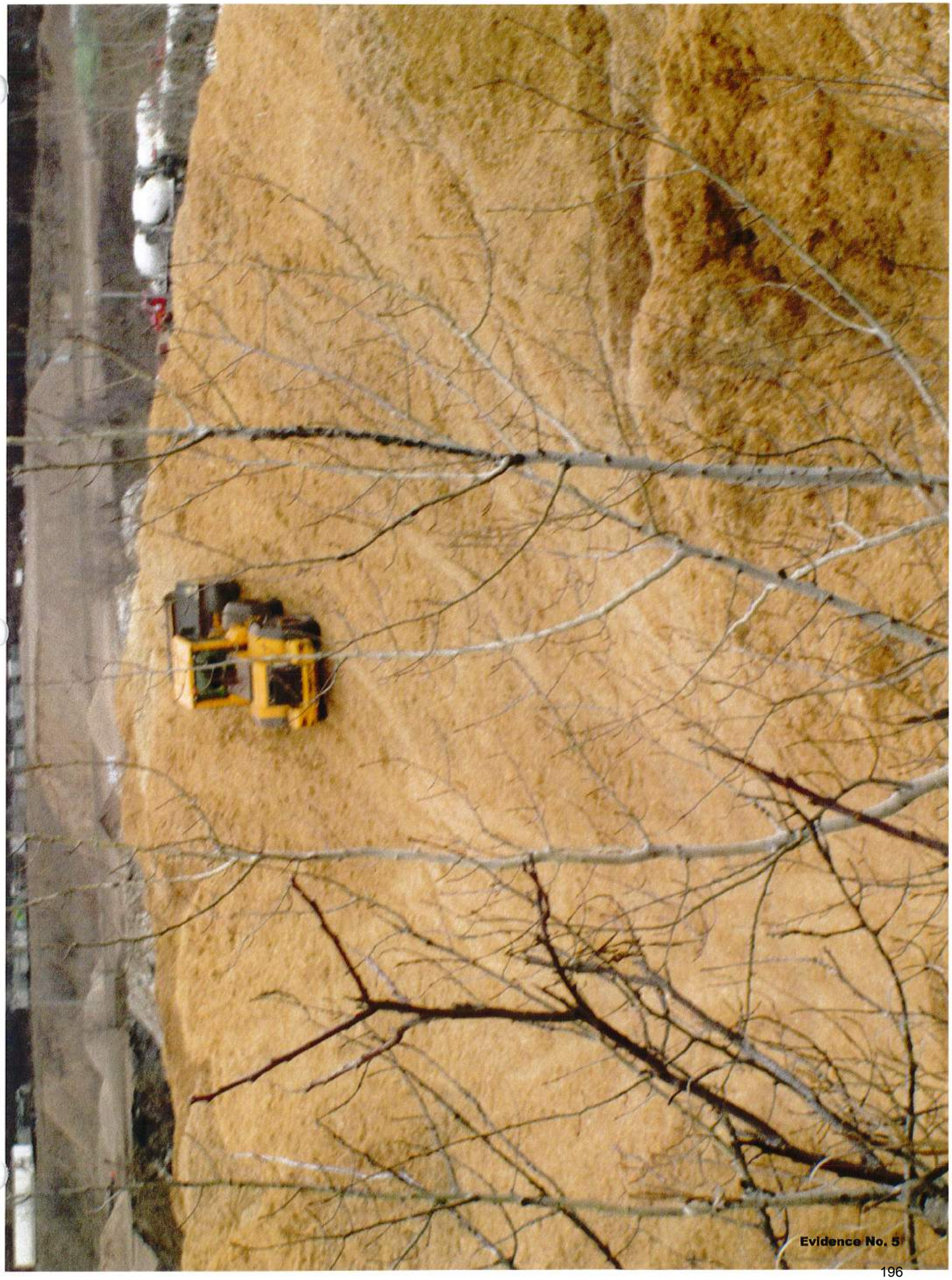

Evidence No. 5

EXISTING LAND USE

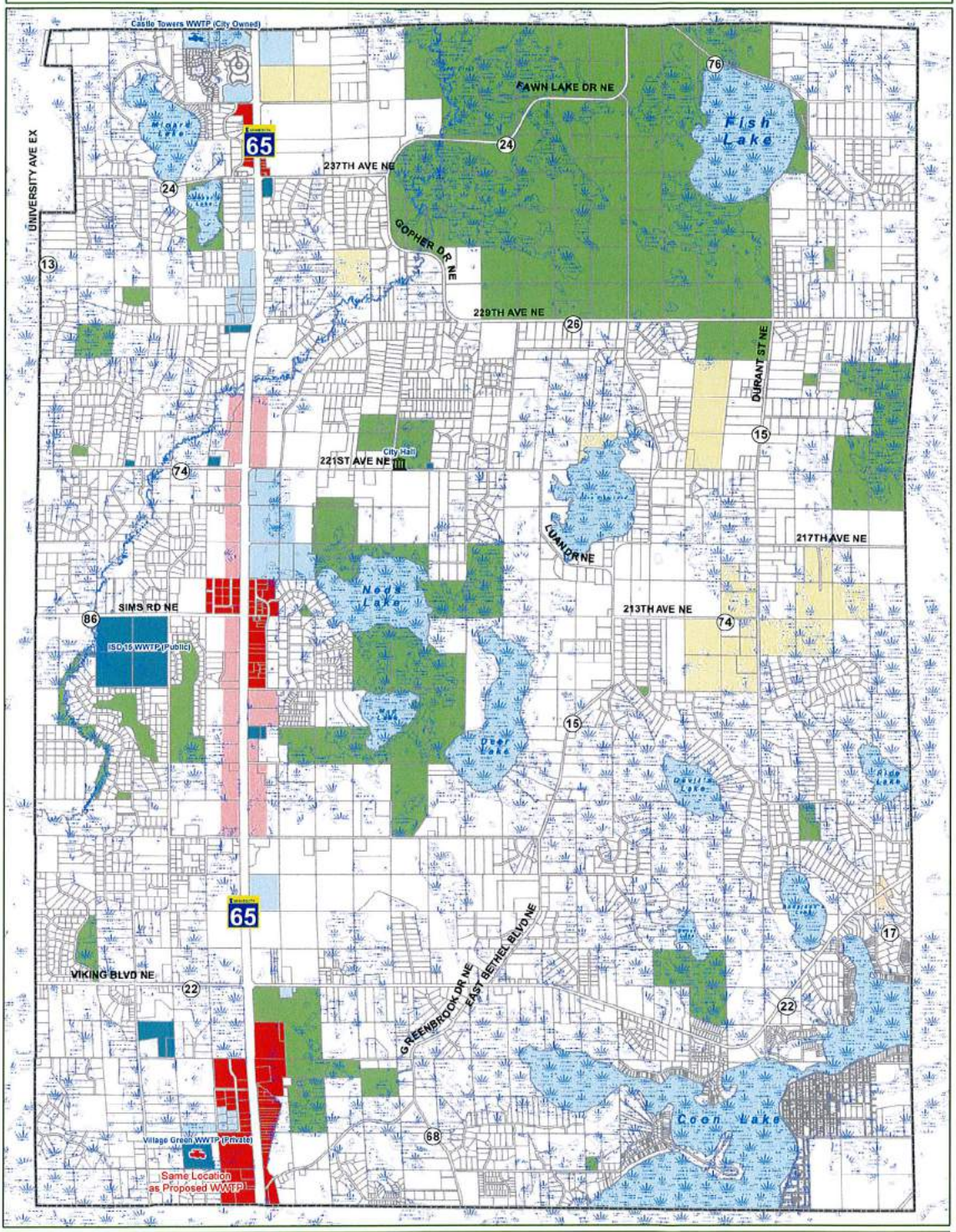
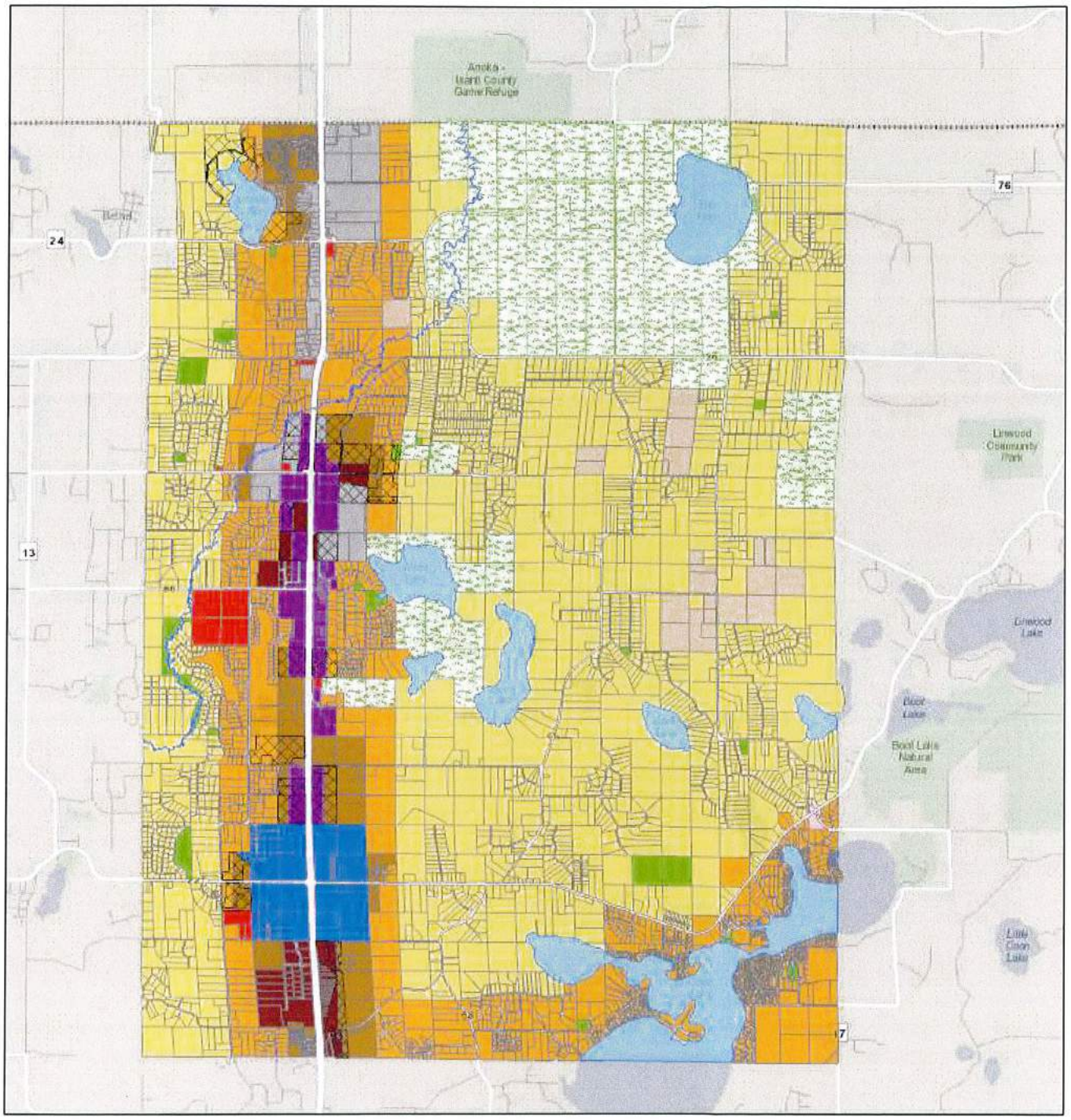


Figure V - 1

Evidence No. 6

Zoning Map



1 in = 6,019 ft

Zoning

- AG - Agriculture
- B-1 - Limited Business
- B-2 - Central Business
- B-3 - Highway Business
- I - Light Industrial
- RR - Rural Residential
- R-1 - Single Family Residential
- R-2 - Single Family & Townhome Residential
- CC - City Center District
- Public/Institutional
- Park/Open Space
- Natural Area
- Split
- ROW
- Water

N

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March 22, 2016

Evidence No. 7

Map Powered by DataLink from WSB & Associates

Public Safety

Mulch fire burns into 6-hour job

Published August 7, 2015 at 1:42 pm

By Jim Boyle
Managing Editor

by Jim Boyle

Editor

Elk River Fire had to bow out of Tuesday's Night to Unite festivities after a fully engulfed front-end loader reportedly set mulch piles ablaze on land owned by Plaisted Companies and leased out to CST Distribution out of Rogers.

Scene of mulch fire.

Elk River Police and Fire were called at 2:37 p.m. Aug. 4 to the 11500 block of 205th Avenue. Police arrived to find CST's machine fully engulfed and fire extending to mulch piles 15 to 20 feet high in multiple directions.

Evidence No. 8

The area was evacuated and fire personnel began their battle that would span more than six hours, according to Elk River Fire Chief T. John Cunningham.

Submitted photo
Fire crews fought the fire with the help of a Minnesota State Patrol helicopter that dropped flame retardant.

A steady wind quickly spread the fire, and when it shifted, crews working bring water had to put on breathing apparatuses to avoid smoke inhalation.

In addition to a full response from the Elk Rive Fire Department, mutual aid assistance was received by the Zimmerman/Livonia Fire District, Big Lake Fire Department, Ramsey Fire Department, Baldwin Fire Department, Princeton Fire Department, Albertville Fire Department and the Minnesota Department of Natural Resources. A helicopter from the DNR assisted with suppression efforts.

The Elk River Police Department and the Minnesota State Patrol were also on scene.

The last fire unit cleared the scene at 8:23 p.m.

Cunningham praised the help his department got from other agencies as well as assistance from CST Distribution and Plaisted Companies, which helped firefighters methodically address smoldering mulch by spreading it out into small sections to ensure the burnt product would remain out.

Evidence No. 8

Submitted photo
Firefighters battled the blaze from land and by air after a front' end loader caught fire and set mulch on fire. Elk River Fire got mutual aid from several area departments and help from the land owner and the affected business owner.

The cause of the fire remains under investigation. There were no injuries.

CST Distribution co-owner Chad Toft said he was happy everyone walked away safe.

"It could have been a lot worse," he said, extending his thanks to the hardworking fire crews and his neighbors in Plaisted Companies.

Cunningham said due to the number of resources committed to this incident, the department was not able to participate in the Night to Unite program.

Filed Under: Elk River, fire, Plaisted Companies

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Evidence No. 8

Evidence No. 8

PETITION FOR AN ENVIRONMENTAL ASSESSMENT WORKSHEET FOR CST'S PROPOSED PROJECT IN CITY OF EAST BETHEL

Potential Environmental Effects Supplement Information

The EQB, by letter dated April 11, 2016, has stated, "please provide additional material evidence that would demonstrate that the proposed project, due to its nature or location, may have the 'potential for significant environmental effects'." While the purpose of environmental review in general, and the petitioned EAW specifically, is "understanding the impact which a proposed project will have on the environment," it feels as if this burden has inappropriately been placed on the petitioners. Nonetheless, the petitioners submit the following supplemental information with its completed petition:

Noise and Vibration. From public right of way adjacent to CST's current site, noise from trucks and equipment leaves the property. One type of sound that can be heard are vehicle and equipment back-up beepers. Such beepers range from 97 to 112 decibels. This exceeds the standards on Minn. Rule 7030.0040. With the CST operation having negligible setbacks from neighboring uses, there is very little distance to attenuate the impact. See, "Vehicle Motion Alarms: Necessity, Noise Pollution, or Both?" as Attachment 1; See "A Guide to Noise Control in MN" as Attachment 2.

Particulate Air Pollution and Diesel Exhaust. Diesel truck and equipment will operate on site from early morning until late at night giving off diesel exhaust. The MPCA notes health effects from exposure to diesel exhaust. The bulk piles of wood chips will be openly exposed to wind and weather, and dust will be blown onto neighboring residential properties. Such dust has health impacts. See "Diesel Exhaust in Minnesota" as Attachment 3; See "OSHA Diesel Alert" as Attachment 4; See Health Hazard of Industrial Wood Waste" as Attachments 5 & 6.

Odor. Again, from public right of way adjacent to CST's current site odor from the site is perceptible. With the proposed site in close proximity to residential neighborhoods, the site will chronically expose residents to the odor. Chronic exposure can have health effects. See "Repeated Exposure to Odors Induces Habituation of Perception and Sniffing" as Attachment 12; See "Odors and Your Health" as Attachment 7.

Fire Hazard. The bulk storage of wood mulch in piles and on pallets is a fire hazard, documented not just by state agencies, but by real-life incident at CST's existing site. The human health effects from smoke and chemicals given off by such a fire are magnified when the site is located in close proximity to residential neighborhoods. See "MN DPS High Piled Storage" as Attachment 8; See "Mulch Fire Burns Into 6-Hour Job" as Attachment 9.

Groundwater and Stormwater. Colored mulch is often contaminated, treated wood. Exposure of bulk stored mulch can lead to leaching of chromated copper arsenic into stormwater and groundwater. It appears that CST also requires an industrial stormwater permit and there has been no information about the implementation of best management practices, nor their appropriateness in close proximity to residential properties that rely on well water. See "Evaluation of Commercial Landscaping Mulch For Possible Contamination From CCA" as Attachment 10; See "Does My Facility Need an Industrial Stormwater Permit?" as Attachment 11.

ATTACHMENT 1

Corbis, Alamy, Joseph Tart/EHP

Vehicle Motion Alarms: Necessity, Noise Pollution, or Both?

Noise pollution chips away at the public health, interfering with our immune systems, learning, and sleep, boosting stress hormones, and contributing to cardiovascular maladies, even at levels too low to cause hearing damage.[1] If annoyance level is any indication, backup beepers may be one of the most harmful noises. In a 2010 report titled *Technology for a Quieter America*, the National Academy of Engineering cited backup beepers as one of the six top noise sources people associated with behavioral and emotional consequences.[2] And although no studies to date have assessed the public health impact of backup beepers, the unpredictability and lack of control over when the sounds are heard are characteristics that normally raise noise's impact on public health, says Arline Bronzaft, chair of the Noise Committee of the Mayor's Grow NYC (formerly Council on the Environment).

During Boston's Big Dig project, which rerouted much of the traffic through the heart of the city, including a major highway, people lodged more complaints about noise than about any other annoyance factor and far more complaints about backup beepers than any other noise source, says Erich Thalheimer, project's noise control officer and the lead noise engineer at Parsons Brinckerhoff, Boston. Similarly, backup beepers topped another list, with 20 state departments of transportation identifying them as a problem in generating nighttime construction noise.[3]

For all their ubiquity, backup beepers are poorly designed for their job, and some of their most annoying attributes are part of that poor design, says Chantal Laroche, a professor in the Audiology/Speech Language Pathology Department at the University of Ottawa, Canada, who has devoted much of her career to investigating the practical shortcomings of alarm sounds. Their single tones, with a typical volume of 97–112 decibels (dB) at the source, are loud enough to damage hearing[4] and can be heard blocks from the danger zone, says Thalheimer. Their sound is so commonplace that their warning can lose its authority through the cry-wolf phenomenon.[5] For reasons having to do with the physics of sound, they also are notoriously hard to localize, further undermining their utility, says Laroche.

Robert Andres, a principal with the consulting group Environmental and Safety Associates and technical advisor for the advocacy group Noise Free America, takes a slightly different view. "I don't believe that backup beepers are necessarily poorly designed for the job. The 'job' is to warn people around machinery and, in most environments they do this well by providing a sound that is unique to the surroundings, loud enough to be heard under a variety of circumstances, relatively directional, and easily understood to be a warning," he says. "Problems arise when multiple beepers are present at a site or the alarm creates an annoyance beyond the danger zone."

Technologies that could mitigate the problems with backup beepers have existed for around two decades. Nonetheless, the conventional single-tone backup alarm still dominates roads and construction sites.

Now Congress has passed a bill calling for a new set of motion alarms to protect pedestrians—especially the blind—from being surprised by electric vehicles (EVs) and by those hybrid electric vehicles (HEVs) that can run entirely on electricity and that therefore can be exceptionally quiet at slow speeds.[6] Will "belling" EVs and HEVs be optimally protective and minimally annoying, or will the mistakes of the past be repeated?

Uncharacterized Public Health Effects

Although the human health impact of vehicle backup beepers has not been studied, at least one potential surrogate study suggests intrusive beeping sounds are not benign. Margaret Topf, now retired from the University of Colorado, Denver, compared rapid eye movement (REM), a measure of sleep quality, in a control group and in women in a simulated critical care unit (CCU)

who listened to an audiorecording of actual hospital nighttime sounds. The control group averaged 83 minutes of REM sleep versus 45 minutes for women in the simulated CCU.[7] (REM sleep optimally makes up about 20% of total sleep time.[8]) Mean sound levels in CCUs are typically around 55–65 dB, with peaks from hospital equipment beepers exceeding 80 dB.[7]

There may be no proof of harm from backup beeper noise, but there is evidence that beepers do not protect life and limb as well as hoped. An investigation by the federal Occupational Safety and Health Administration (OSHA) found that an original equipment manufacturer backup alarm failed to prevent two-thirds of backover accidents analyzed.[9] In a vote of no confidence in backup beepers, Washington State established a requirement for a spotter at all times—someone who alerts the driver if a pedestrian steps behind the machinery.[10] Some 183 fatal backovers are estimated to occur annually, with 44 of those attributed to nonpassenger vehicles, according to the U.S. National Highway Traffic Safety Administration (NHTSA).[11]

Laroche has extensively studied the nature of single-tone beepers and the human response thereto. Twenty years ago, as she was finishing her PhD, her supervisor suggested she turn her attention to noise and safety. She began with a field trip to a construction site where she measured the decibel levels of backup beepers. She says she was surprised to find that sound levels varied by as much as 20 dB over distances as short as 6 inches. The variations were caused by the interactions of sound waves emanating directly from the beepers with those reflecting from surfaces, a well-understood phenomenon that can raise or lower the sound level depending on the phase of the waves at the site of interaction.

Today Laroche says variations in sound intensity and their lack of linear correspondence to distance and direction from the truck speakers broadcasting the sound make it difficult for a human to localize the signal's origin. Furthermore, backup beepers typically broadcast a frequency of around 1,000 Hz, but the frequencies humans use preferentially to localize sound are those greater than 1,600 Hz and less than 800 Hz, says Judy Edworthy, a professor of applied psychology at the University of Plymouth, UK.

Finally, perception is everything when it comes to alarm sounds. Researchers have found that students working at a cognitive task responded to alarms of differing reliability (25%, 50%, and 75% reliability, respectively) at a rate that largely matched the alarms' reliability.[5] That is, in the case of alarms that accurately indicated a true emergency only 25% of the time, the majority of the students tended to respond to them only 25% of the time. Another study suggests backup beepers may be ineffective warnings for very young children.[12] In this study, the researchers asked 33 preschoolers to walk behind a stationary vehicle twice. During the second time, the backup alarm was engaged. Although half the children hesitated or looked toward the beeping vehicle, none of them responded with avoidance behavior. The authors suspected all the children would have been injured had this been an actual backup situation.

The Best Beeper for the Job?

More than anything, single-tone backup alarms, with all their faults, are a holdover from the past. They evolved from electromechanical buzzers, which were widely used as warning signals during the first half of the twentieth century because of simplicity and low cost, says Henry Morgan, director and general manager of Brigade Electronics in Dartford, UK. And they do meet the relevant OSHA regulation, 1926.601(b)(4), which specifies that vehicles with obstructed rear views must have either a reverse signal alarm audible above the surrounding noise level or a human spotter.[13]

Thus, the regulations do not preclude alternative technologies that are less annoying and more effective, and which have been practical for as long as two decades, Thalheimer says. These alternatives include backup beepers that manually or automatically adjust their noise output up or down according to ambient noise. At their lowest setting of 95 dB, Thalheimer says these alarms are about three-quarters as loud as standard backup beepers.

Still another alternative is the broadband beeper, a device that has the same cadence as the conventional beeper but broadcasts a "white-noise, whooshing sound," says Thalheimer, who has no financial interest in or affiliation with Brigade Electronics, the manufacturer. He explains the sound is still readily audible behind the vehicle and is more easily localizable than a single-tone beeper, but the white noise is masked by community noise, so it is much less annoying to the public.

But the regulations don't allow for the latest alternative technology: backup cameras and radar systems. "We're hoping OSHA will change this rule to push the use of [these] systems," says Scott Schneider, director of occupational safety and health at the Laborers' Health and Safety Fund of North America, a nonprofit joint labor management organization affiliated with the Laborers' International Union of North America. And in fact, as this article was going to press, Schneider said NHTSA is proposing to require video cameras on all vehicles weighing less than 10,000 lbs—a measure that would include cars, sport utility vehicles, and small trucks.[14]

Late Adopters

Several reasons explain why conventional nonadaptable backup beepers remain by far the most common reverse alarms. "The company that manufactures and sells a machine with a motion alarm is in a catch-22," says Andres. "They do not know specifically where the equipment will be used during its life cycle or what the background noise level will be in any given circumstance. Thus, they will often opt for the loudest—and often cheapest—alarm possible."

To compound the problem, OSHA regulations preclude the equipment owner from modifying the alarm without the manufacturer's approval. "Although a subsequent interpretation also allows this decision to be made by a qualified engineer, presumably after a risk assessment, there are few willing to make a decision to reduce the sound level or duration of an alarm that could later be construed in our litigious environment as compromising safety," Andres explains.

"It boils down to cost and complacency of the owner of the vehicle," says Thalheimer. "If you buy a quarter-million-dollar vehicle, it will come with as cheap a backup alarm as the manufacturer can get away with. [If sued], you can tell the court you did not tamper with the manufacturer's backup alarm, and it helps get you off the hook in many cases."

Adding additional inertia, many in the field are unaware of the research that criticizes conventional alarms. Engineer Kerry Cone, immediate past chairman of the Society of Automotive Engineers Sound Level Technical Committee, is skeptical of broadband alarms, because he says that people are "imprinted" on conventional beepers, and he doubts they would respond as readily to a signal that he says sounds more like airbrakes. "You need to understand that we're dealing with human safety," he says. He was not familiar with Laroche's research, but he does say, "We investigate new concepts all the time."

Some evidence suggests change is afoot. Under the New York City Department of Environmental Protection's 2007 construction noise regulation, which Thalheimer played a large role in developing, Brigade's white noise alarms or tonal alarms that can be set to quieter levels are required for after-hours operation and use in sensitive areas such as near schools, hospitals, and homes for the aged.[15] These revised regulations earned the department and Parsons Brinckerhoff the 2010 Safe-in-Sound Award in the category for Innovation in Hearing Loss Prevention in the Construction Sector,

an award presented by the National Institute for Occupational Safety and Health in partnership with the National Hearing Conservation Association.[16] Thalheimer says he recommends white noise alarms on every job he oversees.

Belling the Car

While anti-noise advocates work to quiet construction vehicles, some groups want to make EVs and HEVs louder. Like EVs, some HEVs run mostly or entirely on electricity at low speeds and thus are exceptionally quiet. Using statistics from 12 states, the NHTSA showed that HEVs were twice as likely as nonhybrid gasoline-powered vehicles to collide with pedestrians.[17] The relevant excess crashes all occurred at low speed, such as while exiting driveways or starting up in traffic. The NHTSA points out the incidence rates provided in the study should be interpreted with caution due to the small sample size. Nevertheless, the difference in accident rates was statistically significant.

A movement led by advocates for the blind seeks to require add-on sounds for these quieter vehicles. Although some locations now have signals indicating walk cycles,[18] in many locations blind people still cross the street by listening for traffic, explains Deborah Kent Stein of the National Federation of the Blind (NFB). Lawrence Rosenblum, a psychology professor at the University of California, Riverside, performed audibility experiments on HEVs at the request of the NFB.[19] "When hybrids are moving slowly, five miles per hour, they are substantially less audible, and depending on background context, we feel dangerously so," Rosenblum says.

Nonetheless, Rosenblum says additional sound is needed only in limited venues—parking lots, driveways, and the like—and is not needed at all beyond about 20 mph, when tire and wind noise become unmistakeable. Further, "It's likely that the added sound needs to be absolutely minimal. You need very little sound to engage the brain," he says, adding that the add-on sounds could be effective at decibel levels lower than the engine purr of current gas-powered cars.

Some automakers are already implementing add-on sounds. The GM Volt's add-on resembles a car horn,[20] while the Nissan Leaf sounds like swoosh.[21] Several other manufacturers are investigating the possibility of add-on sounds.[22] Rosenblum believes any add-ons should sound like a quietly running car engine. "You don't want something that will distract pedestrians from another car that's approaching; you want something that fits the soundscape."

The NFB and other advocates pushed for legislation to ensure the use of add-on sounds, provisions that were included in this year's Motor Vehicle Safety Act.[23] That bill stalled, but in mid-December 2010 the House and Senate both easily passed versions of the Pedestrian Safety Enhancement Act that, if signed by the President, will require the U.S. Department of Transportation to promulgate standards for add-on sounds within 18 months.[6]

The issue has also gone global. The United Nations is devising an international standard for minimum sound regulations for HEVs and EVs, and Japan has established voluntary regulations calling for minimal levels of sound to be broadcast at speeds of less than 20 kph (12.4 mph).[24]

Anti-noise advocates are wary of add-on sounds. Les Blomberg, executive director of the nonprofit Noise Pollution Clearinghouse, doesn't buy the need for artificially noisy electric cars, at least not yet. "We have very little data [on the benefits of add-on sounds], and what data we have is ambiguous when you look at the total societal impact," he says. "Advocates [for add-on sounds] see the vehicles as too quiet, and the solution is to make them louder. I see the problem as the environment is too loud to hear them, and the solution is to quiet the environment. If and when trucks are electric, the streets will be far quieter than they are now."

And regarding the NHTSA study on HEV collisions,[17] Blomberg wonders whether the excess of such accidents with HEVs is due to pedestrians' lack of adjustment to this new phenomenon of quiet cars. He points to alternatives to putting more noise in the environment including pedestrian education, rearview cameras in vehicles, and better parking lot design.

Anti-noise advocates also propose the development of transponders that blind pedestrians could carry around to alert them to the presence of quiet cars. "That's worth studying," says Jay Joseph, chairman of the Society of Automotive Engineers Vehicle Sound for Pedestrians Committee. "The blind community feels that they shouldn't be dependent on some battery-powered device for their overall safety as a pedestrian, which is a fair point. I think in the future there is some potential for those kinds of applications, but they need to be refined and appeal to the population that perceives themselves at risk."

If past is prologue, however, any add-on sound could remain the status quo for many years. It better be good.

David C. Holzman writes on science, medicine, energy, economics, and cars from Lexington and Wellfleet, MA. His work has appeared in *Smithsonian*, *The Atlantic Monthly*, and the *Journal of the National Cancer Institute*.

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ATTACHMENT 2

A Guide to Noise Control in Minnesota

Acoustical Properties, Measurement, Analysis, and Regulation

Minnesota Pollution Control Agency

November 2015

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Foreword

The Minnesota Pollution Control Agency (MPCA) is empowered to enforce the State of Minnesota noise rules. These rules and supporting acoustical information can be viewed in the document, “A Guide to Noise Control in Minnesota.” This publication is intended to provide information on the basics of sound and noise regulation.

Revised 2015

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Introduction

Noise is a pollutant. While its physical and emotional effects are difficult to define quantitatively, the noise level itself can be measured.

Sound: An alteration of pressure that propagates through an elastic medium such as air and produces an auditory sensation.

Noise: Any undesired sound.

The Minnesota Pollution Control Agency (MPCA) is empowered to enforce the State of Minnesota noise rules (Minn. Rules Ch. 7030). Minnesota's primary noise limits are set by "noise area classifications" (NACs) based on the land use at the location of the person that hears the noise. They are also based on the sound level in decibels (dBA) over ten percent (L_{10}), or six minutes, and fifty percent (L_{50}), or thirty minutes, of an hour.

For residential locations (NAC 1), the limits are L_{10} = 65 dBA and L_{50} = 60 dBA during the daytime (7:00 a.m. – 10:00 p.m.) and L_{10} = 55 dBA and L_{50} = 50 dBA during the nighttime (10:00 p.m. – 7:00 a.m.) (Minn. R. 7030.0040). This means that during a one-hour period of monitoring, daytime noise levels cannot exceed 65 dBA for more than 10 percent of the time (six minutes) and cannot exceed 60 dBA more than 50 percent of the time (30 minutes).

1. Noise rules in Minnesota

1.1 The basics

Minnesota's noise pollution rules are based on statistical calculations that quantify noise levels over a one-hour monitoring period. The L_{10} calculation is the noise level that is exceeded for 10 percent, or six minutes, of the hour, and the L_{50} calculation is the noise level exceeded for 50 percent, or 30 minutes, of the hour. There is not a limit on maximum noise.

The statutory limits for a residential location are L_{10} = 65 dBA and L_{50} = 60 dBA during the daytime (7:00 a.m. – 10:00 p.m.) and L_{10} = 55 dBA and L_{50} = 50 dBA during the nighttime (10:00 p.m. – 7:00 a.m.) (Minn. R. 7030.0040). This means that during the one-hour period of monitoring, daytime noise levels cannot exceed 65 dBA for more than 10 percent of the time or 60 dBA more than 50 percent of the time.

The basic noise rules for other noise area classifications are:

Noise Area Classification	Daytime		Nighttime	
	L_{10}	L_{50}	L_{10}	L_{50}
1	65	60	55	50
2	70	65	70	65
3	80	75	80	75

1.2 Noise area classifications

Noise area classifications (NAC) are based on the land use at the location of the person who hears the noise, which does not always correspond with the zoning of an area. Therefore, noise from an industrial facility near a residential area is held to the NAC 1 standards if it can be heard on a residential property.

Some common land uses associated with the NACs include:

NAC 1: Residential housing, religious activities, camping and picnicking areas, health services, hotels, educational services

NAC 2: Retail, business and government services, recreational activities, transit passenger terminals

NAC 3: Manufacturing, fairgrounds and amusement parks, agricultural and forestry activities

NAC 4: Undeveloped and unused land

Note that, although there is a NAC 4, there are no noise standards for these areas. The full list of NAC land uses can be found starting on page 21 of this guide or in Minnesota Rule 7030.0050.

1.3 Common noise concerns

By Minnesota law, the MPCA is empowered to enforce the state's noise rules. Many other agencies and levels of government, however, have an important role to play in upholding the noise standards. Depending on the source and location of the noise, some agencies may be in a better position than others to help citizens with noise concerns.

Industrial facilities

The MPCA enforces noise standards at facilities for which it has issued an air permit. For complaints about noise at one of these facilities, please use the Online Citizen Complaints Form. If you prefer, you may call the MPCA to make your complaint: 651-296-6300 within the Twin Cities metropolitan area or 1-800-657-3864 if you are outside of this area.

Local land uses

Local law enforcement agencies are empowered to enforce Minnesota state rules and laws relating to the prevention and control of pollution (Minn. Stat. 115.071). Many local governments also have nuisance noise ordinances or general public nuisance ordinances that can be used to enforce local noise concerns.

Local governments are required to take reasonable measures to prevent the approval of land use activities that will violate the state noise standard immediately upon establishment of the land use (Minn. R. 7030.0030). Municipalities should consider the state noise standard when reviewing and approving new projects in their jurisdiction. The MPCA can provide some expertise to support this review process. Please contact noise.pca@state.mn.us.

Roads and highways

The Minnesota Department of Transportation (MnDOT) handles complaints about noise on highways and other roads it manages. According to Minn. Stat. 116.07.2a, most roads are exempt from Minnesota's state noise rules. MnDOT does, however, have policies, agreed on with the MPCA, for providing noise mitigation when it is determined to be both feasible and reasonable. MPCA reviews some MnDOT projects and noise mitigation decisions. For further information on MnDOT's noise policies, please visit its website.

Vehicles

Minn. R.7030.1000-1060 outlines Minnesota's state rules relating to motor vehicle noise. In addition to the state rules, local governments may have nuisance sound ordinances, which are often easier to enforce than the state rule. As with noise relating to local land-use decisions, contacting your local government or law enforcement is your best course of action.

Airplanes

The Metropolitan Airports Commission (MAC) responds to all concerns regarding noise relating to aircraft or the airports. For more information, please see its website.

Snowmobiles, off-highway vehicles, and motor boats

The Minnesota Department of Natural Resources (MDNR) has source-specific noise rules for snowmobiles (Minn. R. 6100.5700.5), off-highway vehicles (Minn. R. 6102.0040.4), and motor boats (Minn. Stat. 86B.321), requiring them to be equipped with proper mufflers and conform to certain noise standards. For more information on MDNR regulations for snowmobiles, off-highway vehicles, and boats, please visit its website.

Mining

The MDNR also has source-specific rules to restrict noise and vibrations from different types of metallic mining operations (Minn. R. 6130.3900 and 6132.2900). Local governments are relied upon to consider noise when approving and permitting sand and gravel mining operations. The MPCA enforces noise standards at mining facilities for which it has issued an air permit. For complaints about noise at one of these facilities, please use the Online Citizen Complaints Form. If you prefer, you may call the MPCA to make your complaint: 651-296-6300 within the Twin Cities metropolitan area or 1-800-657-3864 if you are outside of this area.

Gun clubs

Minn. Stat. 116.07.2a exempts gun clubs from the receiver-based noise standards administered by the MPCA. However, Minn. Stat. 87A includes some standards regarding gun club noise. Through this statute, the MDNR is authorized to regulate gun club noise. For further information, please visit its website.

Motor vehicle race track

Minn. Stat. 116.07.2a exempts motor vehicle race tracks built before July 1, 1996 from Minnesota's noise standards. All tracks built since that date must comply with the noise rules. Local governments have often been successful in working with exempt tracks to mitigate noise concerns by establishing time and date restrictions, muffler requirements, and noise barriers.

1.4 Regulatory agencies

Several agencies have noise regulations for different noise sources. Noise rules either set standards based on the source of the noise (source standards) or based on who hears the noise (receiver-based standards).

Minnesota Pollution Control Agency - The MPCA has a receiver-based standard intended to limit noise levels and protect the health and welfare of the general public. The MPCA enforces the standard at facilities for which the agency issues air quality permits. The MPCA also works with other agencies and levels of government to enforce noise standards and reduce violations through pre-construction project reviews.

Local Agencies - Local governing agencies, such as a cities and counties, are relied upon to enforce noise standards relating to local land use and often have ordinances regulating noise levels. They are also responsible for not allowing land uses that would immediately violate the state noise standard. For instance, local governments should be cautious of allowing a loud local utility facility to locate in a residential area.

Minnesota Department of Natural Resources - The MDNR has source standards for snowmobiles, motorboats, personal watercraft, off-highway vehicles, and gun clubs. MDNR also has source standards for metallic mining operations. For more information, see its website.

Metropolitan Airport Commission - The MAC is responsible for all noise issues related to the Minneapolis-St. Paul International Airport and reliever airports. For more information, see its website.

Federal Aviation Administration - The FAA has source regulations for commercial jet engines. All commercial jet engines must meet noise emission criteria prior to being certified for flight. However, the Metropolitan Airport Commission is the best contact for noise concerns related to its airports. Additional information on the FAA's noise standards can be found on its website.

Minnesota Department of Transportation – MnDOT is responsible for state highway noise mitigation. It works with the Federal Highway Administration (FHWA) and the MPCA to evaluate road projects for noise impacts and possible mitigation measures. For more information see the Department's website.

Federal Highway Administration (FHWA) - The FHWA does not have actual noise standards, but has a 70 dBA L_{10} guideline that is used to determine federal funding for noise abatement on highway projects. New highway projects must go through a noise impact analysis and be considered for abatement measures. Information on FHWA's noise policies can be found on its website.

Federal Railroad Administration (FRA) - Regulation of railroad-related noise is the responsibility of the FRA. For more information see the Administration's website and to contact them about a noise concern, call 1-800-724-5040.

Occupational Safety and Health Administration (OSHA) - OSHA has regulations to protect against hearing loss in the workplace. These are "dose standards" that restrict the amount of noise an employee receives over a period of time, such as eight hours. For additional information, visit OSHA's website.

Housing and Urban Development (HUD) - HUD has noise regulations that establish acceptable noise zones for HUD housing projects. More information can be found on HUD's website.

2. Basics of how sound works

2.1 Waves and sound pressure level

Sound travels in a wave motion through the air to our ears. A good way to imagine wave motion is with a weight hanging from a spring. Picture the following diagram (Figure 1) as a single weight and spring combination varying as time progresses along the horizontal axis.

In Figure 1 the first position of the weight on the spring is at rest with no forces exerted upon the system. If the weight is raised above its point of rest and the progression of the weight moving down and up again is observed over a period of time, a wave form is produced.

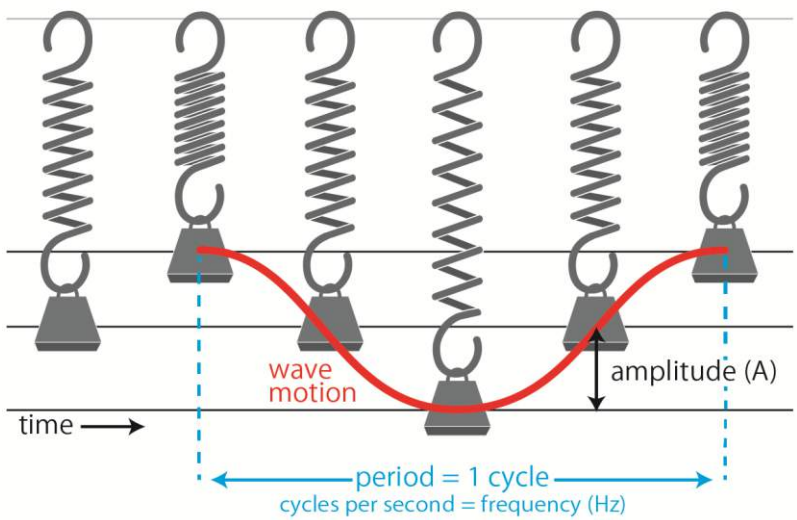


Figure 1. Weight on a spring – example of periodic motion

The *amplitude* of the moving weight is labeled as "A" in Figure 1 and corresponds with the maximum movement of the weight from its "at rest" position to the peak of the wave form either up or down. We hear changes in amplitude as changes in volume.

The *period* of the vibration is the amount of time taken to produce one complete cycle or, in this example, how quickly the weight moves from top to bottom and back. The number of cycles per second defines the *frequency* of the periodic (up and down) motion, which is given the unit of *hertz,* or *Hz*. We hear different frequencies as higher or lower pitched sounds.

Figure 2 shows how the weight on a string (two-dimensional) example of sound waves compares to the compression and expansion of sound waves through space (three-dimensional).

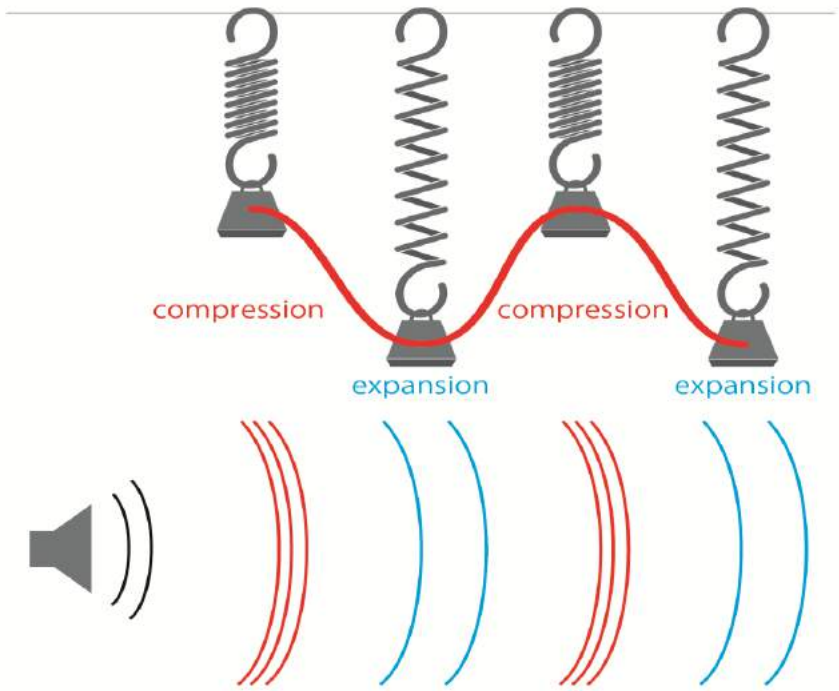


Figure 2. Comparison of periodic motion to sound waves

The graphical representation of sound waves in Figure 2 is of *pure tones***,** which are sounds made up of a single frequency. A familiar example of a pure tone is the sound produced when a single key of a piano is pressed. For instance, the middle C key on a piano vibrates the associated wire at a rate of approximately 260 times per second or 260 Hertz. The vibration of the wire transfers its motion to the sound board of the piano, which then vibrates at the same frequency, causing the air adjacent to the sound board to form compression and expansion waves in the air emitting outward from the sound board. When received by the human ear, this is regarded as sound. Most sounds are not pure tones, but a mixture of tones of varying amplitude, frequency, and duration.

The *intensity* of a sound is the amount of sound energy at a given moment in a given area. The *sound pressure level*, measured in a unit called the *decibel,* or *dB*, is the ratio between the intensity of a sound and that of a reference pressure, which is the threshold of perception. The decibel is a logarithmic measurement which can accommodate a large range of values. The human ear can detect sounds more than a million times quieter than a jet aircraft during take-off; therefore, to have a system with a manageable range of numbers, the logarithm is used.

Sound pressure level = 20 Log_{10} * (Measured Sound Pressure / Reference Pressure)

Reference Pressure = 0.00002 Newtons / $(\text{meter})^2$

Many different properties affect the noise level of a specific source type. For example, three lawn mowers may have three different noise levels because of differences in each specific piece of equipment. Noise level also depends on the distance from the noise source and features of the surrounding environment.

Figure 3 provides a rough estimate of decibel levels of some common noise sources.

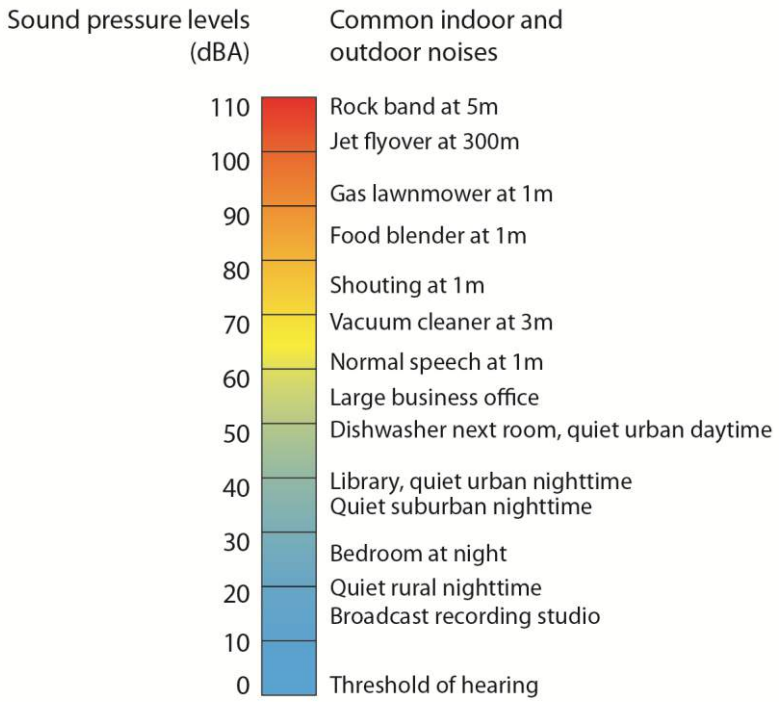


Figure 3. Decibel levels of common noise sources

2.2 Sound weighting networks

Sound level meters (SLM) used for monitoring can pick up sounds as a perfect computer, but the human ear is not as precise. The human ear cannot hear very low frequencies or very high frequencies. Weighting networks are used in noise monitors to adjust specific frequencies in the audio spectrum to attempt to duplicate the response of the human ear.

The C-weighting network represents the actual sound pressure level that is received by the sound level meter, and does not noticeably vary in its amount of compensation throughout the audio spectrum. C-weighting is used during the calibration of sound level meters to ensure that the sound level displayed on the meter is accurate and the same as the frequency of the calibrator.

The A-weighting network is used to duplicate the sensitivity of the human ear. At 100 Hertz, the A-weighting network filters out approximately 20 dB from the incoming signal before it is combined with the levels from the other frequency ranges to produce an A-weighted sound level.

The graph in Figure 4 represents the sensitivity of the human ear in comparison to the compensation of a C-weighting network and an A-weighting network. This illustration is useful in understanding how the ear is inefficient in the detection of lower frequencies and is very sensitive to higher frequencies.

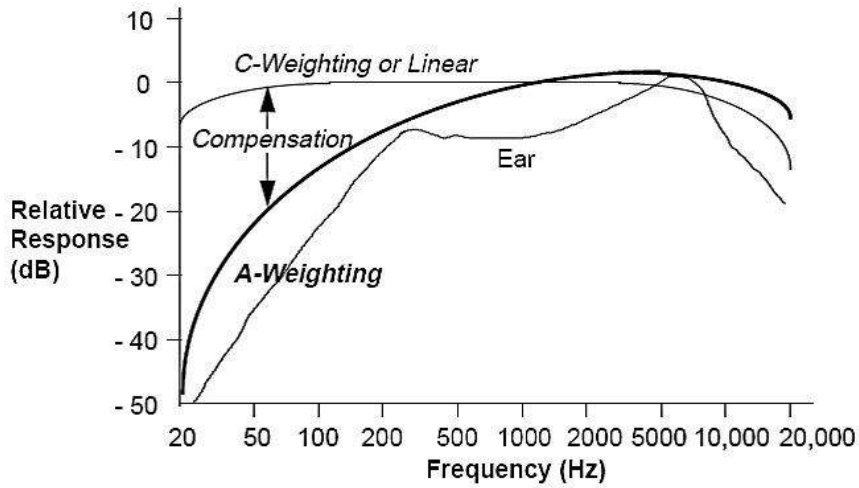


Figure 4. Weighting networks with sound measurements done in the A-weighting network are reported with the unit dBA

2.3 Human perception of sound

Sound has qualitative aspects that can be described with adjectives and quantitative aspects that can be described with measurements. Sound can be qualitatively perceived as pleasant or annoying, and quantitatively (as loudness) measured in terms of decibels.

Changes in loudness are described on a logarithmic scale because the human ear can hear such a wide range of sound levels. The human ear can usually tell the difference when sound changes by 3 dBA and a 5 dBA change is clearly noticeable. Because of how the logarithmic scale functions in compressing the measurements associated with sounds, an increase of 10 dBA sounds twice as loud.

± 1 dBA……..	Not Noticeable
± 3 dBA……..	Threshold of Perception
± 5 dBA……..	Noticeable Change
± 10 dBA……	Twice (Half) As Loud
± 20 dBA……	Four Times (One Fourth) As

Figure 5. Change in decibel level and perceived change in loudness

2.4 Using decibel measurements

Addition and subtraction of decibels is often necessary for estimating total noise levels or background noise. Because decibels are measured using a logarithmic scale, conventional linear mathematics cannot be used. The following rules of thumb provide a good estimate of the effect that type, distance, and number of sources have on measured sound pressure level.

Sound propagation and sources

Sources of sound can be defined as *point* or *line* sources, based on the way sound pressure waves spread away from the source. Sound waves move out from sources in a way similar to waves traveling away from a rock dropped in a pond. A *point* source, like a factory, emits sound that spreads out in a sphere. A *line* source, like a busy highway, emits sound that spreads out in a cylinder. Knowing the sources of sounds makes it possible to make assumptions about how the sound behaves.

Distance attenuation

Over distance, sound *attenuates*, or is reduced in amplitude, and is perceived as becoming quieter. This occurs as the sound travels outward to an increasingly larger sphere or cylinder, and the energy per unit of area decreases. These basic principles allow us to make generalized assumptions about sound.

When the distance is doubled from a *line* source, the sound level decreases three decibels.

Example: **If a sound level is:** **70 decibels at 50 feet it will be**

67 decibels at 100 feet, and

64 decibels at 200 feet

When the distance is doubled from a *point* source, the sound level decreases six decibels (Figure 6).

Example: **If a sound level is:** **70 decibels at 50 feet it will be**

64 decibels at 100 feet, and

58 decibels at 200 feet

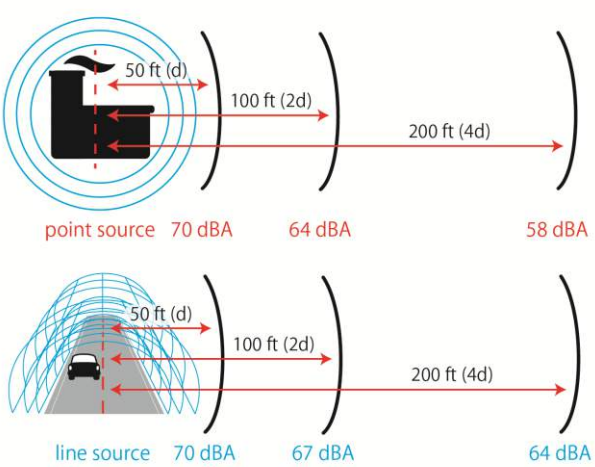


Figure 6. Distance attenuation of noise levels from a point source (top) and a line source (bottom)

Number of sources

In many situations pertaining to noise control and monitoring, it is very useful to be able to add and subtract multiple sources of sound. This can be done with principles similar to how sound attenuation over distance is estimated.

A doubling of sound energy yields an increase of three decibels. For example, each generator at a factory produces sound that is measured at 70 decibels, so running one generator would create sound measured at 70 dBA, turning on a second generator would increase sound by 3 dBA to 73 dBA, and doubling again to four generators would increase sound levels to 76 dBA. Figure 7 illustrates this principle.

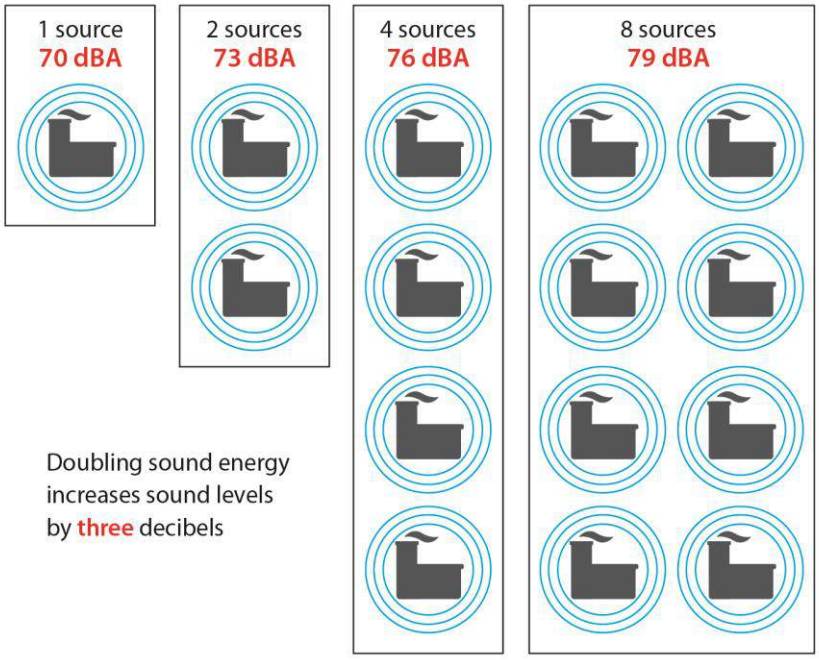


Figure 7. Addition and subtraction of decibel levels

In the same way, reducing the number of sources by half will reduce the sound pressure by 3 dBA.

Consider the perception of changes in decibel levels (Figure 5) compared to the example of addition or subtraction of sources (Figure 7). Doubling sources yields an increase of 3 dBA, which is a change that is just perceptible.

Background noise

Background, or ambient, noise consists of all noise sources other than the noise source of concern. This can include traffic, animals, machinery, voices, and other sounds.

Wind is often a major source of ambient noise and can frequently be a problem when trying to monitor a specific source of noise. The MPCA's noise test procedures state that measurements should not be made when noise from wind or precipitation results in a difference of less than 10 dBA between the background sound level and noise source being measured. In practice, this means that wind speeds must be below 11 mph when making noise measurements and rainy weather conditions should be avoided. When background noise is less than 10 dBA from the decibel level of the noise source to be measured, confidence in the accuracy of the measurement decreases.

In certain instances, when a single noise source is analyzed along with other noise sources, correction factors can be used to isolate the noise source being monitored and calculate its individual noise level. This is done by measuring and recording the total noise level of all sources. Next, the noise source to be isolated is turned off and a noise level reading is taken with all the other existing noise sources in operation. The background noise level is then subtracted from the total noise level. The result is used in conjunction with the following background noise correction chart (Figure 8) to find the approximate noise level of the source.

Figure 8 is a graph used to estimate the amount of background noise influencing a measurement. Based on the measured background noise it gives the corresponding decibel level to be subtracted from the total measurement to determine the decibel level of the noise source being monitored.

For example, if the total noise level is 74 dBA, and then falls to 70 dBA when the source of interest is turned off, the difference of four decibels between the total noise level and background noise indicates that two decibels should be subtracted from the total. This means that a 72 dBA noise level can be attributed to the monitored source in the absence of background noise.

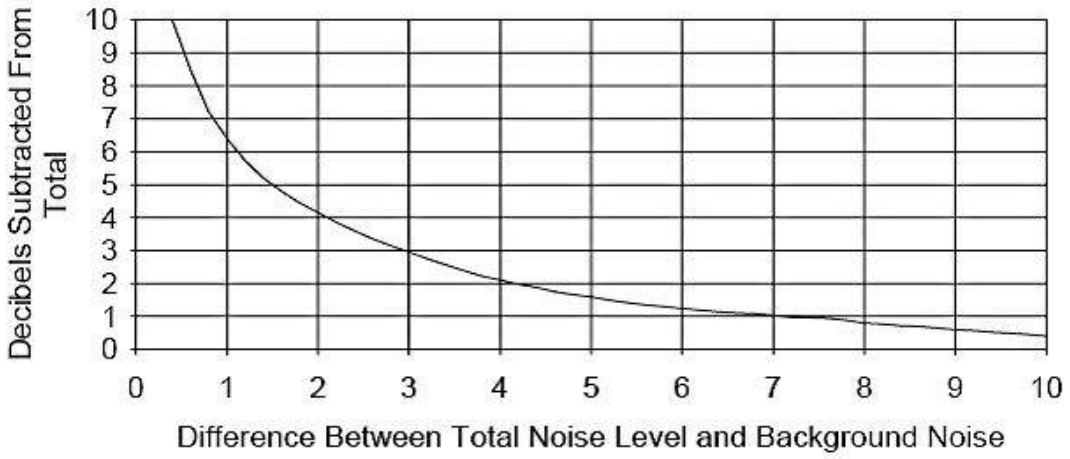


Figure 8. Background noise correction

3. Measurement procedures

This guide contains two measurement procedures. The general protocols remain the same, but your choice of procedure depends on the capabilities of your sound level meter (SLM). Noise Test Procedure 1 (NTP-1) should be used if your SLM is capable of calculating monitoring results and Noise Test Procedure 2 (NTP-2) should be used if your SLM only displays instantaneous readings.

3.1 General procedures

Sound level meter

Your sound level meter and microphone must comply with the specifications for ANSI S1.4-1983 Type 0, 1, 2, or S.

Calibration

You must also have a calibrator of a known frequency and sound level. Calibrators should be compared to a lab standard periodically. Calibration must be performed before and after the monitoring period. Adjustments should be made if necessary.

Weather conditions

Measurements should not be made when noise from wind or precipitation results in a difference between the background sound level and noise source being measured that is less than 10 dBA. In practice, this means that wind speeds must be below 11 mph and rainy weather conditions should be avoided. Temperature and humidity should be within equipment specifications.

Background noise

As mentioned in the previous section, background noise is any ambient noise other than the noise to be measured, including wind, precipitation, traffic, etc. The difference between the sound level of the source being monitored and that of the background noise must be less than 10dBA. See page 11 for suggestions on how to correct for background noise.

Location of measurement

Properly choosing a monitoring location is an important consideration. Measurements should be made in the appropriate NAC, at the area of normal outdoor human activity nearest to the noise source. The monitoring location may not necessarily be at the property line; for instance, if the property of the complainant is large and residential outdoor activity is limited to a backyard patio (possibly such as on a farm).

Measurements must be made outdoors from at least three feet off of the ground (a tripod is helpful for this). Another important part of site selection is the consideration of errors caused by reflecting objects, such as a house or other large manmade or natural structures. Measurements should be made at least as far away from any large reflecting object as from the noise source being measured. If this is not possible, stay at least 30 feet from structures.

Documentation of measurement

A survey form must be completed containing date, time, location, noise source, wind speed/direction, temperature, humidity, equipment information (make, model, serial number), site sketch with the location of the noise source and measurement location (including appropriate distances), data and calibration information. A sample survey form can be found on page 16.

3.2 Noise Test Procedure 1: Measurement procedure for non-impulsive noise

The following test procedure has been approved by the Commissioner of the MPCA for the measurement of non-impulsive noise. The general procedures described above (3.1 General procedures) should be followed whether you are using the NTP-1 or NTP-2 procedures.

Instrumentation:

- Sound level meter and a microphone conforming to type 0, 1, 2, or S specifications under ANSI S1.4-1983
- Calibrator of known frequency and level
- Small screwdriver for sensitivity adjustment
- Microphone windscreen
- Noise survey form
- Tripod (optional)

Monitoring procedure:

Monitoring must be conducted for at least a one hour time period. Sound meter must use the "A" weighting and FAST response characteristics. Follow your manufacturer instructions to obtain the L_{10} and L_{50} results.

3.3 Noise Test Procedure 2: Manual measurement procedure for non-impulsive noise

The following test procedure has been approved by the Commissioner of the MPCA for the measurement of non-impulsive noise. The general procedures described above (3.1 General procedures) should be followed whether you are using the NTP-1 or NTP-2 procedures. The NTP-2 procedure is to be used with SLMs that cannot calculate noise statistics and only provide instantaneous readings.

Instrumentation:

- Sound level meter and a microphone conforming to type 0, 1, 2, or S specifications under ANSI S1.4-1983
- Calibrator of known frequency and level
- Small screwdriver for sensitivity adjustment
- Microphone windscreen
- Noise survey form
- Tripod (optional)

Manual monitoring procedure:

Using a hand-held SLM, take an instantaneous sound reading every 10 seconds and record on a data sheet. A partner is very helpful.

Continue taking sound readings for one hour, which will give you 360 individual readings. Figure 9 provides an example of a manual monitoring data sheet.

To determine the L_{10}, take the 36th loudest (10 percent of 360 = 36) individual sound reading by counting from the loudest to the quietest on the data sheet. For example, in Figure 9, the L_{10} = 63 and is the 36th **X** from the top of the sheet.

To determine the L_{50}, take the 180th loudest (50 percent of 360 = 180) individual sound reading. In Figure 9, the L_{50} = 57 and represents the 180th **X** from the top of the sheet.

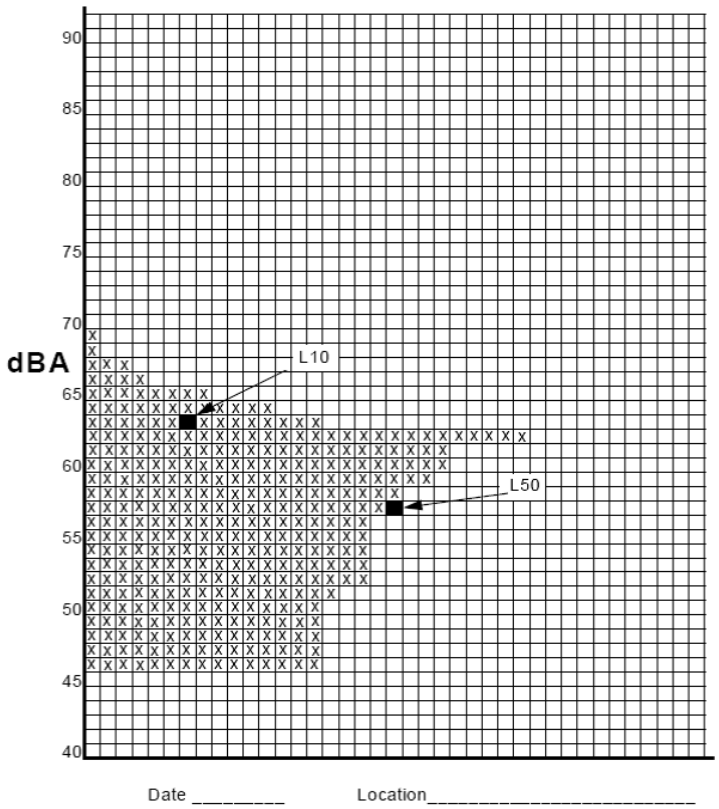
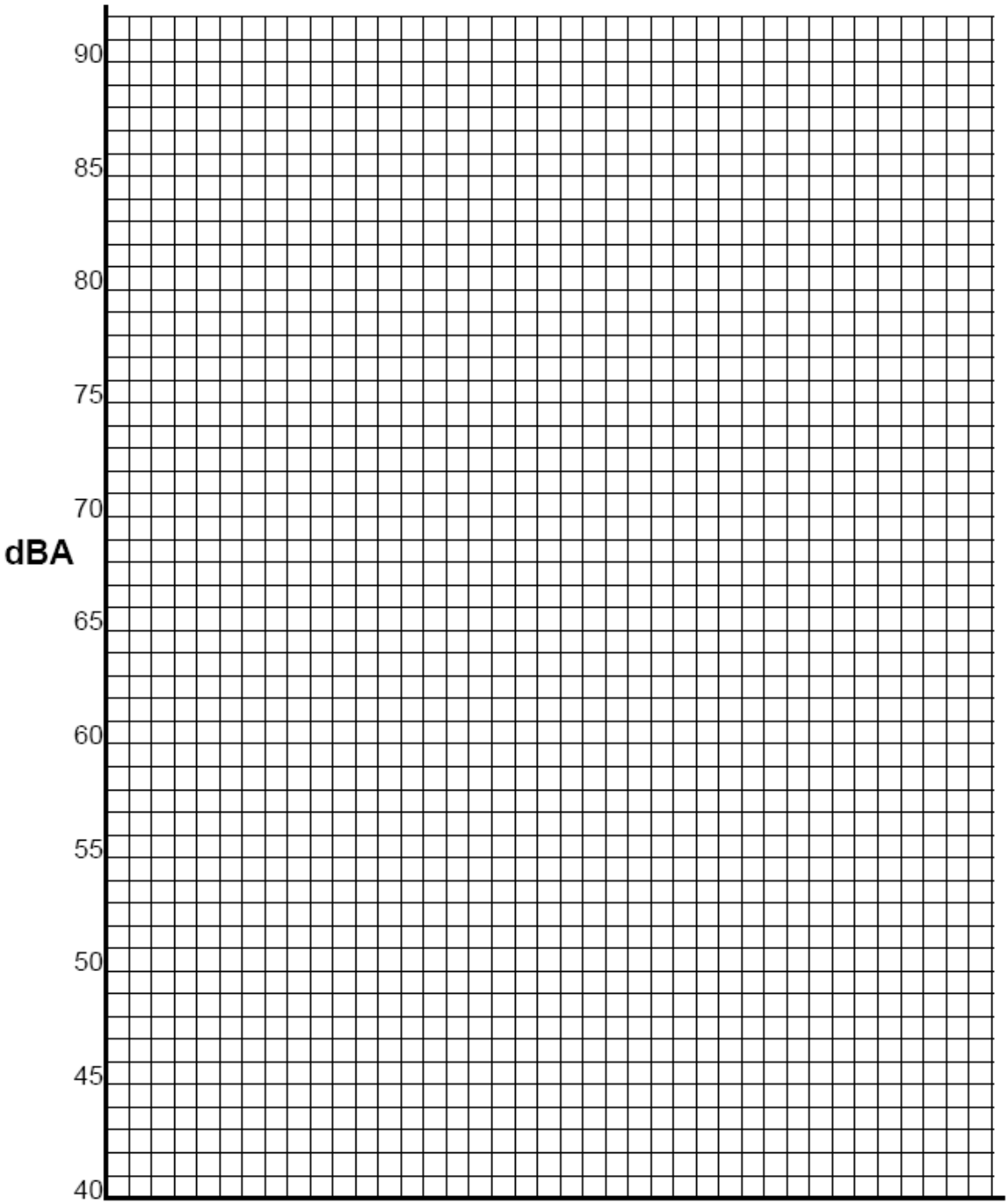


Figure 9. Example manual monitoring data sheet

Manual Monitoring Data Sheet



Date _____ Location_____

Noise survey

Investigator _____ Date _____

SLM Manufacturer and Model _____ Serial Number_____

Calibrator Manufacturer and Model _____

Calibrator Serial Number_____ Calibrator Frequency (Hz) _____

Initial Calibration (dBA) _____ Final Calibration (dBA) _____

Meteorological Conditions: Wind Speed _____ Direction _____ Temperature_____

Source _____

Monitor Location _____

Time Start _____ Time End _____

Results L_{10} _____dBA L_{50} _____dBA

Diagram *(Indicate noise source, receiver, microphone location, reflecting objects, obstructions, landmarks, and distances)*

4. Minnesota noise pollution statutes and rules

Minn. Stat. § 116.07 POWERS AND DUTIES.

Subdivision 1. **Generally.** In addition to any powers or duties otherwise prescribed by law and without limiting the same, the Pollution Control Agency shall have the powers and duties hereinafter specified.

Subd. 2. **Adoption of standards.** (c) The Pollution Control Agency shall also adopt standards describing the maximum levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere, recognizing that due to variable factors no single standard of sound pressure is applicable to all areas of the state. Such standards shall give due consideration to such factors as the intensity of noises, the types of noises, the frequency with which noises recur, the time period for which noises continue, the times of day during which noises occur, and such other factors as could affect the extent to which noises may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property. In adopting standards, the Pollution Control Agency shall give due recognition to the fact that the quantity or characteristics of noise or the duration of its presence in the outdoor atmosphere, which may cause noise pollution in one area of the state, may cause less or not cause any noise pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, meteorological conditions and the fact that a standard which may be proper in an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such noise standards shall be premised upon scientific knowledge as well as effects based on technically substantiated criteria and commonly accepted practices. No local governing unit shall set standards describing the maximum levels of sound pressure which are more stringent than those set by the Pollution Control Agency.

Subd. 2a. **Exemptions from standards** No standards adopted by any state agency for limiting levels of noise in terms of sound pressure which may occur in the outdoor atmosphere shall apply to (1) segments of trunk highways constructed with federal interstate substitution money, provided that all reasonably available noise mitigation measures are employed to abate noise, (2) an existing or newly constructed segment of a highway, provided that all reasonably available noise mitigation measures, as approved by the commissioners of the Department of Transportation and Pollution Control Agency, are employed to abate noise, (3) except for the cities of Minneapolis and St. Paul, an existing or newly constructed segment of a road, street, or highway under the jurisdiction of a road authority of a town, statutory or home rule charter city, or county, except for roadways for which full control of access has been acquired, (4) skeet, trap or shooting sports clubs, or (5) motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1996. Nothing herein shall prohibit a local unit of government or a public corporation with the power to make rules for the government of its real property from regulating the location and operation of skeet, trap or shooting sports clubs, or motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1996.

Minn. Rules § 7030 NOISE POLLUTION CONTROL

7030.0010 INCORPORATION BY REFERENCE.

For the purpose of chapter 7030, American National Standards Institute, Specification for Sound Level Meters, S1.4-1983 is incorporated by reference. This publication is available from the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018 and can be found at: the offices of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113; the Government Documents Section, Room 409, Wilson Library, University of Minnesota, 309 19th Avenue South, Minneapolis, Minnesota 55454; and the State of Minnesota Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155. This document is not subject to frequent change.

The Federal Highway Administration publication, Sound Procedures for Measuring Highway Noise: Final Report, FHWA-DP-45-1R (August 1981) is incorporated by reference. This publication is available from the United States Department of Transportation, Federal Highway Administration, 1000 North Globe Road, Arlington, Virginia 22201 and can be found at: the offices of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113; the Government Documents Section, Room 409, Wilson Library, University of Minnesota, 309 19th Avenue South, Minneapolis, Minnesota 55454; and the State of Minnesota Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155. This document is not subject to frequent change.

7030.0020 DEFINITIONS.

Subpart 1. Application. The terms used in this chapter have the meanings given them in this part.

Subp. 2. A-weighted. "A-weighted" means a specific weighting of the sound pressure level for the purpose of determining the human response to sound. The specific weighting characteristics and tolerances are those given in American National Standards Institute S1.4-1983, section 5.1.

Subp. 3. Daytime. "Daytime" means those hours from 7:00 a.m. to 10:00 p.m.

Subp. 4. dB(A). "dB(A)" means a unit of sound level expressed in decibels (dB) and A-weighted.

Subp. 5. Decibel. "Decibel" means a unit of sound pressure level, abbreviated as dB.

Subp. 6. Impulsive noise. "Impulsive noise" means either a single sound pressure peak (with either a rise time less than 200 milliseconds or total duration less than 200 milliseconds) or multiple sound pressure peaks (with either rise times less than 200 milliseconds or total duration less than 200 milliseconds) spaced at least by 200 millisecond pauses.

Subp. 7. L_{10}. "L_{10}" means the sound level, expressed in dB(A), which is exceeded ten percent of the time for a one hour survey, as measured by test procedures approved by the commissioner.

Subp. 8. L_{50}. "L_{50}" means the sound level, expressed in dB(A), which is exceeded 50 percent of the time for a one hour survey, as measured by test procedures approved by the commissioner.

Subp. 9. Municipality. "Municipality" means a county; a city; a town; a regional planning and development commission established under Minnesota Statutes, chapter 473; the metropolitan council; or other governmental subdivision of the state responsible by law for controlling or restricting land use within its jurisdiction.

Subp. 10. Nighttime. "Nighttime" means those hours from 10:00 p.m. to 7:00 a.m.

Subp. 11. Person. "Person" means any human being, any municipality or other governmental or political subdivision or other public department or agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agency, legal entity, other than a court of law, or any legal representative of any of the foregoing, but does not include the agency.

Subp. 12. Sound pressure level. "Sound pressure level", in decibels, means 20 times the logarithm to the base 10 of the ratio of the pressure to the reference pressure. The reference pressure shall be 20 micronewtons per square meter.

7030.0030 NOISE CONTROL REQUIREMENT.

No person may violate the standards established in part 7030.0040, unless exempted by Minnesota Statutes, section 116.07, subdivision 2a. Any municipality having authority to regulate land use shall take all reasonable measures within its jurisdiction to prevent the establishment of land use activities listed in noise area classification (NAC) 1, 2, or 3 in any location where the standards established in part 7030.0040 will be violated immediately upon establishment of the land use.

7030.0040 NOISE STANDARDS.

Subpart 1. Scope. These standards describe the limiting levels of sound established on the basis of present knowledge for the preservation of public health and welfare. These standards are consistent with speech, sleep, annoyance, and hearing conservation requirements for receivers within areas grouped according to land activities by the noise area classification (NAC) system established in part 7030.0050. However, these standards do not, by themselves, identify the limiting levels of impulsive noise needed for the preservation of public health and welfare. Noise standards in subpart 2 apply to all sources.

Subp. 2. Noise standards.

Noise Area Classification	Daytime		Nighttime	
	L_{10}	L_{50}	L_{10}	L_{50}
1	65	60	55	50
2	70	65	70	65
3	80	75	80	75

7030.0050 NOISE AREA CLASSIFICATION.

Subpart 1. Applicability. The noise area classification is based on the land use activity at the location of the receiver and determines the noise standards applicable to that land use activity unless an exception is applied under subpart 3.

Subp. 2. Noise area classifications. The noise area classifications and the activities included in each classification are listed below:

Noise Area Classification	Land Use Activities	
1	Household Units (includes farm houses)	Transient lodging
	Group quarters	Mobile home parks or courts
	Residential hotels	Other residential
	Cultural activities and nature exhibitions	Medical and other health services
	Correctional institutions	Educational services
	Religious activities	Motion picture production
	Entertainment assembly	Resorts and group camps
	Camping and picnicking areas (designated)	Other cultural, entertainment, and recreational activities.
2	Railroad terminals (passenger)	Bus passenger terminals (intercity)
	Railroad terminals (passenger and freight)	Bus passenger terminals (local)
	Rapid rail transit and street railway passenger terminals	Bus passenger terminals (intercity and local)
	Other motor vehicle transportation	Marine terminals (passenger)
	Airport and flying field terminals (passenger)	Marine terminals (passenger and freight)
	Airport and flying field terminals (passenger and freight)	Automobile parking
	Telegraph message centers	Transportation services and arrangements
	Wholesale trade	Retail trade -- apparel and accessories
	Retail trade -- building materials, hardware, and farm equipment	Retail trade -- automotive, marine craft, aircraft, and accessories
	Retail trade -- general merchandise	Retail trade -- furniture, home furnishings, and equipment
	Retail trade -- food	Retail trade -- eating and drinking
	Other retail trade	Finance, insurance, and real estate services

	Personal services	Repair services
	Business services	Legal services
	Other professional services	Contract construction services
	Governmental services (except correctional institutions)	Miscellaneous services (except religious activities)
	Public assembly (except entertainment assembly and race tracks)	Amusements (except fairgrounds and amusement parks)
	Recreational activities (except designated camping and picnicking areas)	Parks.
3	Food and kindred products -- manufacturing	Textile mill products -- manufacturing
	Apparel and other finished products made from fabrics, leather, and similar materials -- manufacturing	Lumber and wood products (except furniture) -- manufacturing
	Furniture and fixtures -- manufacturing	Printing, publishing, and allied industries
	Paper and allied products -- manufacturing	Chemicals and allied products -- manufacturing
	Petroleum refining and related industries	Primary metal industries
	Rubber and miscellaneous plastic products -- manufacturing	Stone, clay, and glass products -- manufacturing
	Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks -- manufacturing	Railroad, rapid transit, and street railway transportation (except passenger terminals)
	Miscellaneous manufacturing (except motion picture production)	Fabricated metal products -- manufacturing
	Motor vehicle transportation (except passenger terminals)	Aircraft transportation (except passenger terminals)
	Marine craft transportation (except passenger and freight terminals)	Communication (except telegraph message centers)
	Highway and street right-of-way	Utilities
	Race tracks	
	Fairgrounds and amusement parks	Agricultural
	Agricultural and related activities	Fishing activities and related services
	Other transportation, communication, and utilities (except transportation services and arrangements)	Forestry activities and related services (including commercial forest land, timber production, and other related activities)
	All other activities not otherwise listed.	

4	Undeveloped and unused land area (excluding non-commercial forest development)	Non-commercial forest development
	Water areas	Vacant floor area
	Under construction	Other undeveloped land and water areas.

Subp. 3. Exceptions. The noise area classification for a land use may be changed in the following ways if the applicable conditions are met.

A. The daytime standards for noise area classification 1 shall be applied to noise area classification 1 during the nighttime if the land use activity does not include overnight lodging.

B. The standards for a building in a noise area classification 2 shall be applied to a building in a noise area classification 1 if the following conditions are met:

(1) the building is constructed in such a way that the exterior to interior sound level attenuation is at least 30 dB(A);

(2) the building has year-round climate control; and

(3) the building has no areas or accommodations that are intended for outdoor activities

C. The standards for a building in a noise area classification 3 shall be applied to a building in a noise area classification 1 if the following conditions are met:

(1) the building is constructed in such a way that the exterior to interior sound level attenuation is at least 40 dB(A);

(2) the building has year-round climate control; and

(3) the building has no areas or accommodations that are intended for outdoor activities.

D. The standards for a building in a noise area classification 3 shall be applied to a building in a noise area classification 2 if the following conditions are met:

(1) the building is constructed in such a way that the exterior to interior sound level attenuation is at least 30 dB(A);

(2) the building has year-round climate control; and

(3) the building has no areas or accommodations that are intended for outdoor activities.

7030.0060 MEASUREMENT METHODOLOGY.

Subpart 1. Measurement location. Measurement of sound must be made at or within the applicable NAC at the point of human activity which is nearest to the noise source. All measurements shall be made outdoors.

Subp. 2. Equipment specifications. All sound level measuring devices must meet Type O, I, II, or S specifications under American National Standards Institute S1.4-1983.

Subp. 3. Calibration. All sound level measuring devices must, at a minimum, be externally field calibrated before and after monitoring using a calibration device of known frequency and sound pressure level.

Subp. 4. Measurement procedures. The following procedures must be used to obtain representative sound level measurements:

A. Measurements must be made at least three feet off the ground or surface and away from natural or artificial structures which would prevent an accurate measurement.

B. Measurements must be made using the A-weighting and fast response characteristics of the sound measuring device as specified in American National Standards Institute S1.4-1983.

C. Measurements must not be made in sustained winds or in precipitation which results in a difference of less than ten decibels between the background noise level and the noise source being measured.

D. Measurements must be made using a microphone which is protected from ambient conditions which would prevent an accurate measurement.

Subp. 5. Data documentation. A summary sheet for all sound level measurements shall be completed and signed by the person making the measurements. At a minimum, the summary sheet shall include:

A. Date

B. Time

C. Location

D. Noise source

E. Wind speed and direction

F. Temperature

G. Humidity

H. Make, model, and serial number of measuring equipment

I. Field calibration results

J. Monitored levels

K. Site sketch indicating noise source, measurement location, directions, distances, and obstructions.

7030.0070 SOUND ATTENUATION MEASUREMENT METHODOLOGY.

Subpart 1. Purpose. Sound level measurements made for assessing sound attenuation as specified in part 7030.0050, subpart 3, item B, C, or D, shall be made according to the requirements of this part.

Subp. 2. Equipment. The equipment shall meet the requirements specified in part 7030.0060, subpart 2.

Subp. 3. Calibration. The equipment must meet the calibration requirements specified in part 7030.0060, subpart 3.

Subp. 4. Measurement procedure.

The measurement procedure described in FHWA-DP-45-1R, section 8 must be used for determination of the sound attenuation.

Subp. 5. Equivalent methods. Methods equivalent to those described in subpart 4 may be used provided they are approved by the commissioner of the Minnesota Pollution Control Agency. The commissioner shall approve an alternative method if the commissioner finds that the method will produce representative data and results which are as reliable as the methods specified in subpart 4.

7030.0080 VARIANCE.

If, upon written application of the responsible person, the agency finds that by reason of exceptional circumstances strict conformity with any provisions of any noise rule would cause undue hardship, would be unreasonable, impractical, or not feasible under the circumstances, the agency may permit a variance upon the conditions and within the time limitations as it may prescribe for the prevention, control, or abatement of noise pollution in harmony with the intent of the state and any applicable federal laws.

7030.1000 DEFINITION.

"Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles.

7030.1010 PROHIBITIONS.

Subpart 1. Operation of vehicle. No person shall operate either a motor vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 at any time or under any condition of grade, load, acceleration, or deceleration in such a manner as to exceed the noise limits contained herein for the category of motor vehicle and speed limits specified, when tested with a measurement procedure approved by the commissioner.

Subp. 2. Sale of vehicle. No person shall sell or offer for sale a new motor vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 which when maintained according to the manufacturer's specifications would exceed the noise limits contained herein for the category of motor vehicle and speed limits specified, when tested with a measurement procedure approved by the commissioner.

Subp. 3. Modification of vehicle. No person shall modify a motor vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 in a manner which will amplify or increase the noise emitted by the vehicle, above the noise limits contained herein for the category of motor vehicle and speed limits specified, when tested with a measurement procedure approved by the commissioner. No person shall operate a motor vehicle so modified.

Subp. 4. Sale of parts. No person shall sell or offer for sale replacement or additional parts for a motor vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 which when installed in the vehicle will amplify or increase the noise emitted by the vehicle, above the noise limits

contained herein for the category of motor vehicle and speed limits specified, when tested with a measurement procedure approved by the commissioner. No person shall operate a motor vehicle incorporating such parts.

7030.1020 SCOPE.

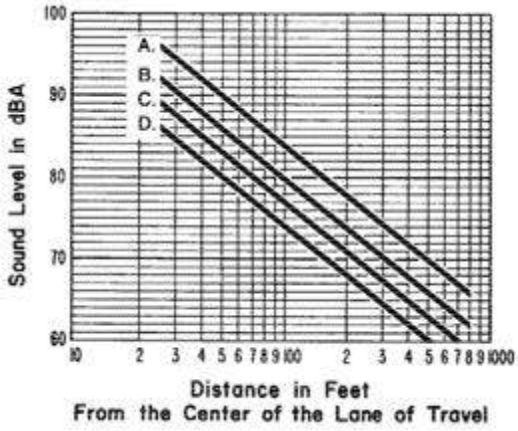
This chapter applies to the total noise from a vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 and shall not be construed as limiting or precluding the enforcement of any other provision of law relating to motor vehicle exhaust noise.

7030.1030 EXCEPTIONS.

Vehicles under parts 7030.1050 and 7030.1060 are allowed to exceed the noise limits contained herein when performing acceleration maneuvers for safety purposes.

7030.1040 NOISE LIMIT FOR VEHICLES OVER 10,000 POUNDS.

Motor vehicle noise limits for vehicles with a manufacturer's gross vehicle weight rating of more than 10,000 pounds and any combination of vehicles towed by such motor vehicle.



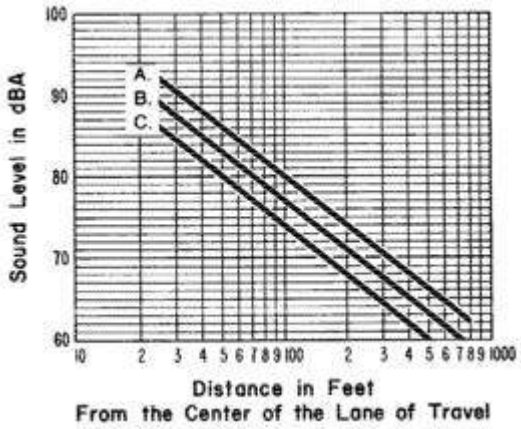
A. Speed limits greater than 35 mph.

B. Speed limits equal to or less than 35 mph and stationary run-up tests (for vehicles with governed engines). For stationary run-up tests on all-paved surfaces, add 2 dBA.

C. Speed limits equal to or less than 35 mph and stationary run-up tests (for vehicles with governed engines), for vehicles manufactured on or after January 1, 1978. For stationary run-up tests on all-paved surfaces, add 2 dBA.

D. Speed limits equal to or less than 35 mph and stationary run-up tests (for vehicles with governed engines), for vehicles manufactured on or after January 1, 1982. For stationary run-up tests on all-paved surfaces, add 2 dBA.

7030.1050 MOTOR VEHICLE NOISE LIMITS FOR MOTORCYCLES.



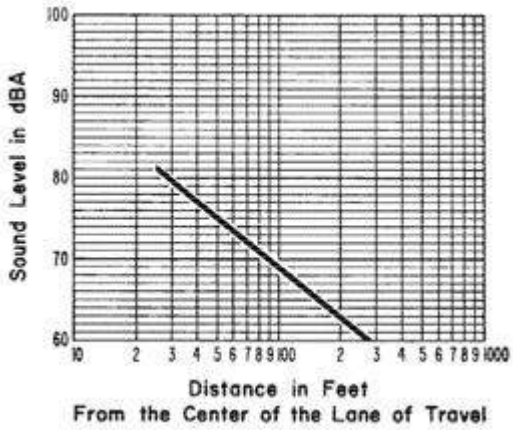
A. For vehicles manufactured before January 1, 1975.

B. Speed limits greater than 35 mph for vehicles manufactured on or after January 1, 1975.

C. Speed limits equal to or less than 35 mph for vehicles manufactured on or after January 1, 1975.

7030.1060 NOISE LIMITS FOR OTHER VEHICLES.

Motor vehicle noise limits for any other motor vehicle not included under parts 7030.1040 and 7030.1050 and any combination of vehicles towed by such motor vehicle.



Minn. Stat. § 86B WATERCRAFT OPERATION

86B.321 NOISE LIMITS.

Subdivision 1. **Operation in excess of noise limits prohibited.** A person may not operate a motorboat under any condition of load, acceleration, or deceleration in a manner that exceeds the noise limits contained in subdivision 2.

Subd. 2. **Noise limits.** (a) The noise limits for the total noise from the marine engine or motorboat may not exceed:

(1) for marine engines or motorboats manufactured before January 1, 1982, a noise level of 84 decibels on the A scale measured at a distance of 50 feet from the motorboat or equivalent noise levels at other distances as specified by the commissioner in a pass-by test or 86 decibels on the A scale measured at idle in a stationary test at least four feet above the water and at least four feet behind the transom of the motorboat being tested; and

(2) for marine engines or motorboats manufactured on or after January 1, 1982, a noise level of 82 decibels on the A scale measured at a distance of 50 feet from the motorboat or equivalent noise levels at other distances as specified by the commissioner in a pass-by test or 84 decibels on the A scale measured at idle in a stationary test at least four feet above the water and at least four feet behind the transom of the motorboat being tested.

(b) The noise limits in paragraph (a) do not preclude enforcement of other laws relating to motorboat noise. The officer or deputy doing the testing shall determine which test or tests shall be used. Failure to pass either the pass-by or stationary idle test is a violation of this section.

(c) Equivalent noise levels under paragraph (a) shall be specified by the commissioner by written order and published in the State Register. The noise level determinations are exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Subd. 3. **Applicability.** The provisions of this section do not apply to motorboats operating under a permit issued under section 86B.121 or a United States Coast Guard marine event permit in a regatta or race while on trial runs or while on official trials for speed records during the time and in the designated area authorized by the permit.

86B.521 MOTORBOAT NOISE CONTROL.

Subdivision. 1. **Exhaust muffling system required.** A motor may not be used on a motorboat unless it is equipped with an efficient muffler, underwater exhaust, or other device that adequately muffles or suppresses the sound of the exhaust of the motor so as to prevent excessive or unusual noise. A motor may not be equipped with an altered muffler, muffler cutout, muffler bypass, or any other device designed or installed so that it can be used to continually or intermittently bypass any muffler or muffler system installed in the motorboat or to reduce or eliminate the effectiveness of such a muffler or muffler system.

Subd. 2. **Sale of motor that exceeds noise limits prohibited.**
A person may not sell or offer for sale a marine engine or motorboat that would exceed the noise limits contained in section 86B.321, subdivision 2, under a test procedure approved by the commissioner if the motor is maintained according to the manufacturer's specifications.

Subd. 3. **Modification of engine to exceed noise limits prohibited.** (a) A person may not modify a marine engine or motorboat in a manner that will amplify or increase the noise emitted by the marine engine or motorboat above the noise limits contained in section 86B.321, subdivision 2, under a test procedure approved by the commissioner.

(b) A person may not operate a motorboat with an engine modified to increase noise above the noise limits.

Subd. 4. **Sale of parts that cause excessive noise prohibited.** (a) A person may not sell or offer for sale replacement or additional parts for a marine engine or motorboat which when installed in the marine engine or motorboat will amplify or increase the noise emitted by the marine engine or motorboat above the noise limits contained in section 86B.321, subdivision 2, under a test procedure approved by the commissioner.

(b) A person may not operate a motorboat incorporating parts prohibited to be sold under paragraph (a).

Subd. 5. **Applicability.** The provisions of this section do not apply to motorboats operating under a permit issued under section 86B.121 or a United States Coast Guard marine event permit in a regatta, or race, while on trial runs, or while on official trials for speed records during the time and in the designated area authorized by the permit.

Subd. 6. **Rulemaking exemption.** The test procedures under subdivisions 2, 3, and 4 shall be established by written order by the commissioner and published in the State Register. The establishment of test procedures is exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Minn. Stat. § 84.8 SNOWMOBILES

84.871 EQUIPMENT REQUIREMENTS.

Subdivision. 1. **Mufflers.** Except as provided in this section, every snowmobile shall be equipped at all times with a muffler in good working order which blends the exhaust noise into the overall snowmobile noise and is in constant operation to prevent excessive or unusual noise. The exhaust system shall not emit or produce a sharp popping or crackling sound. This section does not apply to organized races or similar competitive events held on (1) private lands, with the permission of the owner, lessee, or custodian of the land; (2) public lands and water under the jurisdiction of the commissioner of natural resources, with the commissioner's permission; or (3) other public lands, with the consent of the public agency owning the land. No person shall have for sale, sell, or offer for sale on any new snowmobile any muffler that fails to comply with the specifications required by the rules of the commissioner after the effective date of the rules.

6100.5700 REQUIRED EQUIPMENT.

Subp. 5. Mufflers. Mufflers:

A. No person shall operate a snowmobile unless it is equipped with a muffler as required by law and these rules, except that snowmobiles may be operated in organized events as authorized by Minnesota Statutes, section 84.871, without such a muffler.

B. No snowmobile manufactured on or after June 30, 1970, and before February 1, 1972, for sale in Minnesota, except snowmobiles designed for competition purposes only, shall be sold, or offered for sale, unless it is equipped with a muffler that limits engine noise to not more than 86 decibels on the A scale at 50 feet.

C. No snowmobile manufactured on or after February 1, 1972, for sale in Minnesota, except snowmobiles designed for competition purposes only, shall be sold, or offered for sale, unless it is equipped with a muffler that limits engine noise to not more than 82 decibels on the A scale at 50 feet.

D. No snowmobile manufactured on or after April 1, 1975, except a snowmobile designed for competition purposes only, shall be sold, offered for sale, or operated in Minnesota unless it is so equipped and has been certified by the manufacturer to conform to a sound level limitation of not more than 78 decibels on the A scale at 50 feet as originally equipped.

E. In certifying that a new snowmobile complies with the noise limitation requirements of this rule, a manufacturer shall make such a certification based on measurements made in accordance with the SAE Recommended Practice J192(a), as set forth in the Report of the Vehicle Sound Level Committee, as approved by the Society of Automotive Engineers September 1970 and revised November 1973.

F. No snowmobile shall be sold or offered for sale in Minnesota unless its maker has previously furnished the commissioner with a certificate of compliance certifying that all snowmobiles made by that maker meet or exceed the applicable noise level restrictions established by these rules. The certification of compliance shall be in the form of a "Snowmobile Safety Certification Committee" label conspicuously attached to the machine showing certification by the Snowmobile Safety and Certification Committee, Inc., or a label showing compliance with Snowmobile Safety Certification Committee standards accompanied by a letter containing test results of an evaluation of noise levels by a competent independent testing laboratory. Snowmobiles intended for competition purposes only shall be exempt from this part provided a separate placard identifying that such snowmobile is not so equipped is conspicuously and permanently affixed thereto.

G. Except for organized events as authorized by Minnesota Statutes, section 84.871, no snowmobile shall be modified by any person in any manner that shall amplify or otherwise increase total noise level above that emitted by the snowmobile as originally equipped, regardless of date of manufacture.

Minn. Stat. § 87A. SHOOTING RANGES

87A.05 NOISE STANDARDS.

Allowable noise levels for the operation of a shooting range are the levels determined by replacing the steady state noise L_{10} and L_{50} state standards for each period of time within each noise area's classification with a single Leq(h) standard for impulsive noise that is two dBA lower than that of the L_{10} level for steady state noise. The noise level shall be measured outside of the range property at the location of the receiver's activity according to Minnesota Rules, parts 7030.0010 to 7030.0080, as in effect on May 28, 2005. For purposes of this section, "Leq(h)" means the energy level that is equivalent to a steady state level that contains the same amount of sound energy as the time varying sound level for a 60-minute time period.

Minn. Rules § 6102, RECREATIONAL VEHICLES

6102.0002 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 6102.0002 to 6102.0080, the terms defined in this part have the meanings given them.

Subp. 2. ATV. "ATV" means an all-terrain vehicle.

Subp. 3. Commissioner. "Commissioner" means the commissioner of Natural Resources.

Subp. 4. Department. "Department" means the Department of Natural Resources.

Subp. 5. OHM. "OHM" means an off-highway motorcycle.

Subp. 6. ORV. "ORV" means an off-road vehicle.

Subp. 7. Vehicle. "Vehicle" means an OHM, ORV, or ATV.

6102.0040 REQUIRED EQUIPMENT.

Subp. 4. Mufflers.

A. No person shall operate a vehicle unless it is equipped with a muffler having a spark arrestor approved by the United States Forest Service as described by Code of Federal Regulations, title 36, chapter II, section 261.52, paragraph (j).

B. Vehicles shall not be sold, offered for sale, or operated in this state unless equipped so that overall noise emission does not exceed a sound level limitation of not more than 99 decibels on the A scale from a distance of 20 inches using test procedures and instrumentation as set forth in the Society of Automotive Engineers' Standard, SAE J1287, June 1988, or, if different procedures or instrumentation are used, a noise level equivalent to that level.

C. No noise suppressing system or muffler shall be equipped with a cutout, bypass, or similar device and no person shall modify or alter that system or its operation in any manner which will amplify or increase the noise emitted by the vehicle's motor to exceed the noise limits established in this subpart, except for organized events as authorized by Minnesota Statutes, sections 84.795, subdivision 7; 84.804, subdivision 5; and 84.928, subdivision 5.

ATTACHMENT 3

Minnesota Pollution Control Agency

Mobile Sources Program

Diesel Exhaust in Minnesota

What are the health effects? Who is at risk? What can you do?

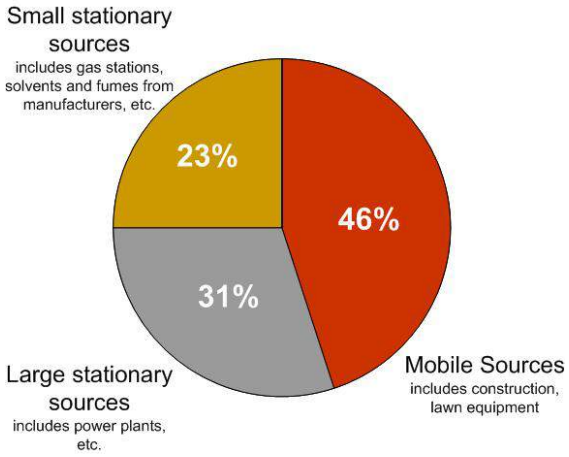
Air Quality/Motor Vehicle Pollution #2.25 February 2005

Diesel Exhaust and Your Health

Diesel exhaust contains tiny particles known as fine particulate matter (PM) or soot. These "fine" particles are so small that several thousand could fit in the period at the end of this sentence. **Diesel engines are a large manmade source of fine particulate matter**. Diesel exhaust also contains ozone-forming nitrogen oxides and toxic air pollutants.

- Exposure to fine particles contributes to the development of heart and lung disease. Ozone exposure aggravates existing respiratory diseases such as asthma.
- Nationwide, particulate matter— such as that in diesel exhaust—causes more than 15,000 premature deaths every year.
- Diesel exhaust is also understood to be a likely human carcinogen.

Sources of air pollution in Minnesota



Source: MPCA report, *Air Quality in Minnesota: Into the Future 2003,* pg 2.

Who is most at risk?

- People with existing heart or lung disease, asthma or other respiratory problems are most sensitive to the health effects of fine particles, as are the elderly.
- Children are especially sensitive to air pollution because they breathe 50 percent more air per pound of body weight than adults.

Other Health and Environmental Effects

- Fine particles from diesel engines travel far from their source and contribute to haze which restricts visibility even in national parks and wilderness areas.
- Diesel exhaust also contributes to ozone formation (a component of smog), acid rain, and global climate change.

What can owners/operators do?

1. Turn off engines when vehicles are stopped for more than a few minutes, especially around people. Do not idle near the air intake of a building.
2. Retrofit engines with pollution control devices and or use cleaner burning fuel.
3. When purchasing new vehicles, buy the lowest emitting vehicles available.
4. Keep engines well tuned and maintained.
5. Visit www.epa.gov/otaq/retrofit or www.epa.gov/cleanschoolbus for more details or call 1-734-214-4636.

Minnesota Pollution Control Agency, 520 Lafayette Rd N, Saint Paul, MN 55155-4194
(651) 296-6300, toll-free (800) 657-3864, TTY (651) 282-5332 or (800) 657-3864
This material can be made available in alternative formats for people with disabilities.

After and before retrofit, at Boston's Big Dig.

Reducing Emissions

Reduce Idling and Save Money

- A heavy-duty truck or large off-road diesel engine burns one gallon of diesel fuel per hour at idle, generating significant pollution, wasting fuel, and causing excessive engine wear.
- Vehicle owners can buy small generators or auxiliary power units to provide heat, air conditioning, and/ or electricity while a vehicle is parked. They substantially cut fuel consumption and emissions generated during long-duration idling.
- Owners of older vehicles can buy block heaters to help warm the engine to avoid starting difficulties and reduce idling time during engine warm-up. **Newer vehicles (late 1990s or newer) are designed to start easily at all temperatures without idling.**

Retrofits and Cleaner Fuels

- Use ultra-low sulfur diesel fuel in combination with pollution control equipment such as particulate matter filters. This approach reduces particulate matter by more than 90 percent.
- Although ultra-low sulfur diesel fuel is not required until 2006, it is becoming available in Minnesota and across the United States.

New Vehicle Purchase Considerations

- Vehicles equipped with the most advanced emission control systems available.
- Vehicles equipped with devices that minimize idling and warm-up time automatically.
- Vehicles that run on cleaner fuels such as biodiesel, ULSD or compressed natural gas.

For information on finding cleaner fuels or retrofit equipment, call Jeff Buss, MPCA Mobile Sources coordinator: 651-297-8659.

What is Government Doing?

- EPA and states like Minnesota are promoting cleaner diesel engines and fuels.
- **In 2006, diesel fuel will contain 97 percent less sulfur**. This ultra-low sulfur diesel fuel in combination with advanced pollution control technology will mean that in 2007, new trucks and buses will be up to 95 percent cleaner than today's models.
- EPA has issued emission standards for new, non-road diesel engines, such as construction and farm equipment, and is working to strengthen these standards in the future.
- Existing fleet engines will not be subject to the new regulations, yet may remain in operation for another 25-30 years.

Therefore, the EPA and states plan to:

1. Retrofit existing diesel vehicles with pollution controls.
2. Implement emission testing programs for diesel vehicles.
3. Implement anti-idling programs.
4. Promote cleaner fuels like ultra-low sulfur diesel or compressed natural gas.

EPA Standards for New Trucks and Buses+

	EMISSIONS*	
	Nitrogen Oxides	**Particulate Matter**
1984	10.7	0.60
1991	5.0	0.25
1994	5.0	0.10
2007	**0.2**	**0.01**

+ Since 1993, urban buses have had stricter standards.

* EPA's emission standards for trucks and buses are based on the amount of pollution emitted per unit of energy (expressed in grams per brake horsepower hour).

Information is from EPA420-F-03-022 June 2003

ATTACHMENT 4

OSHA • MSHA

HAZARD ALERT

Diesel Exhaust/Diesel Particulate Matter

Diesel engines provide power to a wide variety of vehicles, heavy equipment, and other machinery used in a large number of industries including mining, transportation, construction, agriculture, maritime, and many types of manufacturing operations. The exhaust from diesel engines contains a mixture of gases and very small particles that can create a health hazard when not properly controlled.

What is Diesel Particulate Matter (DPM)?

- DPM is a component of diesel exhaust (DE) that includes soot particles made up primarily of carbon, ash, metallic abrasion particles, sulfates and silicates.
- Diesel soot particles have a solid core consisting of elemental carbon, with other substances attached to the surface, including organic carbon compounds known as aromatic hydrocarbons.

Photo courtesy of MSHA

Diesel-powered equipment is often used in underground mines.

Who can be exposed to DE/DPM?

Occupations with potential exposure to DE/DPM include miners, construction workers, heavy equipment operators, bridge and tunnel workers, railroad workers, oil and gas workers, loading dock workers, truck drivers, material handling operators, farmworkers, long-shoring workers, and auto, truck and bus maintenance garage workers.

Most heavy- and medium-duty trucks are equipped with diesel engines, as well as equipment used in mines; buses, locomotives and ships; heavy equipment such as bulldozers and tractors; and other types of equipment such as bucket lifts and generators. Miners and other workers in the vicinity of diesel powered equipment may be exposed to DE/DPM.

Photo courtesy of NESCAUM

Heavy equipment operators can be exposed to diesel exhaust at construction sites.

What are the health effects of DE/DPM?

- Short term exposure to high concentrations of DE/DPM can cause headache, dizziness, and irritation of the eye, nose and throat severe enough to distract or disable miners and other workers.
- Prolonged DE/DPM exposure can increase the risk of cardiovascular, cardiopulmonary and respiratory disease and lung cancer.

In June, 2012, the International Agency for Cancer Research (IARC) classified DE (including DPM) as a known human carcinogen (Group 1).

How can exposures to DE/DPM be controlled?

Engineering controls are the most effective strategy for minimizing worker exposure to DE/DPM. A combination of controls is often required. Examples include:

- Performing routine preventive maintenance of diesel engines to minimize emissions,
- Installing engine exhaust filters,
- Installing cleaner burning engines,
- Installing diesel oxidation catalysts,
- Using special fuels or fuel additives (e.g., biodiesel),
- Providing equipment cabs with filtered air, and
- Installing or upgrading main or auxiliary ventilation systems, such as tailpipe or stack exhaust vents to capture and remove emissions in maintenance shops or other indoor locations.

Administrative controls refer to changes in the way work tasks are performed to reduce or eliminate the hazard. Examples include:

- Limiting speeds and using one-way travel routes to minimize traffic congestion,
- Prohibiting and/or restricting unnecessary idling or lugging of engines,
- Restricting the amount of diesel-powered equipment and total engine horsepower operating in a given area and ensure that the number of vehicles operating in an area does not exceed the capacity of the ventilation system, and
- Designate areas that are off-limits for diesel engine operation and/or personnel travel.

What standards are in place to protect miners and other workers from exposures to DE/DPM?

Miners are covered by the Mine Safety and Health Administration (MSHA). Workers in general industry, agriculture, construction and maritime industries are covered by the Occupational Safety and Health Administration (OSHA).

MSHA currently enforces DPM standards at underground metal/nonmetal mines and at underground coal mines.

Underground Metal/Nonmetal Mines

- A miner's personal exposure to DPM must not exceed 160 micrograms per cubic meter ($\mu g/m^3$) of total carbon (TC) when measured as an 8-hour time-weighted average.
- Feasible engineering and administrative controls are required to reduce a miner's exposure to or below the permissible exposure limit (PEL).
- Respiratory protection must be used to supplement feasible engineering and administrative controls if such controls do not reduce a miner's exposure to the PEL, the engineering or administrative controls are infeasible, or the engineering and administrative controls fail to produce a significant reduction in DPM exposure.
- When respiratory protection is required, an air-purifying respirator equipped with a filter that meets one of the following: certified by NIOSH under 30 CFR Part 11 as a high-efficiency particulate air (HEPA) filter; under 42 CFR Part 84 as 99.97% efficient; or certified by NIOSH for DPM.
- Rotation of miners to comply with the PEL is prohibited.
- Evaluation of a miner's medical ability to wear a respirator and transfer rights for miners unable to wear respirators.

- Other requirements include:
  - o Fueling practices, including sulfur content and fuel additives,
  - o Maintenance of diesel-powered equipment,
  - o Limits on engine emissions,
  - o Annual training for miners,
  - o Exposure monitoring,
  - o Recordkeeping, and
  - o Miners' and former miners' rights to access certain records related to their own exposures.

Underground Coal Mines

- DPM emissions of diesel-powered equipment are restricted to the levels indicated below based on laboratory tests on the engine exhaust:
  - o Permissible Equipment - 2.5 grams/hour
  - o Heavy-Duty nonpermissible - 2.5 grams/hour
  - o Light Duty nonpermissible - 5.0 grams/hour or EPA standards
- MSHA laboratory testing establishes the level of DPM filtration required on specific diesel engines.
- Coal mine operators are required to:
  - o Perform weekly examinations of diesel equipment and perform maintenance with certified mechanics,
  - o Use low sulfur fuel,
  - o Provide training to miners annually on DPM risks and controls used at the specific mine,
  - o Maintain exhaust gas concentrations at or below established standards, and
  - o Provide ventilating air where diesel engines are operated.

General Industry, Agriculture, Construction and Maritime Operations

The Occupational Safety and Health Administration does not have a a permissible exposure limit (PEL) for DPM. However, OSHA has PELs for other components of diesel exhaust. Monitoring for these gases can provide an indication of the presence of DE, and can be of help in evaluating the effectiveness of engineering and administrative controls implemented to minimize the potential for exposure to DE when working with or around diesel-powered equipment.

Substance	PEL
Carbon Monoxide (CO)	50 ppm
Nitric Oxide (NO)	25 ppm
Nitrogen Dioxide (NO_2)	5 ppm (ceiling)

Where can I get additional information?

The links below can be used to access additional information regarding diesel regulations and technical information on control measures.

Code of Federal Regulations, underground metal/nonmetal mines
www.msha.gov/30cfr/57.0.htm

Code of Federal Regulations, underground coal mines
www.msha.gov/s&hinfo/deslreg/dreg.htm

MSHA's DPM Single Source Page
www.msha.gov/01-995/dieselpart.htm

OSHA's Safety and Health Topics page on diesel exhaust
www.osha.gov/SLTC/dieselexhaust/index.html

OSHA's partial list of chemicals found in diesel exhaust
www.osha.gov/SLTC/dieselexhaust/chemical.html

The EPA recommends strategies for reducing diesel exhaust on their website:
www.epa.gov/diesel

Contacts

MSHA:

For questions, information or advice:

- Metal/Nonmetal Mine Safety and Health, Division of Health, Reginald J. Richards, DrPH, CIH, (202) 693-9632, richards.reginald.j@dol.gov
- Coal Mine Safety and Health, Division of Health, Robert A. Thaxton, (202) 693-9515, thaxton.robert@dol.gov

To report an emergency, fatality or catastrophe, or to file a confidential hazard complaint, contact your nearest MSHA district or field office, visit www.msha.gov, or call MSHA at 1-800-746-1553.

OSHA:

For questions, information or advice, to report an emergency, fatality or catastrophe, or to file a confidential complaint, contact your nearest OSHA office, visit www.osha.gov, or call at 1-800-321-OSHA (6472).

Disclaimer

This Hazard Alert is not a standard or regulation, and it creates no new legal obligations. It contains recommendations as well as descriptions of mandatory safety and health standards. The recommendations are advisory in nature, informational in content, and are intended to assist employers in providing a safe and healthful workplace. The Occupational Safety and Health Act requires employers to comply with safety and health standards and regulations promulgated by OSHA or by a state with an OSHA-approved state plan. In addition, the Act's General Duty Clause, Section 5(a)(1), requires employers to provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm.

U.S. Department of Labor
Hilda L. Solis, Secretary of Labor

Occupational Safety and Health Administration

United States Department of Labor
MSHA
Mine Safety and Health Administration

DSG 01/2013

OSHA - HA-3590-2013

ATTACHMENT 5

Health Hazards of Industrial Wood Waste

Victor Velculescu, M.D., Ph.D.

Sidney Kimmel Comprehensive Cancer Center
Johns Hopkins University

Howard County Task Force Meeting, October 7, 2014

Health Hazards

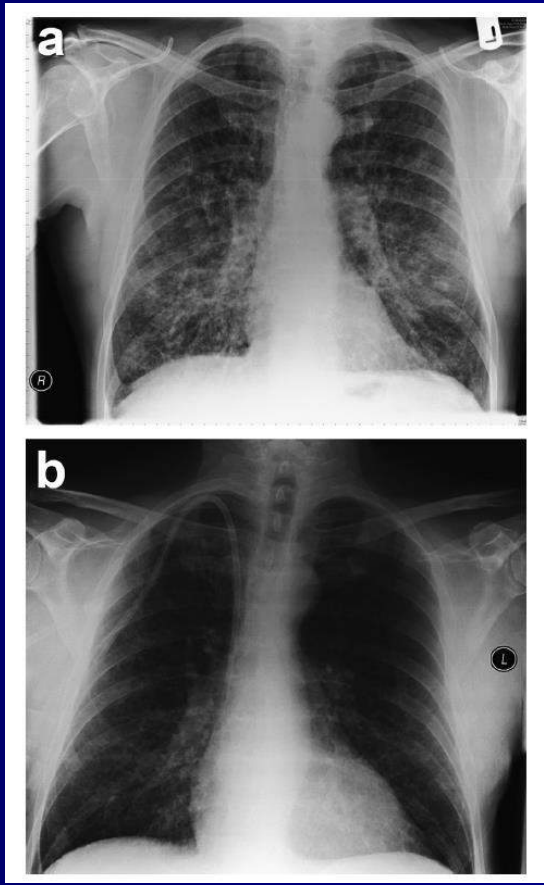
Industrial mulch processing results in increased health risks

- Infectious agents – fungi and bacteria
- Wood dust – allergic and mucosal effects
- Wood dust – cancer
- Exposure and risk

Infectious agents example: acute fungal pneumonia

At presentation

2 months later



A 69 year old retired man with no significant medical history. Developed acute pneumonia after spreading tree bark mulch.

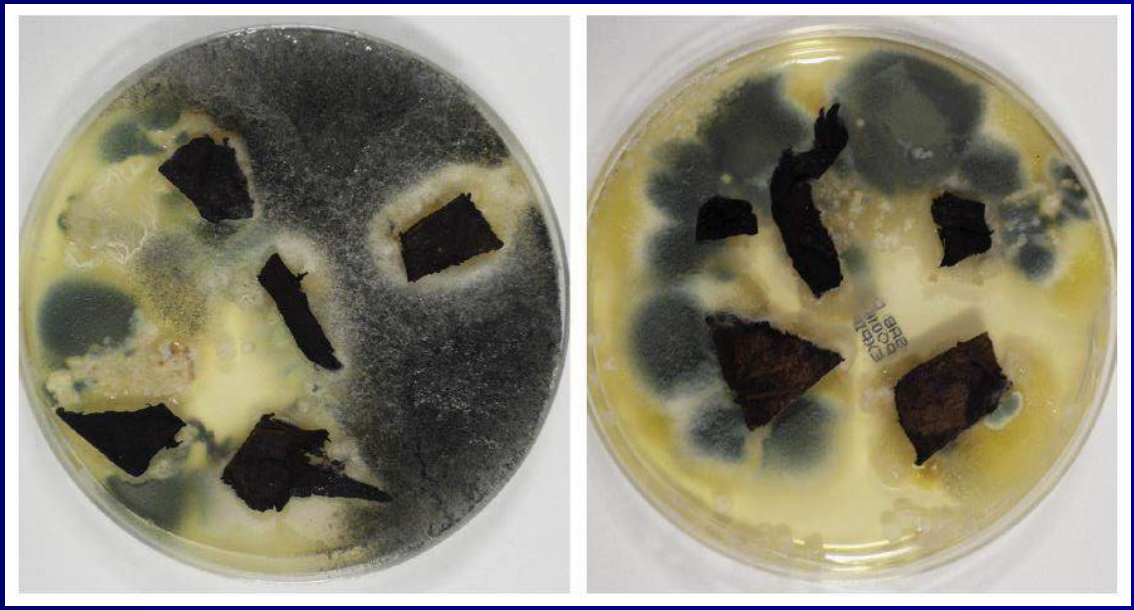
Hospitalized, developed kidney injury and failure. Remained dialysis dependent and housebound.

Died of sepsis 10 months later.

<u>Inhalation of fungal spores from mulch was determined be the likely route of infection.</u>

Medical MycologyCaseReports2(2013)125–127

Infectious agents example: acute fungal pneumonia



Mulch culture showing growth of microogranisms
(Aspergillus fumigatus, Rhizopus spp., Sporobolomyces spp. and bacteria)

Medical MycologyCaseReports2(2013)125–127

Studies of mulch related infections in medical literature

1: Ameratunga R, Woon ST, Vyas J, Roberts S. Fulminant mulch pneumonitis in undiagnosed chronic granulomatous disease: a medical emergency. Clin Pediatr (Phila). 2010 Dec;49(12):1143-6. doi: 10.1177/0009922810370057. Epub 2010 Aug 19.

2: Siddiqui S, Anderson VL, Hilligoss DM, Abinun M, Kuijpers TW, Masur H, Witebsky FG, Shea YR, Gallin JI, Malech HL, Holland SM. Fulminant mulch pneumonitis: an emergency presentation of chronic granulomatous disease. Clin Infect Dis. 2007 Sep 15;45(6):673-81. Epub 2007 Aug 8.

3: Veillette M, Cormier Y, Israël-Assayaq E, Meriaux A, Duchaine C. Hypersensitivity pneumonitis in a hardwood processing plant related to heavy mold exposure. J Occup Environ Hyg. 2006 Jun;3(6):301-7.

4: Nagai K, Sukoh N, Yamamoto H, Suzuki A, Inoue M, Watanabe N, Kuroda R, Yamaguchi E. [Pulmonary disease after massive inhalation of Aspergillus niger]. Nihon Kokyuki Gakkai Zasshi. 1998 Jun;36(6):551-5. Japanese.

5: Weber S, Kullman G, Petsonk E, Jones WG, Olenchock S, Sorenson W, Parker, Marcelo-Baciu R, Frazer D, Castranova V. Organic dust exposures from compost handling: case presentation and respiratory exposure assessment. Am J Ind Med. 1993 Oct;24(4):365-74.

6: Johnson CL, Bernstein IL, Gallagher JS, Bonventre PF, Brooks SM. Familial hypersensitivity pneumonitis induced by Bacillus subtilis. Am Rev Respir Dis. 1980 Aug;122(2):339-48. PubMed PMID: 6774642.

Dozens of examples of scientific articles from throughout the world related to infectious agents in mulch.

Particularly important and dangerous for immune compromised individuals.

Recent study found that of patients with fulminant mulch pneumonitis, half of those died of due to infection and underlying kidney disease.

Health Hazards

Industrial mulch processing results in increased exposure to

- Infectious agents – fungi and bacteria
- Wood dust – allergic and mucosal effects
- Wood dust – cancer
- Exposure and risk

Health Effects of Wood Dust

From Centers for Disease Control and Prevention:

“Exposure to wood dust has long been associated with a variety of adverse health effects, including dermatitis, allergic respiratory effects, mucosal and nonallergic respiratory effects, and cancer. The toxicity data in animals are limited, particularly with regard to exposure to wood dust alone; there are, however, a large number of studies in humans.”

1988 CDC OSHA PEL Documentation

Health Effects of Wood Dust

From *Ann Agric Environ Med* 2010, **17**, 29–44.

- **Abstract:** This paper reviews the literature on associations between dry wood dust exposure and non-malignant respiratory diseases … The results support an association between dry wood dust exposure and asthma, asthma symptoms, coughing, bronchitis, and acute and chronic impairment of lung function. In addition, an association between wood dust exposure and rhino-conjunctivitis is seen across the studies."

Dermatitis

- “Dermatitis. There are a large number of case reports, epidemiological studies, and other data on the health effects of wood dust exposure in humans. Dermatitis caused by exposure to wood dusts is common, and can be caused either by chemical irritation, sensitization (allergic reaction), or both of these together. As many as 300 species of trees have been implicated in wood-caused dermatitis.”

1988 CDC OSHA PEL Documentation

Asthma

- “Allergic respiratory effects. Allergic respiratory responses are mediated by the immune system, as is also the case with allergic dermatitis. Many authors have reported cases of allergic reactions in workers exposed to wood dust … Asthma is the most common response to wood dust exposure”

1988 CDC OSHA PEL Documentation

Other Lung Effects

- “Mucosal and nonallergic respiratory effects (changes in the structure and function of the nasal mucosa and respiratory tract that are caused by exposure to wood dust). These changes include nasal dryness, irritation, bleeding, and obstruction; coughing, wheezing, and sneezing; sinusitis; and prolonged colds.”

1988 CDC OSHA PEL Documentation

Health Hazards

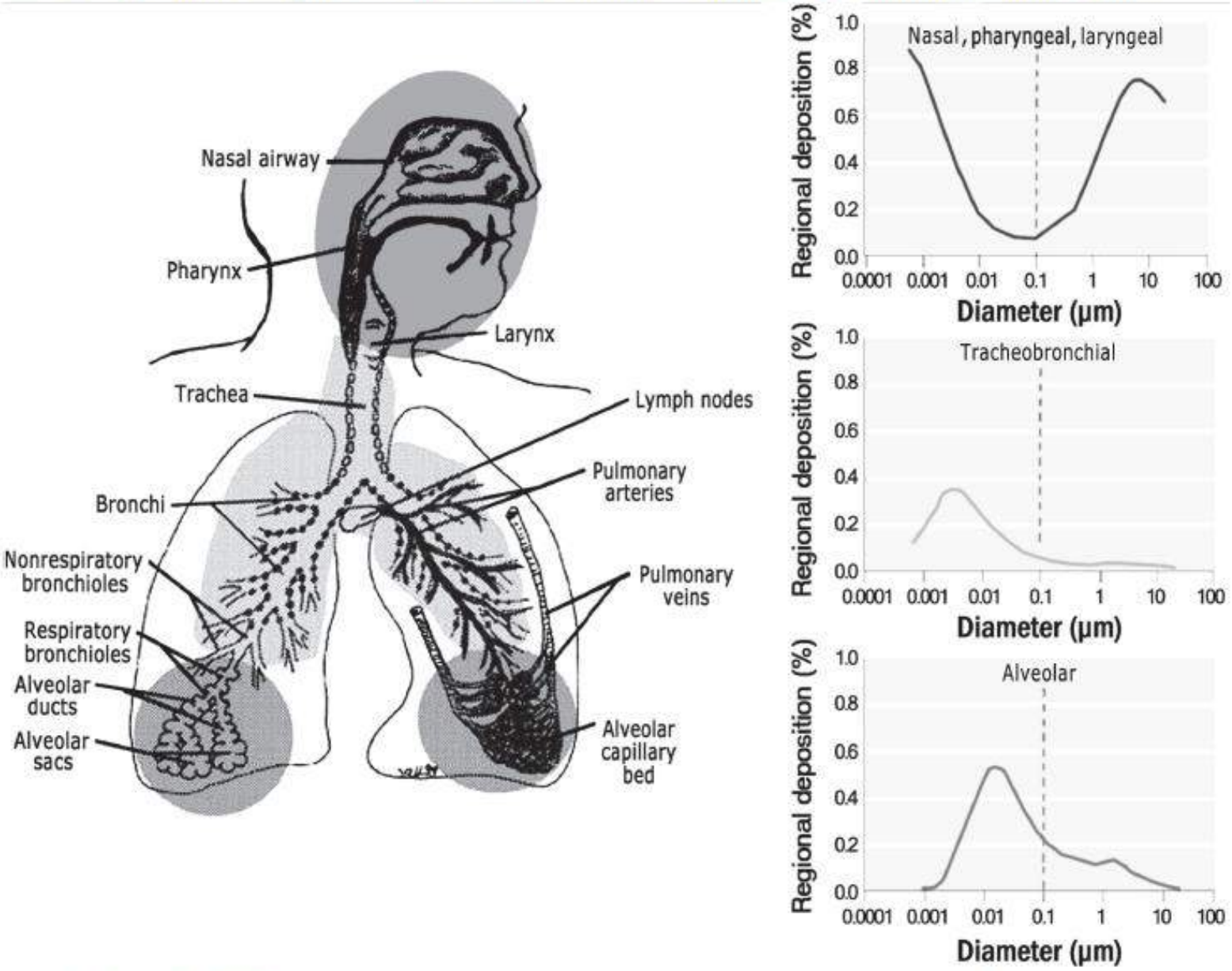
Industrial mulch processing results in increased health risks

- Infectious agents – fungi and bacteria
- Wood dust – allergic and mucosal effects
- Wood dust – cancer
- Exposure and risk

Cancer

- “The association between occupational exposure to wood dust and various forms of cancer has been explored in many studies and in many countries.” (CDC)
- “There is *sufficient evidence* in humans for the carcinogenicity of wood dust. Wood dust causes cancer of the nasal cavity and paranasal sinuses and of the nasopharynx. Wood dust is *carcinogenic to humans (Group 1).*” (WHO, IARC)

Fig. 4.1 Deposition of inhaled particles in the human respiratory tract during nasal breathing



From Oberdörster *et al.* (2005). Drawing courtesy of J Harkema. Reproduced with permission from Environmental Health Perspectives.

Nasal Cancer

- “Summary of evidence for nasal and sinus cavity cancers. The literature clearly demonstrates an association between wood dust exposure and nasal cancer. “
- English studies first identified this link by showing a 10- to 100 times-greater incidence of nasal adenocarcinoma among those exposed to wood dust than in the general population.
- “In the United States, three studies have reported a fourfold risk of nasal cancer or adenocarcinoma … and wood dust exposure.”

1988 CDC OSHA PEL Documentation

Lung Cancer

- “Pulmonary cancer. A number of studies investigating the association between wood dust exposure and the development of lung cancer have been conducted.”
- Milham (1974/Ex. 1-943) found a significant excess of malignant tumors of the bronchus and lung in workers who exposed to wood dust.

1988 CDC OSHA PEL Documentation

Hodgkin Lymphoma

- “Hodgkin's disease. Milham and Hesser concluded, on the basis of a case-cohort study of 1,549 white males dying of this disease … that there was an association between Hodgkin's disease and exposure to wood dust.”
- Other studies concluded that men working in the wood industries in the eastern United States as well as Washington state were at special risk for Hodgkin's disease.

1988 CDC OSHA PEL Documentation

Other Cancers

- “Other cancers. NIOSH (1987a/Ex. 1-1005) concluded that the data on the relationship between occupational exposure to wood dust and the development of cancers other than nasal, Hodgkin's disease, or lung cancers are insufficient and inconclusive.”
- Emerging evidence that risks of oral cancer increase with exposure to wood dust.

1988 CDC OSHA PEL Documentation

Health Hazards

Industrial mulch processing results in increased health risks

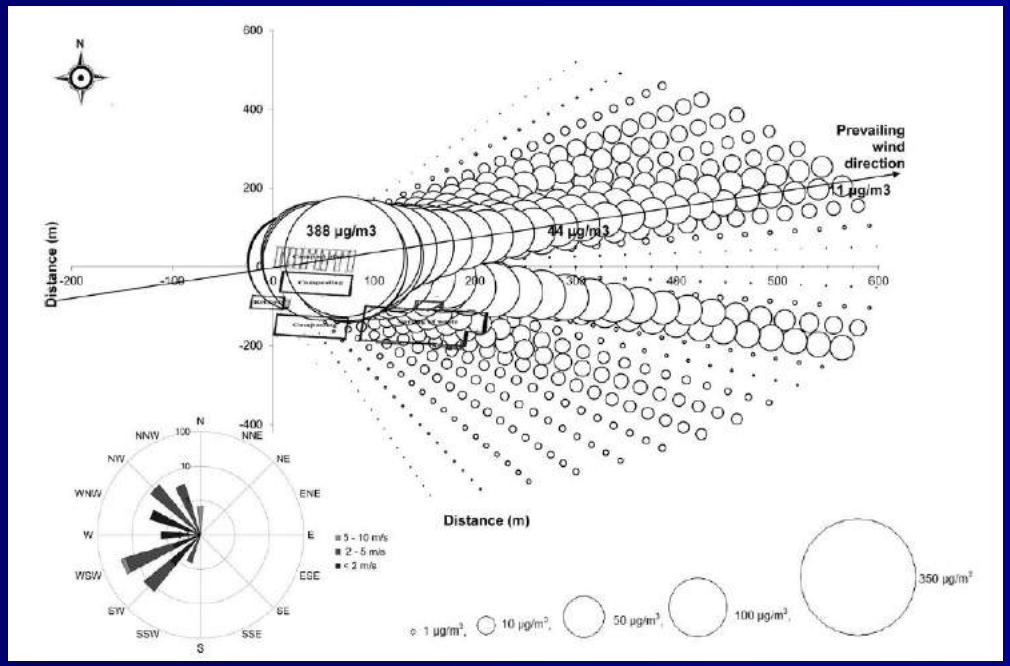
- Infectious agents – fungi and bacteria
- Wood dust – allergic and mucosal effects
- Wood dust – cancer
- Exposure and risk

Significant Medical Literature of Effects of Emissions from Waste Facilities

- Chalvatzaki E, Aleksandropoulou V, Glytsos T, Lazaridis M. The effect of dust emissions from open storage piles to particle ambient concentration and human exposure. Waste Manag. 2012 Dec;32(12):2456-68
- Nadal M, Inza I, Schuhmacher M, Figueras MJ, Domingo JL. Health risks of the occupational exposure to microbiological and chemical pollutants in a municipal waste organic fraction treatment plant. Int J Hyg Environ Health. 2009 Nov;212(6):661-9.
- Domingo JL, Nadal M. Domestic waste composting facilities: a review of human health risks. Environ Int. 2009 Feb;35(2):382-9.
- Herr CE, Nieden Az Az, Stilianakis NI, Eikmann TF. Health effects associated with exposure to residential organic dust. Am J Ind Med. 2004 Oct;46(4):381-5.
- Herr CE, zur Nieden A, Stilianakis NI, Gieler U, Eikmann TF. Health effects associated with indoor storage of organic waste. Int Arch Occup Environ Health.
- Herr CE, Zur Nieden A, Jankofsky M, Stilianakis NI, Boedeker RH, Eikmann TF. Effects of bioaerosol polluted outdoor air on airways of residents: a cross sectional study. Occup Environ Med. 2003 May;60(5):336-42.

Dust Emissions and Distance

- Dust emissions from open piles of mulch / organic waste can be measured at distances >500 m (>1500 feet) (Waste Management 32 (2012) 2456–2468)



Microorganisms and Dispersion Distance

- High levels of molds, fungi, thermophilic fungi, bacteria and other microorganisms (concentrations of $>10^4$ colony forming units) could be measured >300 m (>1000 feet) in residential air neighboring outdoor organic waste (Am. J. Ind. Med. 46:381–385, 2004)
- Examples of infectious agents have been shown to be dispersed at distances >5 km (J Infect Dis. 2006 Jan 1;193(1):102-11)

Example of Health Effects on Nearby Residents

- Health effects to a residential area from environmental outdoor pollution hundreds of meters from a composting site (Occup Environ Med 2003;60:336–342)

Reported health complaints§	SS¶	Bioaerosol pollution in residential air‡ up to >10^5 CFU m^{-3} air		Duration of present residency >5 years	
		OR**	95% CI††	OR	95% CI
Respiratory tract					
Frequency of colds >5×/year	209	1.94	0.65 to 6.78	**4.72**	**1.19 to 31.83**
Bronchitis	210	**3.02**	**1.35 to 7.06**	**2.91**	**1.29 to 7.03**
Waking up due to coughing	202	**2.70**	**1.23 to 6.10**	**2.51**	**1.19 to 5.53**
Wheezing	207	1.96	0.84 to 4.82	**2.95**	**1.22 to 7.99**
Shortness of breath at rest	203	**3.99**	**1.31 to 15.19**	1.50	0.56 to 4.49
Coughing on rising or during the day‡‡	210	**2.67**	**1.17 to 6.10**	1.51	0.69 to 3.29
Shortness of breath after exertion	205	**4.23**	**1.74 to 11.34**	2.03	0.90 to 4.91
Eyes and general health					
Itching eyes >10×/year	206	1.35	0.61 to 3.05	**2.85**	**1.31 to 6.50**
Smarting eyes >10×/year	205	**2.44**	**1.02 to 6.22**	**2.42**	**1.06 to 5.86**
Nausea or vomiting >5×/year	204	2.65	0.87 to 9.97	**4.10**	**1.28 to 18.44**
Excessive tiredness >5×/year	200	**2.80**	**1.22 to 6.72**	1.83	0.84 to 4.11
Shivering	210	**4.63**	**1.44 to 20.85**	**3.67**	**1.32 to 12.20**
Joint trouble >10×/year	207	1.27	0.54 to 3.07	1.52	0.65 to 3.71
Muscular complaints >10×/year	201	1.17	0.47 to 2.99	1.39	0.55 to 3.86

Summary

- Mulch processing can pose risks for human health due to increased exposure of infectious and hazardous agents. These include
  - infections due to fungal spores
  - Increased risk of dermatitis, allergic respiratory effects, and mucosal and nonallergic respiratory effects
  - Increased risk of cancer, including nasal, lung, and Hodgkin lymphoma
- Exposure risks can occur at significant distances from waste processing area

Woodbine Case Study: Possible Effects of Exposure to Manufacture of Mulch

October 7, 2014

Presentation to the Task Force
to Study Mulching, Composting, and Wood Processing

James Nickel
4904 Green Bridge Rd.,
Dayton, MD 21036

Background of Woodbine Case Study

- Unapproved facility had operated for several years
- Residents submitted at least 17 requests for zoning inspection
- Complaints identified possible health and quality of life issues
- Self-initiated an informal study
  - Researched known health issues of wood and mulch
  - Mapped the location of residents who submitted complaints
  - Attempted to get Howard County Health Department involved
- Oak Ridge Farms was temporarily shut down, but not due to health or quality of life issues.
  - They were shut down because mulch manufacturing was not allowed on RC zoned property
  - They had two refuse/recycling/shipping containers not allowed on RC zoned property

Known Health Issues

Respiratory and Cancer

Mulch, Fungi and Wood Dust
Peer Reviewed Studies

- While mulch is generally considered “safe”, the context is typically residential application, not acres of mulch shredded and turned multiple times.

  Five studies that begin to touch on the potential consequences.

  - Fulminant Mulch Pneumonitis: An Emergency Presentation of Chronic Granulomatous Disease
    - Infectious Diseases Society of America
  - Pulmonary responses after wood chip mulch exposure.
    - US National Library of Medicine, NIH
  - Binding of Aspergillus fumigatus spores to lung epithelial cells and basement membrane proteins: relevance to the asthmatic lung.
    - I.M. Bromley and K. Donaldson
  - Fungal spores: hazardous to health
    - US National Library of Medicine, NIH
  - Adverse Human Health Effects Associated with Molds in the Indoor Environment
    - American College of Occupational and Environmental Medicine

Wood Dust: Hazardous to Health

- "Cancers have been associated with wood dust exposure. The National Institute for Occupational Safety and Health (NIOSH) considers both hardwood and softwood dust to be potentially carcinogenic to humans. *The three types of cancers associated with wood dust exposure are nasal and sinus cavity cancer, lung and other cancers, and Hodgkin's disease.* The wood and cancer relationship was studied by Milham (1974), who conducted a mortality study involving the AFL-CIO United Brotherhood of Carpenters and Joiners of America. This study supports the hypothesis that wood contains carcinogenic agents. The cancer mortality patterns found were:
  - Excess leukemia lymphoma group cancers in millwrights, mill workers, and lumber and sawmill workers
  - Excess gastrointestinal cancer in pile drivers.
  - Excess lung cancer in acoustical tile applicators and insulators. Excess lung and stomach cancer in construction workers with the greater excesses found in workers in major urban areas.
- Hodgkin's disease has also been associated with wood dust."

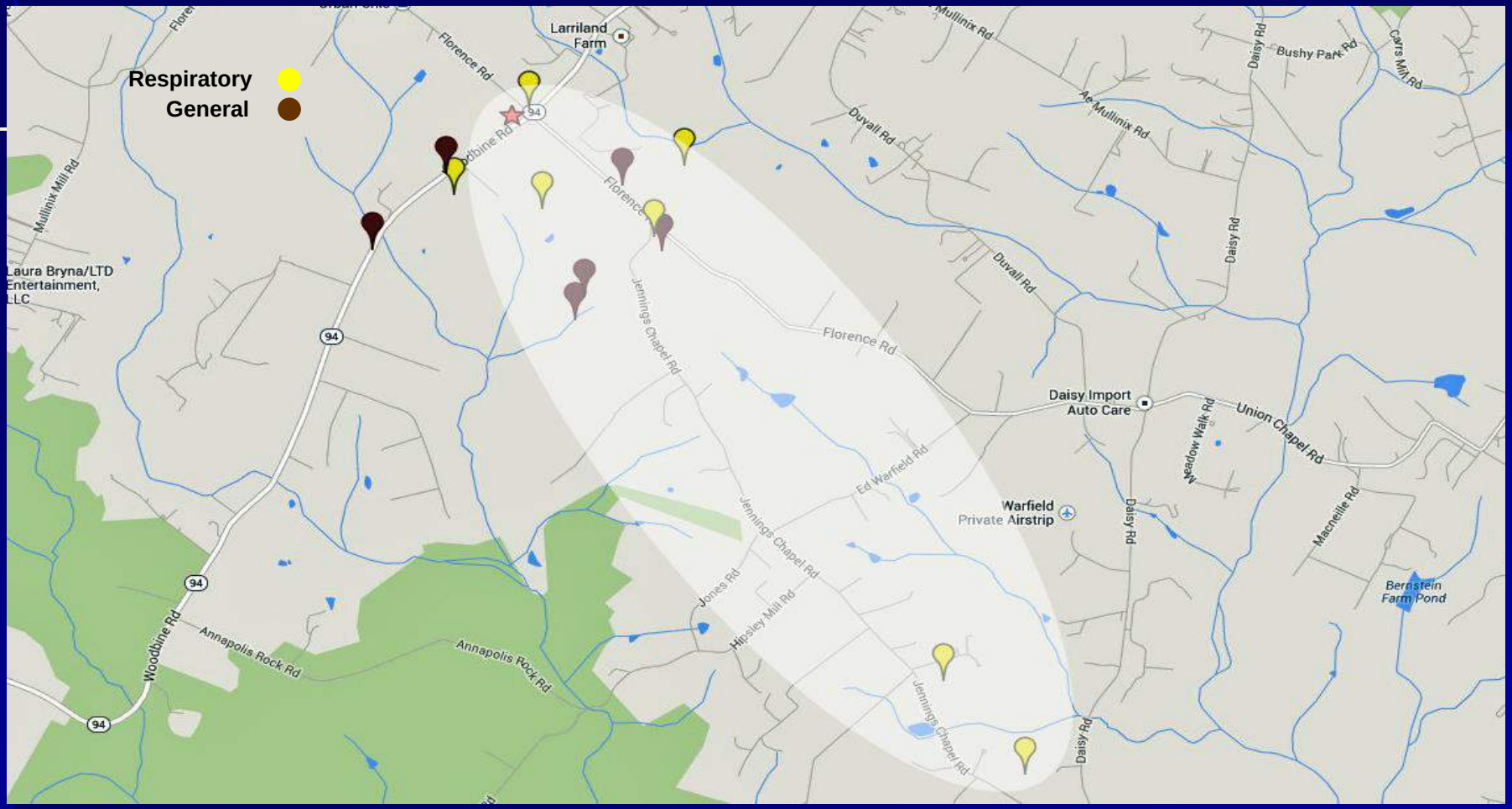
Wood Dust Exposure Hazards AEX-595.1-2006
Thomas L. Bean, in collaboration with Timothy W. Butcher and Timothy Lawrence
Ohio State University

Mapping the Data

Requests to DPZ for Zoning Inspections Oak Ridge Farms

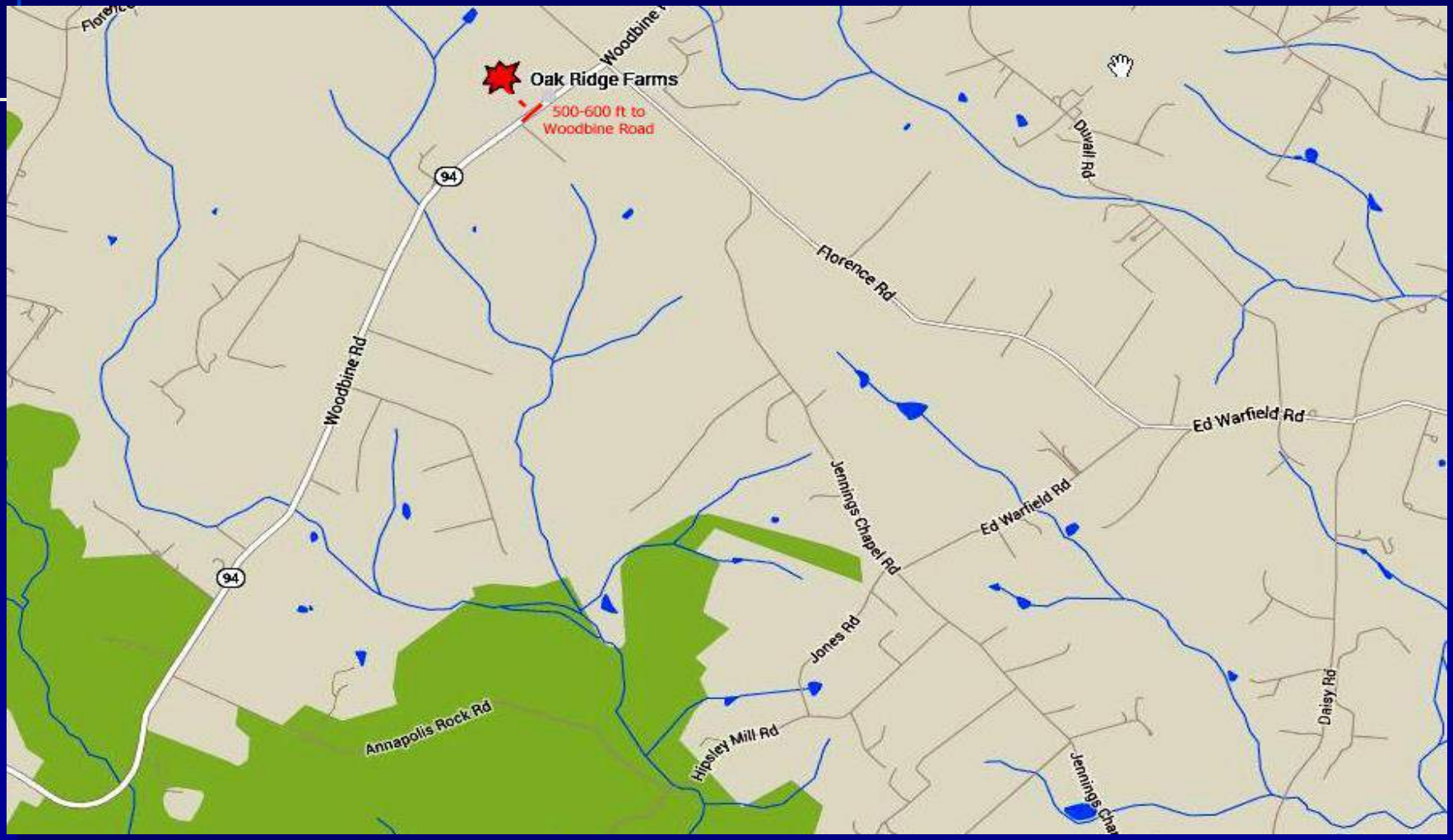
- Residents of Woodbine made 17 requests to DPZ [Nov-Dec 2013]
- 9 Requests explicitly stated respiratory related issues
  - All with health issues were age 51 and older
  - 2 residents under care at Johns Hopkins were tested and found to have wood particulate matter in their respiratory system
  - Distance between the Oak Ridge facility and most distant health issue was over 3 miles [airborne fungi spores can travel longer distances than wood dust]
- 8 Requests were of a general nature
  - Traffic
  - Pollution & contaminants
  - Decline in air quality
  - Odor
  - Noise, e.g., “louder than a combine”
  - Residents can feel the vibrations of the grinding equipment
  - Occurring 6 or 7 days a week

Inspection Requests - Clustering

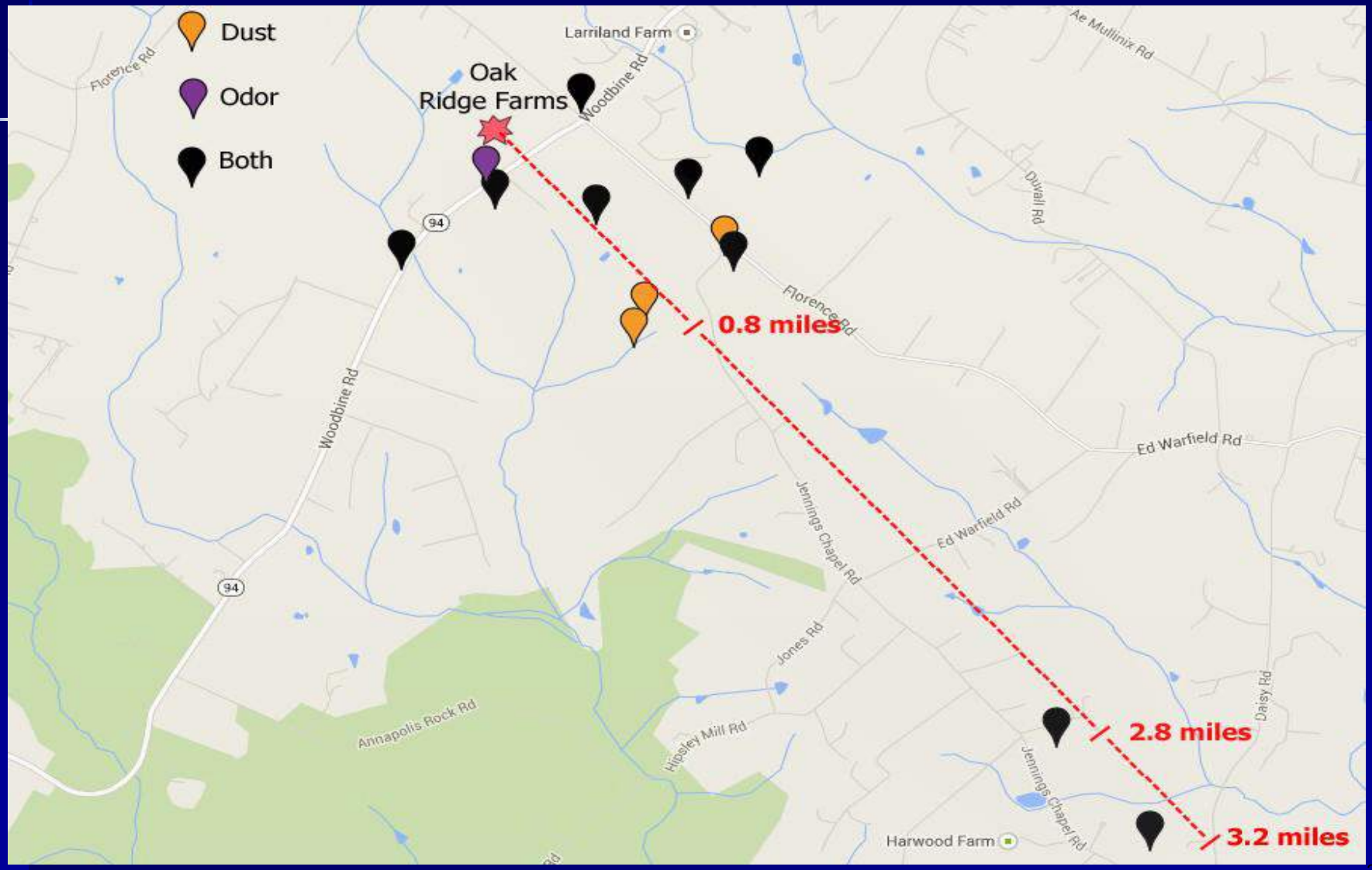


Prevailing North West Winds Affecting Residents to over 3 miles
Florence and Jennings Chapel Roads may provide "corridors" for wind

Oak Ridge Farms Mulch to Woodbine Road



Dust and Odor Distribution



A Glimpse into Large Scale Mulch Production

“Typical” vs. Reality

- “Typical” Distribution of Wood Dust
  - Usually dissipates in 300-400 ft
  - Setbacks of 500 ft. would usually be enough
- Why is Woodbine different?
  - Oak Ridge Farms sits approximately 100 ft above the area downwind
  - Oak Ridge Farms processes a LOT of wood mulch. We don’t know how much
    - Operated out of MD and Howard County regulations
    - Operated a large majority of the year
    - The 17 inspection requests were submitted in Nov-Dec 2013
    - Never reported accepted/recycled/marketed waste

Preliminary CY-2013 Data
Five Largest NWWRFs

Facility Name	Waste Marketed* Tons	Yards Marketed (4 yards/ton)	Yards Shredded (x5)	Yards Turned (x2)	Yards Sold (x1)	Yards Cumulative
Grant County Mulch Facility	116,598	466,392	2,331,960	932,784	466,392	3,731,136
Elkridge Recyclery	43,609	174,436	872,180	348,872	174,436	1,395,488
Recycled Green Industries, LLC	40,844	163,376	816,880	326,752	163,376	1,307,008
Wirtz & Daughters, Inc.	36,665	146,660	733,300	293,320	146,660	1,173,280
Grant County Mulch	36,131	144,524	722,620	289,048	144,524	1,156,192
TOTAL	273,847					

- There are 37 NWWRFs in Maryland
- All 37 marketed 427,470 tons in CY-2013
- These 5 facilities account for 64% of all production

Note: Exposure to hardwood dust should be limited to 1 mg per cubic yard

Woodbine Case Study Summary

- Woodbine Residents have been unwitting participants in a “test” resulting from operations by Oak Ridge Farms, LLC
- Indications are that Oak Ridge Farms was a large scale operation
- In a relatively short period of time, residents and livestock were showing symptoms commonly associated with fungal spore contamination and wood dust inhalation
- The clustering of those affected in line with the path of prevailing winds
- Residents experienced wood dust and odors at distances greater than three miles

ATTACHMENT 6

Testimony from Victor Velculescu, M.D., Ph.D. regarding proposed Mulch Facility

My name is Victor Velculescu and I reside in Dayton, MD. I am a professor of oncology at Johns Hopkins University School of Medicine where I am the Co-Director of Cancer Biology at the Sidney Kimmel Comprehensive Cancer Center. I am also on the Board of Directors of the American Association of Cancer Research, the largest cancer research organization in the United States.

I am here today to speak about the health implications of the proposed mulching operations in the residential area of Dayton. It is clear from the medical literature that industrial wood waste recycling processes result in the generation of wood fragments or mulch that have a number of inherent dangers. You have heard about some of these already in the form of fire risks and water pollution. I would like to focus on health hazards and you will hear from Jim Nickel next on the effects that have already been felt in another community in Maryland.

The two primary hazards from industrial mulch processing are increased exposure to infectious agents, such as fungi and bacteria, and carcinogenic effects of wood dust. Although we often think of wood fragments as something natural, the amount, type, and storage of materials that are generated in an industrial mulch facility are no longer on a scale that we would encounter naturally or that are inherently safe.

These are not theoretical risks. I have shared with you in my submitted testimony a recent case report of a healthy retired gentleman that developed fungal pneumonia after exposure to mulch. He developed kidney injury and failure and died of infections months later. It was clear that fungal spores from mulch were the route of infection. There are dozens of reports in the literature from throughout the world that are related to infectious agents in mulch, primarily fungi and bacteria. Fungal spores can travel large distances on the order of miles and are of particular risk to immune comprised individuals, including children and the elderly. A recent study found that of patients with the disease called fulminant mulch pneumonitis, half of those died to infection and underlying kidney disease.

The second clear health risk is from exposure to wood dust. The Centers for Disease Control (or CDC) has documented that wood dust particles are associated with a variety of health effects including dermatologic effects such as dermatitis, allergic respiratory effects including asthma, and mucosal and nonallergic respiratory effects, including bronchitis, irritation, bleeding, and obstruction, as well as coughing, wheezing, sinusitis, and prolonged colds.

However, the health effect that is of most concern to me is that wood dust has been categorized by the World Health Organization (WHO) and the Centers for Disease Control as a carcinogen. The CDC states: "The association between exposure to wood dust and various forms of cancer has been explored in many studies and in many countries." And the WHO indicates "Wood dust causes cancer of the nasal cavity and paranasal sinuses, and of the nasopharynx. It is carcinogenic to humans." There are hundreds of papers in the medical

literature that document the increased risk from wood dust for nasal cancers, lung cancers, Hodgkin's lymphoma, and potentially other kinds of cancers.

Carcinogens by definition increase the risk of cancer, especially to those exposed over longer periods of time. Dayton is in part a residential community where there are a large number of children and many residents that spend a significant amount of time outdoors and would be directly exposed to the health risks I have described. And of course, many residents plan to live in the community for many years, even their entire lives. To allow exposure to infectious and carcinogenic agents from this type of facility to a large number of individuals in a residential area does not seem to be in the public interest. This would make Dayton the equivalent of a petri dish of health experimentation. Given this and other testimony that you will hear today, I would urge members of the Howard County Council to support legislation that would limit these type of industrial mulching operations to industrial areas and prevent them from occurring in farming, agricultural, conservation, and residential areas like those of Dayton.

ATTACHMENT 7

Bureau of Environmental Health and Radiation Protection

"To protect and improve the health of all Ohioans"

Odors and your Health

Answers to Frequently Asked Health Questions

Odors:

Ohio's local public health officials are often asked to evaluate the health impacts from exposure to environmental odors. An odor is a chemical in the air that is "smelled" or sensed by our nose (olfactory system). Apples smell like apples due to the chemicals that create the apple odor. Odors, also called smells, can be both pleasant and unpleasant. Stench and stink are words typically used to describe unpleasant, foul odors.

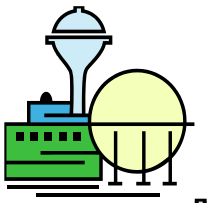
We breathe 10,000 to 20,000 liters of air a day, mostly through our noses. The olfactory system comes in contact with a different variety and concentration of chemical odors every day. **Odors *can* alert people that something may be harmful, <u>but generally</u>, you can smell many chemicals before they are at levels that are harmful to your health.** For example, we are able to smell hydrogen sulfide (H_2S) (smells like rotten eggs) at very low levels; levels <u>much</u> lower than those at which this chemical can cause toxic health effects.

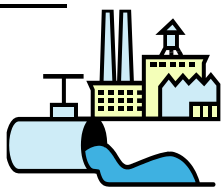
Sources of environmental odors:

Many products and activities in our daily lives produce odors. For instance, the foods we eat, our cleaning supplies, paints, carpet, gasoline, gardens, air fresheners, cut grass, old shoes, etc. all have odors.

Environmental odor sources include:

- agricultural practices (fertilizers/ pesticides)
- animal farms
- chemical manufacturing or handling facilities
- food processing plants
- harmful algal blooms (HABs)
- landfills
- petroleum refineries
- wastewater treatment facilities
- wood treatment plants





***** To view the toxic effects of chemicals and/or the "Landfill Gas" fact sheets, visit the Ohio Department of Health (ODH), Health Assessment Section (HAS) web page at: http://www.odh.ohio.gov/odhprograms/eh/hlth_as/FactSheets.aspx

Can odors cause health problems?

Yes, certain groups of chemicals that produce odors are potentially harmful and can cause health problems. Some of these harmful chemicals are regulated by the Environmental Protection Agency (EPA) under the Clean Air Act. Other environmental chemical odors may not be regulated under the Clean Air Act, thus making it very difficult to address and/or enforce nuisance odor-type complaints.

Just because something smells bad does not mean it is harmful (example: rotten eggs). On the other hand, some dangerous and/or deadly chemicals can have a mild or sweet odor (benzene) or no odor at all (carbon monoxide).

Health effects from exposure to chemical odors can be an immediate (acute) health threat, a long-term (chronic) threat, or may pose no health threat at all. Getting sick from chemical odors will depend on what you are exposed to, <u>how much</u> you were exposed to (dose), <u>how long</u> you were exposed (duration), <u>how often</u> you were exposed (frequency) and your individual sensitivity to the odor.

The influence of odors on the health and comfort of individuals is difficult to evaluate. Odor sensitivity and response to odors differ from person to person. For some people who are more sensitive to odors, simply smelling a small amount of a foul odor can cause headaches and nausea (upset stomach). Sensitive populations include young children, pregnant women, the elderly and people with chronic health problems. People with chronic health problems include persons with asthma, emphysema and other respiratory diseases, persons with COPD (Chronic Obstructive Pulmonary Disease), persons with depression, chemical hypersensitivity or stress-induced illness.

The most common community health complaints resulting from exposure to odor-producing chemicals are:

Respiratory (breathing)
- Upper respiratory → scratchy throat
- Lower respiratory → coughing, wheezing

Eye irritation → watery, scratchy
Gastro-Intestinal (stomach) → vomiting, diarrhea
Central Nervous System (CNS) → drowsiness, dizziness, headaches
Cardiovascular (heart) → tachycardia (increased heart rate), increased blood pressure
Psychological → mood changes, behavioral changes

Usually, these symptoms occur at the time of exposure and end within a short time after the odor disappears. Although this situation is highly undesirable, the health effects usually end when the exposure to the odor ends and rarely requires medical attention.

Odor facts:

In general:

- Younger people are more sensitive to odors than older folks
- Women are more sensitive to odors than men
- Non-smokers are more sensitive to odors than smokers
- People with an empty stomach are more sensitive to odors than people who just ate
- People are more sensitive to odors in the morning than during the evening

Odors can affect both behavior and physical health:

- **Behavior** → Mood, level of alertness, levels of anxiety, levels of stress
- **Physical Health** → Headaches, nausea, respiratory problems in asthma sufferers, neuro-muscular control problems and causes seizures in epileptics

Health Effects of Odors:

Pleasant odors can have beneficial health effects:

- Positive, happy mood
- Easier to learn/work
- Easier to sleep
- More resistant to pain
- Fewer headaches and stomach aches

Unpleasant odors can have negative health impacts:

- Nausea
- Headaches
- Depression
- Increased anxiety
- Elevated blood pressure
- Decrease in physical energy
- Compromised immune system
- Asthma attacks in asthma sufferers
- Physical discomfort (aches & pains)
- Increase in anger and stress levels
- Muscular control problems, fatigue (tiredness), confusion

This fact sheet was created by the Ohio Department of Health, Bureau of Environmental Health and Radiation Protection

Ohio Department of Health

Conclusions:

Often it is hard to draw a distinct line between a nuisance odor problem and outright public health problem with physical symptoms in the impacted community. Unpleasant odors have often been recognized as "warning" signs of potential risks to human health rather than direct triggers of health effects. But we also know that odors from environmental sources might indeed cause health symptoms depending on the individual and specific environmental factors.

Each odor complaint/concern needs to be considered separately since they may differ widely in their nature and severity. While non-regulated chemical odors are not usually a significant public health hazard, the odors may, at times, be unpleasant and produce discomfort and temporary health symptoms. Measures to contain or eliminate unpleasant odors and prevent their migration (movement) to the community are warranted when these odors create a persistent nuisance.

Where can I get more information?

Ohio Department of Health
Bureau of Environmental Health
Health Assessment Section
246 N. High Street
Columbus, Ohio 43215
Phone: (614) 466-1390
Fax: (614) 466-4556

References

"Physiological Responses To Odors." Air Pathway Assessments. Agency for Toxic Substances and Disease Registry Region 5 (ATSDR-R5) State Public Health Department Meeting, U.S. Public Health Service. Zion, Illinois, May 21, 2002.

"Health Effects of Odors." Georgia Department of Human Resources, Division of Public Health Chemical Hazards Program July, 2004.

USEPA (1991) Air Emissions from Municipal Solid Waste Landfills – Background Information for Proposed Standards and Guidelines. EPA-450/3-90-011a.

Revised 07-09-15

ATTACHMENT 8

MINNESOTA STATE DEPARTMENT OF PUBLIC SAFETY

State Fire Marshal Division

444 Cedar Street, Suite 145, St. Paul, Minnesota 55101-5145
Phone: 651/201-7200 FAX: 651/215-0525 TTY: 651/282/6555
Internet: http://www.fire.state.mn.us

HIGH PILED STORAGE FIRE PROTECTION INFORMATION SHEET

This fact sheet will help you:

- Classify high-piled combustible storage
- Determine if sprinkler protection is required
- Determine if smoke and heat venting is necessary

SECTION 1 — INTRODUCTION

This fire safety information sheet is based on the 2007 Minnesota State Fire Code (MSFC) and the 2007 Minnesota State Building Code (MSBC). It contains a summary of the major rules relating to required fire protection systems that apply to high-piled combustible storage as defined in the 2007 MSFC:

High-Piled Combustible Storage is storage of combustible materials in closely packed piles or combustible materials on pallets, in racks or on shelves where the top of storage is greater than 12 feet in height. When required by the chief, high-piled combustible storage also includes certain high-hazard commodities, such as rubber tires, Group A plastics, flammable liquids, idle pallets and similar commodities, where the top of storage is greater than 6 feet in height.

The 2007 MSFC is adopted statewide and applies throughout the entire state of Minnesota. It sets the minimum required level of safety and need not be adopted locally for it to be enforced. Local jurisdictions may, however, require a higher level of protection than stated in the MSFC through rules and ordinances.

Storage of high-piled combustible material and high-rack storage systems shall be in accordance with MSFC (07) Chapter 23. Factors such as method and height of stock piling, combustibility of materials, fuel load and rate of heat release, areas and size of piles, aisles, automatic fire-extinguishing systems, smoke-removal systems, fire protection and fire separations are considered. In the absence of specific provisions in MSFC (07) Chapter 23, NFPA 13 (2002 Edition), Chapter 12 shall apply.

A high-piled combustible storage building will be required to meet other requirements that are not listed in this publication. This information sheet provides an overview of the major code requirements that apply to fire protection systems in this type of occupancy and does not attempt to cover every situation. References to the applicable codes and standards are found throughout this document.

Both the MSFC (07) and MSBC (07) have additional requirements for issues such as egress, building construction, interior finish, building size, etc. The applicable documents should be consulted for complete requirements since these items are not covered here. More information is available from the Minnesota State Fire Marshal Division by sending an e-mail to firecode@state.mn.us or view our web page at www.fire.state.mn.us for the latest information on fire in Minnesota.

SECTION 2 — CLASSIFY THE COMMODITY

The first step in evaluating what fire protection systems are required for high-piled storage is to determine the commodity classification for the storage. In reviewing hundreds of sprinkler system plans a year, the State Fire Marshal Division finds that an incorrect or non-conservative commodity classification is one of the most frequent errors associated with sprinkler system design.

2.1 High-hazard commodities

Special fire protection problems are created by the storage of high-hazard commodities. From MSFC (07) Section 2303.6, some examples include:

- Aerosols, Level 3 (see Chapter 28)
- Alcoholic beverages, exceeding 80 percent alcohol, in bottles or cartons
- Commodities of any class in plastic containers in carousel storage
- Flammable solids (except solid combustible metals)
- Glycol in combustible containers (50% +)
- Lacquers, which dry by solvent evaporation, in metal cans or cartons
- Lubricating or hydraulic fluid in plastic containers
- Mattresses, foamed rubber or foamed plastics
- Pallets and flats which are idle combustible
- Paper, asphalt, rolled (vertical or horizontal)
- Paper and pulp, rolled, in vertical storage (unbanded or without approved wrap)
- Pillows, foamed rubber and foamed plastics
- Plastics, most group A (such as ABS, acetal, acrylic, butyl rubber, EPDM, FRP, natural rubber, nitrile rubber, PET or PETE, polybutadiene, polycarbonate, polyester elastomer, polyethylene, polypropylene, polystyrene, polyurethane and PVC, SAN and SBR).
- Pyroxylin
- Rubber Tires
- Vegetable oil and butter in plastic containers.

2.2 Other commodities

Most other commodities consisting of limited combustible materials, wood, paper, natural fibers, and some low flammability plastics are classified as Class I, II, III or IV commodities. For examples, see MSFC (07) Section 2303. <u>NOTE: Some commodity classifications listed in the MSFC differ from those contained in National Fire Protection Association (NFPA) standards</u>. See the attached commodity classification tables for more information.

- **Class I commodities** are essentially noncombustible products on wooden or non-expanded polyethylene solid deck pallets. Commodities can be in ordinary corrugated cartons with or without single thickness dividers or in ordinary paper wrappings with or without pallets.

- **Class II commodities** are Class I products (noncombustible) in slatted wooden crates, solid wooden boxes, or multiple-thickness paperboard cartons with or without pallets.

- **Class III commodities** are commodities of wood, paper, natural fiber cloth with or without pallets.

- **Class IV commodities** are Class I, II or III products containing Group A plastics in ordinary corrugated cartons with or without pallets. It also includes Class I, II and III products with Group A plastic packaging in the range of 10-15% by weight or 10-25% by volume. To determine the exact classification, use MSFC (07) Figure 2303.7.4, reprinted on the next page.

- **Plastic commodities** are divided into three groups; Group A (highest hazard), Group B, and Group C (lowest hazard). If the hazard of the plastic is unknown, a Group A designation should be selected. Group A plastics are considered high hazard commodities as defined above in Section 2.1.

2.3 Mixed commodities

When different commodity classes are stored in the same area, the protection required for the storage must be based on the highest class of commodity stored [MSFC (07) Section 2304.1]. For limited storage of commodities with a higher classification than the remainder of the storage, MSFC (07) Section 2304.2 permits designation of the classification based on an engineering analysis. When using such an engineering analysis, the sprinkler protection is still required to be adequate to protect the higher hazard commodity, although over a smaller area of operation.

For commodities that are composed of different materials, one of which is plastic, MSFC (07) Section 2303.7.4 refers to Figure 2303.7.4 (reprinted on the next page).

Plastics are manufactured in two basic forms. Unexpanded plastics are high-density materials that may be blown into different shapes such as drums, containers, electronics housings, toys, tote bins etc. Expanded plastics are usually made from the same plastic resins, but during the manufacturing process, small bubbles are trapped in the plastic resulting in a much lower density. These expanded plastics are sometimes called foamed plastics and may include materials such as insulation board, packing beans, polystyrene foam coffee cups/plates, and pipe insulation. Because of their lower density, expanded plastics tend to have a higher heat release rate than expanded plastics.

To use MSFC (07) Figure 2303.7.4, both the percent by volume of expanded plastic and the percent by weight of unexpanded plastic in the commodity must be known. For example, a pallet load with 5% by volume expanded plastic and 10% by weight unexpanded plastic would be considered a class IV commodity. Should the quantity of expanded plastic be increased to 20%, the commodity would be classified as a high hazard (group A plastic). A pallet load with 25% by weight unexpanded plastic and no expanded plastics would also be a high hazard (group A plastic) commodity.

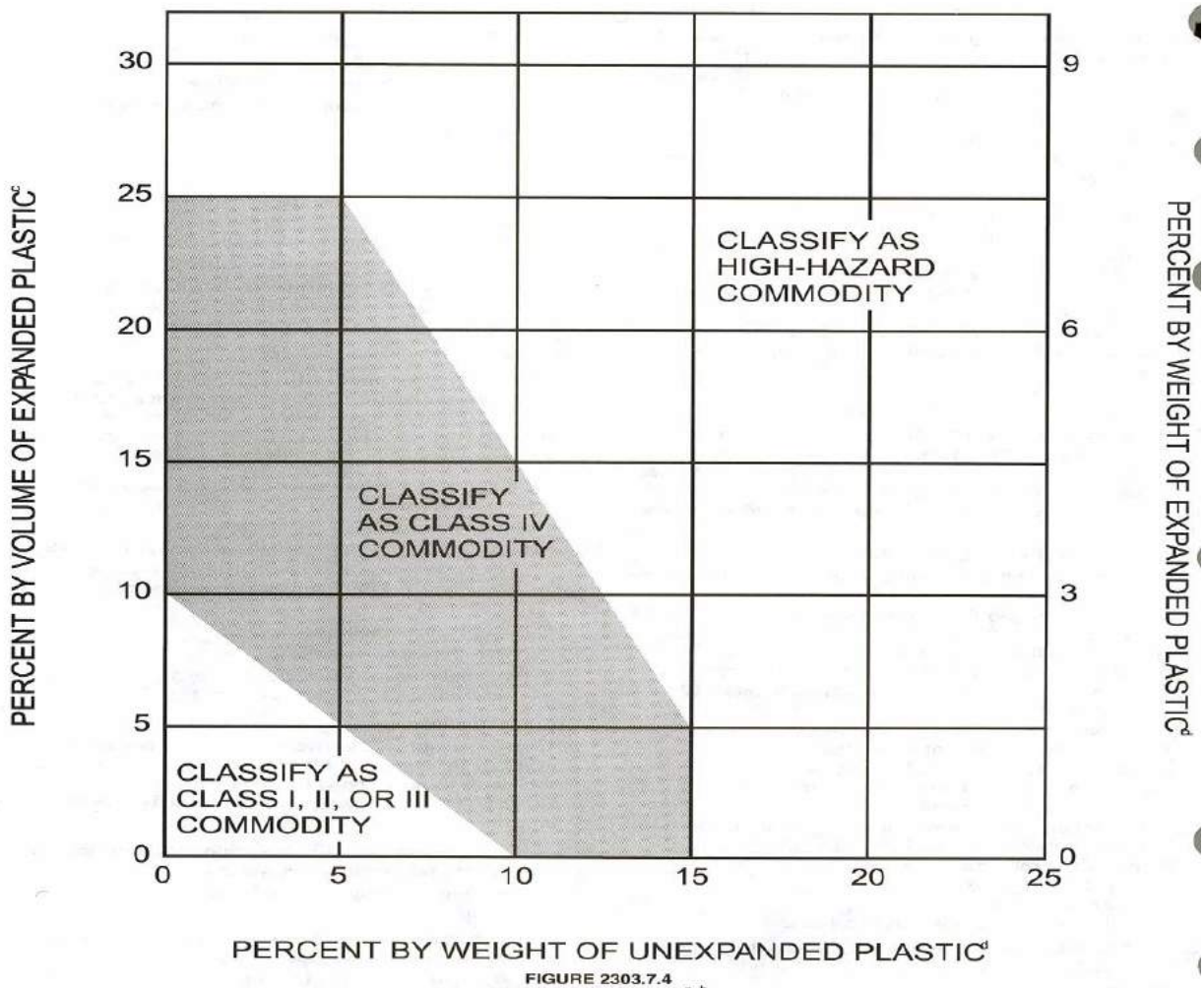


FIGURE 2303.7.4
MIXED COMMODITIES[a, b]

a. This table is intended to determine the commodity classification of a mixed commodity in a package, carton or on a pallet where plastics are involved.

b. The following is an example of how to apply the table: A package containing a Class III commodity has 12-percent Group A expanded plastic by volume. The weight of the unexpanded Group A plastic is 10 percent. This commodity is classified as a Class IV commodity. If the weight of the unexpanded plastic is increased to 14 percent, the classification changes to a high-hazard commodity.

c. Percent by volume = $\frac{\text{Volume of plastic in pallet load}}{\text{Total volume of pallet load, including pallet}}$

d. Percent by weight = $\frac{\text{Weight of plastic in pallet load}}{\text{Total weight of pallet load, including pallet}}$

↓

$$\text{Percent by volume} = \frac{\text{Volume of plastic in pallet load}}{\text{Total volume of pallet load, including pallet}}$$

$$\text{Percent by weight} = \frac{\text{Weight of plastic in pallet load}}{\text{Total weight of pallet load, including pallet}}$$

It is not appropriate to convert percent by weight unexpanded and percent by volume expanded plastic for the purpose of reducing the hazard of a commodity to lower the required level of sprinkler protection.

For additional guidance on the storage of multiple classes of commodities, see NFPA 13 (2002 edition), Chapter 12.

2.4 Flammable and combustible liquids and aerosol containers

Flammable and combustible liquids in all types of containers, including aerosols require detailed review for proper protection. Any time these types of materials are stored in any quantity, and especially when mixed with other types of storage, expert advice should be obtained. Usually only very small quantities of flammable and combustible liquids are allowed to be stored before the MSFC (07) requires some type of fire suppression system.

SECTION 3 — FIRE PROTECTION REQUIREMENTS

Fire protection for high piled combustible storage is addressed in MSFC (07) Sections 2307.2, 2308.2 and 2309.2 and is summarized below in Table 1. Pay particular attention to the requirements for sprinkler protection. For class I-IV commodities, an automatic extinguishing system is required for over 2,500 square feet of storage; although there is one option for nonpublic accessible buildings that would allow up to 12,000 square feet of storage (an alarm system and smoke control are required). For high hazard commodities, an automatic extinguishing system is required for over 500 square feet of storage, although there is one option for nonpublic accessible buildings that would allow up to 2,500 square feet of storage (an alarm system and smoke control are required).

Table 1: Summary of Fire Protection and Life Safety Requirements

COM-MODITY CLASS	SIZE OF HIGH-PILED STORAGE AREA[1] (square feet)	ALL STORAGE AREAS (See Sections 2306, 2307, and 2308)				SOLID-PILED STORAGE, SHELF STORAGE AND PALLETIZED STORAGE (See Section 2307.3)		
		Fire-extinguishing System (See Section 2306.4)	Fire-detection System (See Section 2306.5)	Building Access (See Section 2306.6)	Smoke and Heat Removal (See Section 2306.7)	Maximum Pile Dimen-sion[c] (feet)	Maximum Permissible Storage Height[d] (feet)	Maximum Pile Volume (cubic feet)
I-IV	0-500	NR[a]	NR	NR[e]	NR	NR	NR	NR
	501-2,500	NR[a]	Yes	NR[e]	NR	100	40	100,000
	2,501-12,000 Public accessible	Yes	NR	NR[e]	NR	100	40	400,000
	2,501-12,000 Nonpublic accessible (Option 1)	Yes	NR	NR[e]	NR	100	40	400,000
	2,501-12,000 Nonpublic accessible (Option 2)	NR[a]	Yes	Yes	Yes j	100	30[g]	200,000
	12,001-20,000	Yes	NR	Yes	Yes j	100	40	400,000
	20,001-500,000	Yes	NR	Yes	Yes j	100	40	400,000
	Greater than 500,000[h]	Yes	NR	Yes	Yes j	100	40	400,000
High Hazard	0-500	NR[a]	NR	NR[e]	NR	50	NR	NR
	501-2,500 Public accessible	Yes	NR	NR[e]	NR	50	30	75,000
	501-2,500 Nonpublic accessible (Option 1)	Yes	NR	NR[e]	NR	50	30	75,000

	501-2,500 Nonpublic accessible (Option 2)	NR[a]	Yes	Yes	Yes j	50	20	50,000
	2,501-300,000	Yes	NR	Yes	Yes j	50	30	75,000
	300,001-500,000[h, i]	Yes	NR	Yes	Yes j	50	30	75,000

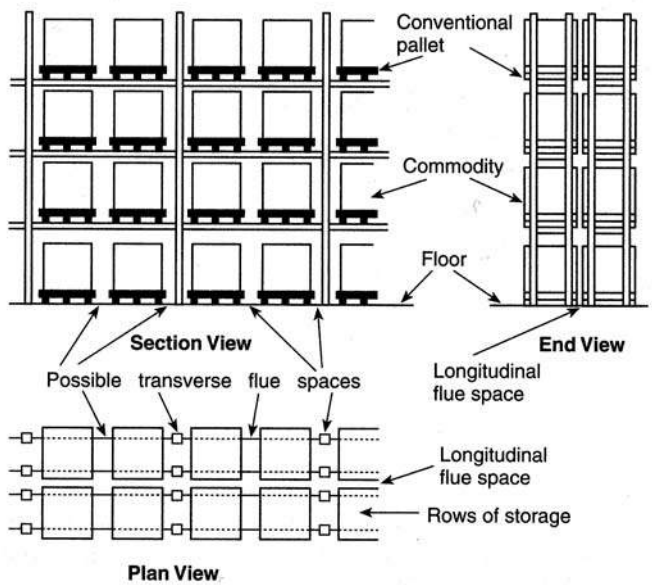
NR = Not required.
For SI: 1 foot = 304.8 mm, 1 cubic foot = 0.02832m3 , 1 square foot = 0.0929m2.
a. When automatic sprinklers are required for reasons other than those in Chapter 23, the portion of the sprinkler system protecting the high-piled storage area shall be designed and installed in accordance with Sections 2307 and 2308.
b. For aisles, see Section 2306.9.
c. Piles shall be separated by aisles complying with Section 2306.9.
d. For storage in excess of the height indicated, special fire protection shall be provided in accordance with Note g when required by the fire code official. See also Chapters 28 and 34 for special limitations for aerosols and flammable and combustible liquids, respectively.
e. Section 503 shall apply for fire apparatus access.
f. For storage exceeding 30 feet in height, Option 1 shall be used.
g. Special fire protection provisions including, but not limited to, fire protection of exposed steel columns; increased sprinkler density; additional in-rack sprinklers, without associated reductions in ceiling sprinkler density; or additional fire department hose connections shall be provided when required by the fire code official.
h. High-piled storage areas shall not exceed 500,000 square feet. A 2-hour fire wall constructed in accordance with the *International Building Code* shall be used to divide high-piled storage exceeding 500,000 square feet in area.
i. Not required when an automatic fire-extinguishing system is designed and installed to protect the high-piled storage area in accordance with Sections 2307 and 2308.
j. Not required when storage areas are protected by early suppression fast response (ESFR) sprinkler system installed in accordance with NFPA 13.

SECTION 4 — SPECIAL REQUIREMENTS FOR RACK STORAGE

4.1 Flue Spaces in Racks

When commodities are stored in racks, openings are created between pallet loads in each direction to facilitate material handling. These flue spaces typically run the full height of the storage and allow fire to rapidly spread throughout the rack. When sprinklers are provided at the ceiling, these same flue spaces allow water to travel into the storage array. Although the buoyant gases from the fire typically prevent the sprinkler water from reaching the seat of the fire, prewetting of commodity that is not yet burning slows the spread of fire to yet ignited fuel. One type of sprinkler~~s~~, the Early Suppression-Fast Response (ESFR) sprinkler, actually provides sufficient downward momentum to the sprinkler spray that water drops can reach the seat of the fire, virtually suppressing it.

As shown in the figure below for a double row rack, <u>transverse</u> flue spaces run in the direction of pallet loading and occur at rack uprights or side to side between pallets. <u>Longitudinal</u> flue spaces run the length of the array and are perpendicular to the direction of pallet loading. The longitudinal flue space separates pallets front to back and can easily be blocked when pallet loads are loaded too far back into the storage array.



Developments in sprinkler design have allowed storage well above 20 feet to be protected with ceiling only sprinkler protection. For water to reach burning commodity located within the array, adequate sized flue spaces must be provided as required by MSFC (07) Section 2308.3. Table 2 (on the next page) details the minimum flue size for single, double and multi-row racks based on MSFC (07) Table 2308.3. When the minimum flue spaces are not provided, then installation of in-rack sprinklers at every tier is usually the only option as outlined in the last column of Table 2.

TABLE 2: REQUIRED FLUE SPACES FOR RACK STORAGE[1]

RACK CONFIGUR-ATION	FIRE SPINKLER PROTECTION		SPRINKLER AT THE CEILING WITH OR WITHOUT MINIMUM IN-RACK SPINKLERS			IN-RACK SPRINKLERS AT EVERY TIER	NON-SPRINKLERED
	STORAGE HEIGHT		≤25 FEET		>25 FEET	ANY HEIGHT	ANY HEIGHT
			OPTION 1	OPTION 2			
Single-Row Rack	Transverse Flue Space	Size[2]	3 inch	NA	3 inch	NR	NR
		Vertically Aligned	NR	NA	Yes	NA	NR
	Longitudinal Flue Space		NR	NA	NR	NR	NR
Double-Row Rack	Transverse Flue Space	Size[2]	6 inch[3]	3inch	3 inch	NR	NR
		Vertically Aligned	NR[3]	NR	Yes	NA	NR
	Longitudinal Flue Space		NR[3]	6 inch	6 inch	NR	NR
Multi-Row Rack	Transverse Flue Space	Size[2]	6 inch	NA	6 inch	NR	NR
		Vertically Aligned	NR	NA	Yes	NA	NR
	Longitudinal Flue Space		NR	NA	NR	NR	NR

that the configuration does not obstruct water penetration.
For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.
a. Three-inch transverse flue spaces shall be provided at least every 10 feet where ESFR sprinkler protection is provided.
b. Random variations are allowed, provided that the configuration does not obstruct water penetration.

When required, longitudinal flue spaces must be provided down the entire length of the array, High density racking may create situations where the backs of pallet loads but up against each other, blocking the longitudinal flue space. In this case, either in-rack sprinklers are necessary, or some type of permanent fixed stop must be installed on the racking to prevent pushing pallets together.

Transverse flue spaces are usually provided at the rack uprights, although this space can become blocked with structural elements used to support the rack. The required transverse flue space need not be provided in one continuous opening, but instead is measured as the sum total of the provided openings. For example, a 4” wide rack upright is provided that creates a transverse flue space, although this area also contains a 1” structural member that runs horizontally down the center. Since two 1 ½” openings are created, the total transverse flue space is considered to be 3” wide (sum total of all openings). When the space at the rack uprights is obstructed, the transverse flue could also be provided between pallet loads.

When vertically alignment of flue spaces is required, permanent pallet guides or stops are typically necessary to keep these spaces open.

4.2 Racks with Shelving That Can Restrict the Passage of Water

Additional support for pallet loads or cartoned commodities is often proved by including shelves or other forms of material handling surfaces such as slats, mesh, or grates. Unfortunately, shelves also restrict the flow of sprinkler water to burning fuel. When provided with approved flue spaces, shelves, slats or grates with openings not more than 6 inches apart comprising at least 50% of the overall shelf area are treated as racks without shelves.

Racks with solid shelving (and shelving not meeting the opening size requirements above) having an area greater than 32 square feet between flue spaces on all four sides shall have sprinkler protection installed as for solid shelves [MSFC (07) Section 2308.2.2]. Basically, this requires sprinklers at every tier within the array.

4.3 Steel Column Protection

Columns shall be protected according to NFPA 13 (2002 edition), Chapter 12. In some cases, structural steel reached temperatures that lead to failure based upon full scale testing of sprinkler protected rack storage. In these cases, NFPA 13 (2002 edition) requires additional sprinkler protection for structural steel members [NFPA 13 (2002 edition) Section 12.3.1.7].

SECTION 5 — SUMMARY

When reviewing the fire protection requirements for a storage facility, the following points should be considered:

- First classify the commodity. Use the information in Section 6 of this fact sheet as a guide, but if a commodity is not listed, do not guess. Contact the State Fire Marshal Division for assistance.
- Use Table 2306.2 from the MSFC (07) for fire protection requirements.
- For materials stored in racks, assure that adequate flue spaces are maintained to allow sprinkler water to penetrate the storage array.
- Watch for obstructions such as solid shelves or slats. Also watch for grates that allow products or cartons to obstruct flue spaces.

SECTION 6 — EXAMPLE COMMODITY CLASSIFICATIONS

Notes given in ( ) are found at the end

Aerosols (See MSFC (03) Chapter 28)	
Cartoned or uncartoned	
– Level 1	Class III
– Level 2	Class IV
– Level 3	High haz
Alcoholic Beverages	
Cartoned or uncartoned	
– Up to 20 percent alcohol in metal, glass or ceramic containers	Class I
– Up to 20 percent alcohol in wood containers	Class II
– Exceeding 20 percent alcohol but less than 80 percent alcohol, in cans or bottles in cartons	Class IV
– Exceeding 80 percent alcohol, in cans or bottles in cartons	High haz
Ammunition	
Small arms, shotgun	
– Packaged, cartoned	Class IV
Appliances, Major (e.g., stoves, refrigerators)	
– Not packaged, no appreciable plastic exterior trim	Class I
– Corrugated, cartoned, (no appreciable plastic trim)	Class II
Baked Goods	
Cookies, cakes, pies	
– Frozen, packaged in cartons (1)	Class II
– Packaged in cartons	Class III
Batteries	
Dry cells (nonlithium or similar exotic metals)	
– Packaged in cartons	Class I
– Blister-packed in cartons	Class II
Automobile	
– Filled (2)	Class I
Truck or larger	
– Empty or filled (2)	Group A
Beans Dried	
– Packaged, cartoned	Class III
Bottles, Jars	
Empty, cartoned	
– Glass	Class I
– Plastic PET (polyethylene terephthalate)	Class IV
Filled noncombustible powders	
– Plastic PET	Class II
– Glass, cartoned	Class I
– Plastic, cartoned [less than 1 gal (3.8 L)]	Class IV
– Plastic, uncartoned (other than PET), any size	Group A
– Plastic, cartoned or exposed [greater than 1 gal (3.8 L)]	Group A
– Plastic, solid plastic crates	Group A
– Plastic, open plastic crates	Group A
Filled noncombustible liquids	
– Glass, cartoned	Class I
– Plastic, cartoned [less than 5 gal (18.9 L)]	Class I
– Plastic, open or solid plastic crates (3)	Group A
– Plastic, PET	Class I
Boxes, Crates	
– Empty, wood, solid walls	Class II
– Empty, wood, slatted (4)	Outside of scope
Bread	
Wrapped, cartoned	Class III
Butter	
Whipped spread	Class III
In plastic containers	High haz
Candles	
Packaged, cartoned	
– Treat as expanded plastic	Group A
Candy	
Packaged, cartoned	Class III
Canned Foods	
In ordinary cartons	Class I
Cans	
Metal	
– Empty	Class I
Carpet Tiles	
Cartoned	Group A
Cartons	
Corrugated	
– Unassembled (neat piles)	Class III
– Partially assembled	Class IV
Wax coated, single walled	Group A
Cement	
Bagged	Class I
Ceramics (no plastic or foam packaging)	Class I
With plastic or foam packaging, see MUFC (98) Figure 8101.4-A	
Cereals	
Packaged, cartoned	Class III
Charcoal	
Bagged	
– Standard	Class III
Cheese	
– Packaged, cartoned	Class III
– Wheels, cartoned	Class III
Chewing Gum	
Packaged, cartoned	Class III
Chocolate	
Packaged, cartoned	Class III
Cloth	
Cartoned and not cartoned	
– Natural fiber, viscose	Class III
– Synthetic (5)	Class IV
Cocoa Products	
Packaged, cartoned	Class III

Coffee	
– Canned, cartoned	Class I
– Packaged, cartoned	Class III
Coffee Beans	
Bagged	Class III
Cork, baled	Class III
Cotton	
– Packaged, cartoned Diapers	Class III
– Cotton, linen	Class III
– Disposable with plastics and nonwoven fabric (in cartons)	Class IV
– Disposable with plastics and nonwoven fabric (uncartoned), plastic wrapped	Group A
Dairy products in nonwax-coated containers (excluding bottles)	Class I
Butter in plastic containers	High haz
Dried Foods	
Packaged, cartoned	Class III
Dry insecticides	Class I
Feed, bagged	Class III
Fertilizers	
Bagged	
– Phosphates	Class I
– Nitrates	Class II
Fiberboard, combustible	Class III
Fiberglass Insulation	
– Paper-backed rolls, bagged or unbagged	Class IV
File Cabinets	
Metal	
– Cardboard box or shroud	Class I
Fish or Fish Products	
Frozen	
– Nonwaxed, nonplastic packaging	Class I
– Waxed-paper containers, cartoned	Class II
– Boxed or barreled	Class II
– Plastic trays, cartoned	Class III
Canned	
– Cartoned	Class I
Foods	
Noncombustible containers	Class I
Combustible containers	Class II
Plastic containers	Class III
Frozen Foods	
Nonwaxed, nonplastic packaging	Class I
Waxed-paper containers, cartoned	Class II
Plastic trays	Class III
Fruit	
Fresh	
– Nonplastic trays or containers	Class I
– With wood spacers	Class I
– No plastic coverings or foam plastic cushioning	Class III
– With plastic coverings	Class IV
– With foam plastic cushioning	Group A
Glass (no plastic or foam packaging)	Class I
With plastic or foam packaging, see MUFC (98) Figure 8101.4-A	
Glycol	
Metal cans	Class I
Combustible containers <25%	Class III
Combustible containers 25%-50%	Class IV
Combustible containers > 50%	High haz
Grains (Packaged in cartons)	
– Barley	Class III
– Rice	Class III
– Oats	Class III
Gypsum board	Class I
Ice Cream	Class I
Inert, noncombustible materials in noncombustible packaging	Class I
Insulation	
Noncombustible	Class I
Fiberglass Paper-backed rolls bagged or unbagged	Class IV
Leather Goods	Class III
Leather Hides	
Baled	Class II
Light bulbs	
Incandescent or fluorescent in cartons	Class II
Light Fixtures	
Nonplastic	
– Cartoned	Class II
Lighters	
Butane	
– Blister-packed, cartoned	Group A
– Loose in large containers (Level 3 aerosol)	Outside of scope
Linoleum products	Class IV
Liquids	
Noncombustible in plastic containers having less than a 5 gallon capacity	Class I
Noncombustible in plastic containers having a capacity of more than 5 gallons	Class III
Liquor	
100 proof or less; 1 gal (3.8L) or less, cartoned	
– Glass (palletized) (6)	Class IV
– Plastic bottles	Class IV
Lumber	Class III
Marble	
Artificial sinks, countertops	
– Cartoned, crated	Class II
Margarine	
– Up to 50 percent oil (in paper or plastic containers)	Class III
– Between 50 percent and 80 percent	Group A
Furniture	
Wood	

oil (in any packaging)	
Matches	
Packaged, cartoned	
– Paper	Class IV
– Wood	Group A
Mattresses	
– Standard (box spring)	Class III
– Foam (in finished form)	Group A (high haz)
Meat, Meat Products	
– Bulk	Class I
– Canned, cartoned	Class I
– Frozen, nonwaxed, nonplastic containers	Class I
– Frozen, waxed-paper containers	Class II
– Frozen, expanded plastic trays	Class II
Metal Desks	
With plastic tops and trim	Class I
Milk	
– Nonwaxed-paper containers	Class I
– Waxed-paper containers	Class I
– Plastic containers	Class I
– Containers in plastic crates	Group A
Motors	
– Electric	Class I
Nail Polish	
– 1-oz to 2-oz (29.6-ml to 59.1-ml) glass, cartoned	Class IV
– 1-oz to 2-oz (29.6-ml to 59.1-ml) plastic bottles, cartoned	Group A
Nuts	
– Canned, cartoned	Class I
– Packaged, cartoned	Class III
– Bagged	Class III
Paints	
Friction-top cans, cartoned	
– Water-based (latex)	Class I
– Oil-based	Class IV
Pallets, idle combustible	High haz
Paper Products	
– Books, magazines, stationery, plastic-coated paper food containers, newspapers, cardboard games, or cartoned tissue products	Class III
– Tissue products, uncartoned and plastic wrapped plastics	Group A
Paper, Rolled	
Asphalt, rolled	High haz
In racks or on side	
– Medium or heavyweight	Class III
In racks	
– Lightweight	Class IV
Paper, rolled in vertical storage without approved wrap	High haz
Paper, Waste baled	Class III
Paper, Waxed	
Packaged in cartons	Class IV
Pharmaceuticals	
Pills, powders	
– Glass bottles, cartoned	Class II
– Plastic bottles, cartoned	Class IV
Nonflammable liquids	
– Glass bottles, cartoned	Class II
Photographic Film	
– Motion picture or bulk rolls in polycarbonate, polyethylene, or metal cans; polyethylene bagged in cardboard boxes	Class II
– 35-mm in metal film cartridges in polyethylene cans in cardboard boxes	Class III
– Paper, in sheets, bagged in polyethylene, in cardboard boxes	Class III
– Rolls in polycarbonate plastic cassettes, bulk wrapped in cardboard boxes	Class IV
Pillows	
Excluding foam rubber or plastic	Class III
Foam rubber or plastic	Group A (High haz)
Plastic Containers (except PET)	
– Carousel storage	High haz
– Noncombustible liquids or semi liquids in plastic containers of less than 5 gal (18.9 L) capacity	Class I
– Noncombustible liquids or semi liquids (such as ketchup) in plastic containers with nominal wall thickness of 1/4 in. (6.4 mm) or less and larger than 5 gal (18.9 L) capacity	Class II
– Noncombustible liquids or semi liquids (such as ketchup) in plastic containers with nominal wall thickness greater than 1/4 in. (6.4 mm) and larger than 5 gal (18.9 L) capacity	Group A
Plywood	Class III
Polyurethane	
Cartoned or uncartoned expanded	Group A
Poultry Products	
– Canned, cartoned	Class I
– Frozen, nonwaxed, nonplastic containers	Class I
– Frozen (on paper or expanded plastic trays)	Class II
Powders (ordinary combustibles — free flowing)	
In paper bags (e.g., flour, sugar)	Class II
Proxylin	High haz
PVA (polyvinyl alcohol) Resins	
Bagged	Class IV
PVC (polyvinyl chloride)	
– Flexible (e.g., cable jackets, plasticized sheets)	Class III
– Rigid (e.g., pipe, pipe fittings)	Class III

– Bagged resins	Class III
Rags	
Baled	
– Natural fibers	Class III
– Synthetic fibers	Class IV
Rubber	
– Natural, blocks in cartons	Class IV
– Synthetic	Group A
– Tires	High haz
Rugs, foamed back	Class IV
Salt	
– Bagged	Class I
– Packaged, cartoned	Class II
Shingles	
– Asphalt-coated fiberglass	Class IV
– Asphalt-impregnated felt	Class IV
Shock Absorbers	
– Metal dust covers	Class II
– Plastic dust covers	Class III
Signatures	
Books, magazines	
– Solid array on pallet	Class II
Skis	
– Wood	Class III
– Foam core	Class IV
Stuffed Toys	
Foam or synthetic	Group A
Sugar, bagged	Class III
Syrup	
– Drummed (metal containers)	Class I
– Barreled, wood	Class II
Textiles	
Natural fiber clothing or textile products	Class III
Synthetics (except rayon and nylon) 50/50 blend or less	
– Thread, yarn on wood or paper spools	Class III
– Fabrics	Class III
– Thread, yarn on plastic spools	Class IV
– Baled fiber	Group A
Synthetics (except rayon and nylon) greater than 50/50 blend	
– Thread, yarn on wood or paper spools	Class IV
– Fabrics	Class IV
– Baled fiber	Group A
– Thread, yarn on plastic spools	Group A
Rayon and nylon	
– Baled fiber	Class IV
– Thread, yarn on wood or paper spools	Class IV
– Fabrics	Class IV
– Thread, yarn on plastic spools	Group A

Tires, rubber	High haz
Tobacco Products	
In paperboard cartons	Class III
Transformers	
Dry and oil filled	Class I
Vegetables in noncombustible containers	Class I
Vegetable oil in plastic containers	High haz
Vinyl-Coated Fabric	
Cartoned	Group A
Vinyl Floor Coverings	
– Tiles in cartons	Class IV
– Rolled	Group A
Wax-Coated Paper	
Cups, plates	
– Boxed or packaged inside cartons (emphasis on packaging)	Class IV
– Loose inside large cartons	Group A
Wax	
Paraffin, blocks, cartoned	Group A
Wire	
– Bare wire on metal spools on wood skids	Class I
– Bare wire on wood or cardboard spools on wood skids	Class II
– Bare wire on metal, wood, or cardboard spools in cardboard boxes on wood skids	Class II
– Single- or multiple-layer PVC-covered wire on metal spools on wood skids	Class II
– Insulated (PVC) cable on large wood or metal spools on wood skids	Class II
– Bare wire on plastic spools in cardboard boxes on wood skids	Class IV
– Single- or multiple-layer PVC-covered wire on plastic spools in cardboard boxes on wood skids	Class IV
– Single, multiple, or power cables (PVC) on large plastic spools	Class IV
– Bulk storage of empty plastic spools	Group A
Wood Products	
– Baled	Class III
– Solid piles — lumber, plywood, particleboard, pressboard (smooth ends and edges)	Class II
– Spools (empty)	Class III
– Toothpicks, clothespins, hangers	Class III

in cartons	
– Doors, windows, wood cabinets, and furniture	Class III
– Patterns	Class IV
Yarn	
Natural fiber	Class III
Synthetic or nonviscose	Class IV

Notes:

(1) The product is presumed to be in a plastic-coated package in a corrugated carton. If packaged in a metal foil, it can be considered Class I.
(2) Most batteries have a polypropylene case and, if stored empty, should be treated as a Group A plastic. Truck batteries, even where filled, should be considered a Group A plastic because of their thicker walls.
(3) As the openings in plastic crates become larger, the product behaves more like a Class III commodity. Conversely, as the openings become smaller, the product behaves more like a plastic.
(4) These items should be treated as idle pallets.
(5) Tests clearly indicate that a synthetic or synthetic blend is considered greater than Class III.
(6) Where liquor is stored in glass containers in racks, it should be considered a Class III commodity; where it is palletized, it should be considered a Class IV commodity.

ATTACHMENT 9

Public Safety

Mulch fire burns into 6-hour job

Published August 7, 2015 at 1:42 pm

By Jim Boyle
Managing Editor

by Jim Boyle

Editor

Elk River Fire had to bow out of Tuesday's Night to Unite festivities after a fully engulfed front-end loader reportedly set mulch piles ablaze on land owned by Plaisted Companies and leased out to CST Distribution out of Rogers.

Scene of mulch fire.

Elk River Police and Fire were called at 2:37 p.m. Aug. 4 to the 11500 block of 205th Avenue. Police arrived to find CST's machine fully engulfed and fire extending to mulch piles 15 to 20 feet high in multiple directions.

The area was evacuated and fire personnel began their battle that would span more than six hours, according to Elk River Fire Chief T. John Cunningham.

Submitted photo
Fire crews fought the fire with the help of a Minnesota State Patrol helicopter that dropped flame retardant.

A steady wind quickly spread the fire, and when it shifted, crews working bring water had to put on breathing apparatuses to avoid smoke inhalation.

In addition to a full response from the Elk Rive Fire Department, mutual aid assistance was received by the Zimmerman/Livonia Fire District, Big Lake Fire Department, Ramsey Fire Department, Baldwin Fire Department, Princeton Fire Department, Albertville Fire Department and the Minnesota Department of Natural Resources. A helicopter from the DNR assisted with suppression efforts.

The Elk River Police Department and the Minnesota State Patrol were also on scene.

The last fire unit cleared the scene at 8:23 p.m.

Cunningham praised the help his department got from other agencies as well as assistance from CST Distribution and Plaisted Companies, which helped firefighters methodically address smoldering mulch by spreading it out into small sections to ensure the burnt product would remain out.

Submitted photo
Firefighters battled the blaze from land and by air after a front' end loader caught fire and set mulch on fire. Elk River Fire got mutual aid from several area departments and help from the land owner and the affected business owner.

The cause of the fire remains under investigation. There were no injuries.

CST Distribution co-owner Chad Toft said he was happy everyone walked away safe.

"It could have been a lot worse," he said, extending his thanks to the hardworking fire crews and his neighbors in Plaisted Companies.

Cunningham said due to the number of resources committed to this incident, the department was not able to participate in the Night to Unite program.

Filed Under: Elk River, fire, Plaisted Companies

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ATTACHMENT 10

PubMed

Abstract

Full text links

ELSEVIER FULL-TEXT ARTICLE

Waste Manag. 2007;27(12):1765-73. Epub 2006 Dec 15.

Evaluation of commercial landscaping mulch for possible contamination from CCA.

Jacobi G[1], Solo-Gabriele H, Dubey B, Townsend T, Shibata T.

Author information

Abstract

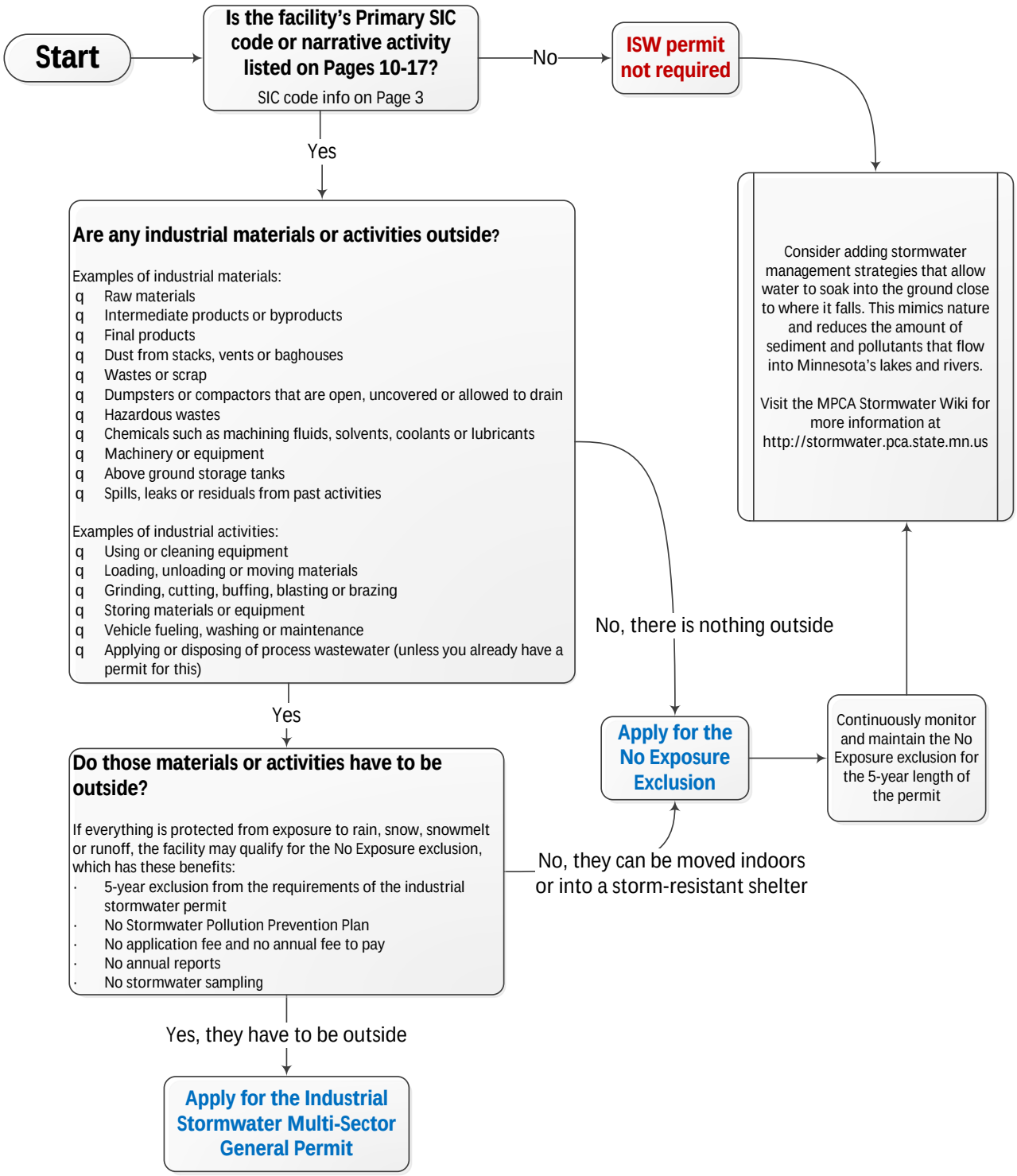
Wood treated with chromated copper arsenate (CCA) is found in construction and demolition (C&D) debris, and a common use for wood recycled from C&D debris is the production of mulch. Given the high metals concentrations in CCA-treated wood, a small fraction of CCA-treated wood can increase the metal concentrations in the mulch above regulatory thresholds. The objective of this study was to determine the extent of contamination of CCA-treated wood in consumer landscaping mulch and to determine whether visual methods or rapid X-ray fluorescence (XRF) technology can be used to identify suspect mulch. Samples were collected throughout the State of Florida (USA) and evaluated both visually and chemically. Visual analysis focused on documenting wood-chip size distribution, whether the samples were artificially colored, and whether they contained plywood chips which is an indication that the sample was, in part, made from recycled C&D wood. Chemical analysis included measurements of total recoverable metals, leachable metals as per the standardized synthetic precipitation leaching procedure (SPLP), and XRF analysis. Visual identification methods, such as colorant addition or presence of plywood, were found effective to preliminarily screen suspect mulch. XRF analysis was found to be effective for identifying mulch containing higher than 75 mg/kg arsenic. For mulch samples that were not colored and did not contain evidence of C&D wood, none exceeded leachable metal concentrations of 50 microg/L and only 3% exceeded 10 mg/kg for recoverable metals. The majority of the colored mulch made from recycled C&D wood contained from 1% to 5% CCA-treated wood (15% maximum fraction) resulting in leachable metals in excess of 50 microg/L and total recoverable metals in excess of 10 mg/kg. The maximum arsenic concentration measured in the mulch samples evaluated was 230 mg/kg, which was above the Florida residential direct exposure regulatory guideline of 2.1 mg/kg.

PMID: 17174544 [PubMed - indexed for MEDLINE]

Publication Types, MeSH Terms, Substances

ATTACHMENT 11

Does my facility need an industrial stormwater permit?



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Introduction

This fact sheet addresses how to determine a facility's primary Standard Industrial Classification code (SIC code) or narrative activity and related common questions.

The questions and answers in this fact sheet are based on Minnesota's Questions and Answers, developed with the U.S. Environmental Protection Agency (EPA) to clarify EPA document "National Pollutant Discharge Elimination System (NPDES) Storm Water Program Questions and Answers, Vol. 1 and Vol. 2."

Q1 How do I know if my facility needs an industrial stormwater permit?

The MPCA's industrial stormwater permit lists the industries that need a permit. They are listed by SIC code or are explained in a narrative in *Appendix D* (page 148) of the permit. Listed industries must get a permit or certify that nothing is exposed to stormwater.

For convenience, the regulated primary SIC codes and descriptions of narrative activities are reprinted at the end of this fact sheet starting on page 10.

Q2 What is a SIC code?

SIC codes are a way of classifying industries by 4-digit codes. It is a descriptor of the kind of work being done at a facility, not a number specifically assigned to the facility like a tax ID. Facilities can have several SIC codes but only one Primary SIC code.

The IRS uses SIC codes, so your tax paperwork or accountant may already have the facility's SIC code. Look on these federal tax forms:

- Schedule C or C-EZ for Sole Proprietors
- Form 1065 for Partners
- Form 1120 for C Corporations
- Form 1120-S for S Corporations

A searchable database of the SIC Codes is available at https://www.osha.gov/pls/imis/sicsearch.html.

Example: A company manufactures metal washers and hinges. Searching for the word "washers" on the linked OSHA website returns a few options. One of them – SIC 3452: Bolts, Nuts, Screws, Rivets and Washers – covers the washers, but not the hinges. Searching for "hinges" returns SIC 3429: Hardware Not Elsewhere Classified. Although hinges aren't mentioned in the title for SIC 3429, they are specifically listed in the description. Be sure to read the descriptions because they frequently offer the SIC codes for related activities.

Q3 What is a Primary SIC code?

If a facility has more than one SIC code, the activity that generates the greatest revenue is the Primary SIC code. If revenue information is unavailable, use the SIC code for the activity with the most employees. If employee information is also unavailable, use the SIC code for the activity with the greatest production.

Q4 Does a facility need more than one stormwater permit if it has more than one SIC code?

No, only one permit or No Exposure certification is required; it will address all the operations at the facility.

Q5 My facility's Primary SIC code isn't listed. Do I need a permit?

If the facility fits one of the listed narrative activities, a permit or No Exposure certification is required regardless of whether or not the facility's Primary SIC code is listed. But if the facility isn't described by a listed narrative activity and its Primary SIC code isn't listed, a permit isn't required even if a Secondary SIC code is listed. See Table 1.

Q6 Do I have to consider my other SIC codes if I get the permit?

Yes, when the facility applies for the permit, list the Secondary SIC codes in the application. Comply with the sector requirements for the all the SIC codes at the facility and any narrative activities.

Q7 What are "narrative activities"?

Certain industries are easier to define by explaining what they do in a narrative paragraph. They are listed as narrative activities.

If a facility fits any of the listed narrative activities, whether for Primary or Secondary operations, it must get an industrial stormwater permit or the No Exposure exclusion.

Table 1: Summary of when a permit it required, based on SIC codes and narrative activity

	Is the facility's industry type listed?			
	Primary SIC code	**Secondary SIC code**	**Narrative activity**	**What to do**
Scenario 1	Listed	Listed or not	Listed or not	Apply for permit or certify No Exposure
Scenario 2	Not listed	Listed	Not listed	No stormwater permit required
Scenario 3	Listed or not	Listed or not	Listed	Apply for permit or certify No Exposure

Q8 What can my facility store outside and still qualify for No Exposure?

There are a few things a facility can have outside and still qualify for the No Exposure exclusion:

- properly maintained vehicles, such as forklifts, industrial vehicles or delivery trucks
- dumpsters that are in good condition, covered and not allowed to drain
- materials that do not contaminate stormwater, such as products that are designed to be used outside, pallets in good condition or used tires
- office buildings, employee parking lots and employees' personal vehicles
- Containers and tanks that are sealed and free from deterioration. They cannot have any taps or valves, because those could result in drips or leaks.

More information is in the MPCA stormwater factsheet #wq-strm3-13, "No Exposure: Qualifying for and maintaining the exclusion."

Q9 What is a storm-resistant shelter?

A storm-resistant shelter can be:

- a completely roofed and walled building
- a structure with only a top cover but no side walls, as long as stormwater cannot flow through the structure and rain or snow that are blown in by the wind are prevented from running out, such as by a curb or berm

Q10 What if my facility has a different water permit?

Wastewater discharge permit

If a facility has a wastewater discharge permit that already includes stormwater requirements, a separate industrial stormwater permit is not required.

See Question 19 for wastewater treatment facility information.

Sand and gravel, stone, concrete and hot mix asphalt

Certain sand and gravel, stone, concrete and hot mix asphalt facilities qualify for the nonmetallic mining water permit. The MNG49 permit includes industrial stormwater requirements and has the advantage of covering multiple locations and portable plants under one permit. If a facility has MNG49 and all industrial activities at the facility are addressed in the permit, the facility does not need the industrial stormwater permit.

However, if a facility has MNG49 and there are industrial activities with a listed SIC code or narrative activity that are not addressed in MNG49 (such as local trucking or a landfill), the facility must add an industrial stormwater permit for the location or part of the location that has these additional activities.

For more information or to find out if a facility qualifies for MNG49, see the MPCA's Nonmetallic Mining and Associated Activities water permit web page at http://www.pca.state.mn.us/iryp90f. Be careful not to confuse it with the air quality permit that has a similar name.

Q11 Do auxiliary operations need a permit?

On-site: On-site auxiliary operations, such as warehouses or vehicle maintenance shops, are considered Secondary SIC code activities. As discussed above in the section about SIC codes, a facility only needs a permit if the Primary SIC code or narrative activity is listed. If it is listed, get the permit and comply with the sector requirements for primary activities, auxiliary/secondary activities and any narrative activities, or certify for No Exposure.

Off-site: For off-site auxiliary operations, first determine whether industrial activities at the off-site facility have a listed Primary SIC code or narrative activity:

- If so, an industrial stormwater permit or No Exposure exclusion is required for the off-site facility.
- If the off-site facility does not have a listed Primary SIC code or narrative activity, the off-site facility takes on the SIC code or narrative activity of the facility it supports. If industrial activities at the main facility have a listed Primary SIC code or narrative activity, separate industrial stormwater permits or No Exposure exclusions are required for the off-site facility and the main facility.
- If neither facility has a listed Primary SIC code or narrative activity, neither facility needs a permit or No exposure certification.

Research and development

Pilot plants and research and development (R&D) facilities follow a similar decision process as other auxiliary operations:

- If a pilot plant or research R&D facility is described by a listed Primary SIC code, it must get an industrial stormwater permit or No Exposure exclusion.
- If an on-site pilot plant or R&D facility is located at a facility that is required to have a permit, so does the pilot plant or R&D facility.
- If an off-site pilot plant or R&D facility doesn't have a listed Primary SIC code or narrative activity, it takes on the SIC code or narrative activity of the facility it supports. If the main facility is required to have a permit, so does the pilot plant or R&D facility. The pilot plant or R&D facility must have its own permit and follow the sector requirements of the facility it supports, or certify for No Exposure.
- If the R&D facility isn't listed and the main facility isn't listed, neither location needs an industrial stormwater permit or No Exposure certification.

Facilities primarily engaged in commercial physical and biological R&D on a contract or fee business are described by the Primary SIC code 8731. These facilities are not required to have an industrial stormwater permit or No Exposure certification.

Warehouses

Warehousing businesses that fit into one of the listed warehousing SIC codes (SIC 422x) must have a permit or certify for No Exposure. Warehouses located on-site at a facility that has a listed primary SIC code or narrative activity are included in that facility's permit. Follow the sector requirements in the permit for *Sector P – Land Transportation and Warehousing* for the warehouses.

Off-site warehouses of preassembly parts or finished products are not required to have a permit unless they are specifically a warehouse business described by a warehouse SIC code (SIC 422x).

Q12 How is vehicle maintenance regulated?

Vehicle maintenance facilities follow a similar decision process as auxiliary operations unless they are associated with transportation facilities, which is discussed in more detail in the next section.

Independently-operated vehicle maintenance shops are usually described by Primary SIC codes 75xx or 7699. Neither of those SIC codes are listed, so facilities that fit those descriptions do not need an industrial stormwater permit or No Exposure certification.

For vehicle maintenance shops that provide support to a non-transportation facility:

- An on-site vehicle maintenance shop supporting a facility that has an industrial stormwater permit is covered by the main facility's permit.
- An off-site vehicle maintenance shop supporting a facility that requires an industrial stormwater permit takes on the SIC code and sector requirements of the main facility. Both facilities require permits or No Exposure certification.
- An off-site vehicle maintenance shop supporting a facility that is not required to have a permit does not need a permit or No Exposure certification.

Minnesota considers water from truck washing operations to be wastewater, not stormwater. Washwater cannot be discharged with stormwater.

Vehicle maintenance for transportation facilities

More information is in MPCA stormwater fact sheet #wq-strm3-32, "Guidance on the Industrial Stormwater Permit for Transportation Sectors."

No Exposure

The No Exposure certification will be difficult to qualify for and maintain at a transportation facility, even if all vehicle maintenance and equipment cleaning is done indoors. Vehicle fueling is a common source of pollutants. Vehicles waiting for maintenance at transportation facilities are unlikely to be in good condition, resulting in potential exposure of pollutants to stormwater. Outdoor storage of materials used in vehicle maintenance or equipment cleaning are common and can contribute pollutants to stormwater. Particulate matter or residuals from roof stacks or vents that are not otherwise regulated (such as by an air quality permit) and are evident in stormwater are also considered a violation of No Exposure.

On-site activities

Vehicle maintenance shops, equipment cleaning facilities and airport de-icing operations located at a facility in one of the transportation categories (Sectors P, Q, R and S) are regulated by the industrial stormwater permit. However, the permit requirements apply only to the areas where vehicle maintenance, equipment cleaning or airport de-icing are being done. If a transportation facility is not doing vehicle maintenance, equipment cleaning or airport deicing, the facility does not need an industrial stormwater permit or No Exposure certification.

Follow Sector P requirements of the permit for local or long distance trucking maintenance or fueling located at a facility with a listed Primary SIC code.

Exception: Facilities with Primary SIC codes 4221-4225 (warehousing) must have an industrial stormwater permit or certify for No Exposure regardless of whether vehicle maintenance shops, equipment cleaning facilities and airport de-icing operations are present.

Off-site activities

EPA has determined that most off-site vehicle maintenance facilities are supporting establishments that take on the SIC code of the facility they support. This means facilities that provide local trucking maintenance, fueling or washing take on the SIC code of the facility they support. If the main facility is required to have a permit, so does the off-site facility. The off-site facility takes on the sector requirements of the main facility.

Exception: Industrial stormwater permits or No Exposure exclusions are always required for vehicle maintenance associated long distance trucking, stevedoring (4491) and water transportation (44xx). As noted above, qualifying for the No Exposure certification will be difficult.

School bus maintenance facilities

The SIC code description for school bus transportation (SIC code 4151) excludes operations that are owned or run by a school district; these are instead covered under SIC code 8211, which is not a listed SIC code. This means school bus maintenance facilities that are owned or operated by a municipality or school district are not required to have an industrial stormwater permit or No Exposure certification.

However, private-contract school bus services (SIC code 4151) must have an industrial stormwater permit or certify for No Exposure. As noted above, qualifying for the No Exposure certification will be difficult.

Q13 Are tank farms regulated?

Tank farms need an industrial stormwater permit if stormwater from the tank farm mixes with stormwater from a vehicle maintenance shop or equipment cleaning operation. Tank farms at petroleum bulk storage stations (SIC code 5171) that don't have vehicle maintenance or equipment cleaning operations are exempted and do not need an industrial stormwater permit.

If the tank farm is located at a facility that has a listed Primary SIC code, the tank farm is considered a secondary activity and is included in the main facility's permit.

More information is in MPCA stormwater fact sheet #wq-strm3-32, "Guidance on the Industrial Stormwater Permit for Transportation Sectors."

Q14 Are grain elevators regulated?

Facilities that only warehouse or store farm products are described by Primary SIC code 4221 and must have an industrial stormwater permit or certify No Exposure.

Grain elevators described by Primary SIC code 5153 do not need an industrial stormwater permit or No Exposure certification. They include elevators buying or marketing grain or beans, country grain elevators buying or receiving grain or beans from farmers and terminal elevators and other merchants marketing grain or beans.

Q15 Are wood mulch or animal bedding manufacturers regulated?

Wood mulch or animal bedding manufacturing are described by one of three listed SIC codes:

- SIC 2421 – General Sawmills and Planing Mills
- SIC 2429 – Special Product Sawmills Not Elsewhere Classified
- SIC 2499 – Wood Products Not Elsewhere Classified

Facilities with any of these Primary SIC codes are regulated by the industrial stormwater permit.

Q16 Are military facilities regulated?

The overarching SIC code 9711 (national security) does not apply to industrial activities at a military facility. Each industrial activity on a military base or state reserve facility such as National Guard is considered to be a stand-alone industrial activity. EPA requires a separate permit or No Exposure exclusion for each listed industrial activity. This is unique to federal military facilities.

Section 313A of the Clean Water Act states that federal facilities "shall be subject to, and comply with, all federal, state, interstate, and local requirements... respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges."

Q17 Are municipal or government facilities (non-military) regulated?

State and local municipal facilities follow the same decision-making process as any industrial facility. Start by determining the Primary SIC code and then evaluate on-site secondary and off-site auxiliary activities.

Publicly-owned government facilities usually are described by Primary SIC code 9199 – General Government, because the greatest revenue source and number of employees are from government administration. SIC code 9199 is not a listed SIC code so an industrial stormwater permit or No Exposure certification is not required. Common industrial activities such as police cars, fire trucks and snow plows are covered by SIC codes 9221, 9224 and 9229; dump trucks and heavy equipment used for construction are covered by SIC codes 1611-1629. None of these activities have listed SIC codes or narrative activities so an industrial stormwater permit or No Exposure certification is not required. This also means that secondary activities at these facilities, such as a Sector N recycling center or a warehouse, do not trigger the need for a permit or No Exposure certification. Off-site vehicle maintenance facilities supporting these SIC codes do not need the permit or No Exposure certification.

A vehicle maintenance facility located on-site at a municipal waste water treatment plant or landfill, which are listed narrative activities and require an industrial stormwater permit, is covered by the main facility's permit.

A separately located recycling center needs an industrial stormwater permit or No Exposure certification; it is not considered to be auxiliary.

Question 20 lists municipal solid waste activities that do not need an industrial stormwater permit or No Exposure certification.

Q18 Are colleges and universities regulated?

Schools follow the same decision-making process as any industrial facility. Start by determining the primary SIC code and then evaluate on-site secondary and off-site auxiliary activities.

Schools without narrative activities

Public or private universities described by primary SIC code 8221 (Colleges, Universities and Professional Schools) that do not have on-site narrative activities are not required to have an industrial stormwater permit or No Exposure certification. On-site secondary activities with listed SIC codes do not trigger the need for a permit or No Exposure certification. Off-site auxiliary activities such as warehouses or vehicle maintenance shops are not required to have a permit or No Exposure certification.

Schools with narrative activities

Public or private university campuses with a narrative activity are required to have an industrial stormwater permit and follow the requirements for the narrative activity's sector. All industrial activities at the main campus are covered by the permit, including warehouses, vehicle and equipment maintenance facilities, printing presses and recycling centers. Off-site industrial activities supporting the main campus take on the narrative activity and are required to have the permit or No Exposure certification. The main campus and the supporting facility each need their own permit or No Exposure certification. Both follow the requirements of the narrative activity's sector. A separately located warehouse does not need the permit or No Exposure certification (see section on warehouses for more information).

Schools with off-site listed or narrative activities

An off-site, university-run facility described by a listed Primary SIC code must have an industrial stormwater permit or No Exposure certification. Common examples are off-site, university-run printing presses or recycling centers. They are described by listed Primary SIC codes 27xx and 5093, respectively, and therefore must get a permit or No Exposure certification. The main campus does not need an industrial stormwater permit or No Exposure certification.

An off-site, university-run facility described by a narrative activity must have an industrial stormwater permit or No Exposure certification. If auxiliary activities are conducted at the off-site facility, all of these activities are covered by the permit. The main campus is not required to apply for an industrial stormwater permit or No Exposure certification.

Q19 Are wastewater treatment facilities regulated?

Most wastewater treatment plants are described by the Sector T narrative activity and therefore must have an industrial stormwater permit.

Vehicle or equipment maintenance associated with a wastewater treatment facility (for example, to haul sewage sludge or to move equipment from the maintenance facility to the treatment plant), whether on-site or off-site, takes on the classification of the main facility and is required to have an industrial stormwater permit if the facility does. If the maintenance facility serves multiple wastewater treatment authorities, it is required to have an industrial stormwater permit.

Wastewater treatment facilities that collect their stormwater runoff and treat the stormwater as part of the normal inflow processed through the treatment plant are not required to have an industrial stormwater permit or No Exposure certification. Stormwater mixed with wastewater becomes wastewater and is addressed by the NPDES wastewater permit for the facility.

Off-site areas where sludge (biosolid) is beneficially reused do not need an industrial stormwater permit or No Exposure certification. For the purposes of the industrial stormwater permit, beneficial reuse of sludge is the application of sludge as a nutrient builder or soil conditioner. It can include agricultural or domestic application.

Off-site pumping stations do not need an industrial stormwater permit or No Exposure certification.

Q20 Which solid waste facilities are exempted?

An industrial stormwater permit or No Exposure certification is not required for solid waste facilities that are exempted from solid waste permitting, or, are granted a solid waste permit without applying for it by Minn. R. 7001.3050, subp.2 and subp.3. This includes the following:

1. Backyard compost sites.
2. Yard waste compost facilities that are in compliance with Minn. R. 7035.2836, subp. 2 and 3.
3. Temporary community cleanup events such as household hazardous waste collection events, provided:
   - the event is sponsored or approved by the municipality
   - the event is open to residents of the community
   - the event occurs no more than twice a year
   - the event, including removal of the wastes, lasts no more than seven days
4. Solid waste transfer facilities that accept waste directly from individual residents who self-haul, provided:
   - the county where the facility is located has determined the facility is necessary due to limited availability of solid waste collection services
   - no more than 40 cubic yards of waste are stored on site at any given time
   - no more than 40 cubic yards of waste are managed on site per day
   - All waste is managed and stored in containers or roll-off boxes constructed of impervious material; and,

- removal of waste occurs when the capacity of the container is reached or more often as necessary to prevent nuisance conditions

5. Transfer facilities that move from location to location and receive solid waste directly from other vehicles for consolidation, provided they are not located in an area for more than 12 hours, all waste is delivered vehicle to vehicle and is not dumped and reloaded.
6. Transfer facilities where all waste is managed and stored in containers or roll-off boxes constructed of impervious material or in a fully enclosed building that meet the standards in Minn. R. 7035.2870, subp. 3 or subp. 4, provided that in either case the facility is in compliance with the requirements of Minn. R. 7001.3050, subp.3, item A.
7. Beneficial use of solid waste and storage of a solid waste prior to its beneficial use done according to Minn. R. 7035.2855 and 7035.2860.
8. Demonstration or research projects authorized by Minn. R. 7035.0450.
9. Disposal of solid waste on the same property where it was discovered if review, investigation and oversight is conducted under Minn. Stat. § 115B.17, subd. 14 and response actions are conducted in accordance with a plan approved under Minn. Stat. § 115B.175.
10. Demolition debris land disposal facilities that are designed for less than 15,000 cubic yards total capacity, operate less than a total of 12 consecutive months, are not located adjacent to another demolition debris permit-by-rule facility and are in compliance with Minn. R. 7035.2525 to 7035.2655, 7035.2825 and 7035.2855.

Q21 Are facilities with effluent limits or performance standards regulated?

The following facilities are required to have an industrial stormwater permit or certify for No Exposure:

- facilities with air emission new source performance standards
- facilities with wastewater toxic pollutant effluent standards
- facilities with stormwater effluent limits

Standard Industrial Classification (SIC) codes and narrative activities list

SIC codes

Sector A: Timber products

2411 Logging
2421 Sawmills and planning mills-general
2426 Hardwood dimension and flooring mills
2429 Special products sawmills, NEC
2431 Millwork
2435 Hardwood veneer and plywood
2436 Softwood veneer and plywood
2439 Structural wood members, NEC
2441 Nailed and lock corner wood boxes and shook
2448 Wood pallets and skids
2449 Wood containers, NEC
2451 Mobile homes
2452 Prefabricated wood buildings and components
2491 Wood preserving
2493 Reconstituted wood products
2499 Wood products, NEC

Sector B: Paper and allied products manufacturing

2611 Pulp mills
2621 Paper mills
2631 Paperboard mills
2652 Setup paperboard boxes
2653 Corrugated and solid fiber boxes
2655 Fiber cans, tubes, drums, and similar products
2656 Sanitary food containers (except folding)
2657 Folding paperboard boxes, including sanitary
2671 Packaging paper and plastics film (coated and laminated)
2672 Coated and laminated paper, NEC
2673 Plastics, foil and coated paper bags
2674 Uncoated paper and multiwall bags
2675 Die-cut paper, paperboard, and cardboard
2676 Sanitary paper products
2677 Envelopes
2678 Stationary, tablets, and related products
2679 Converted paper and paperboard products, NEC

Sector C: Chemical and allied products manufacturing

2812 Alkalies and chlorine
2813 Industrial gases
2816 Inorganic pigments
2819 Industrial inorganic pigments, NEC
2821 Plastic materials, synthetic resins and elastomers
2822 Synthetic rubber (vulcanizable elastomers)
2823 Cellulosic manmade fibers
2824 Manmade organic fibers, except cellulosic
2833 Medicinal chemicals and botanical products
2834 Pharmaceutical preparations
2835 In vitro and in vivo diagnostic substances
2836 Biological products (except diagnostic substances)
2841 Soap and other detergents, except specialty cleaning
2842 Specialty cleaning, polishing and sanitation preparations
2843 Surface active agents, finishing agents and sulfonated oils
2844 Perfumes, cosmetics and other toilet preparations
2851 Paints, varnishes, lacquers, enamels and allied products
2861 Gum and wood chemicals
2865 Cyclic organic crudes and intermediates and organic dyes
2869 Industrial organic chemicals, NEC
2873 Nitrogenous fertilizers
2874 Phosphatic fertilizers
2875 Fertilizers, mixing only
2879 Pesticides and agricultural chemicals, NEC
2891 Adhesives and sealants
2892 Explosives
2893 Printing ink
2895 Carbon black
2899 Chemicals and chemical preparations, NEC
3952 Lead pencils, crayons and artists' materials

Sector D: Asphalt paving and roofing materials and lubricant manufacturing

2951 Asphalt paving mixtures and blocks
2952 Asphalt felts and coatings
2992 Lubricating oils and greases
2999 Petroleum and coal products, NEC

Sector E: Glass, clay, cement, concrete, and gypsum products

3211 Flat glass
3221 Glass containers
3229 Pressed and blown glass and glassware
3231 Glass products, made of purchased glass
3241 Hydraulic cement
3251 Brick and structural clay tile
3253 Ceramic wall and floor tile
3255 Clay refractories
3259 Structural clay products, NEC
3261 Vitreous china plumbing fixtures and bathroom fittings
3262 Vitreous china table and kitchen articles
3263 Fine earthenware (whiteware) table and kitchen articles
3264 Porcelain electrical supplies
3269 Pottery products, NEC
3271 Concrete block and brick
3272 Concrete products, except block and brick
3273 Ready-mixed concrete
3274 Lime
3275 Gypsum products
3281 Cut stone and stone products
3291 Abrasive products
3295 Ground or otherwise treated minerals and earths
3296 Mineral wool
3297 Nonclay refractories
3299 Nonmetallic mineral products, NEC

Sector F: Primary metals

3312 Steel works, blast furnaces (including coke ovens) and rolling mills
3313 Electrometallurgical products, except steel
3315 Steel wiredrawing, nails, and spikes
3316 Cold-rolled steel sheet, strip and bars
3317 Steel pipe and tubes
3321 Gray and ductile iron foundries
3322 Malleable iron foundries
3324 Steel investment foundries
3325 Steel foundries, NEC
3331 Primary copper smelting and refining
3334 Primary aluminum production
3339 Primary nonferrous metals smelting and refining, NEC
3341 Secondary nonferrous metals smelting and refining
3351 Copper rolling, drawing and extruding
3353 Aluminum sheet, plate and foil
3354 Aluminum extruded products
3355 Aluminum rolling and drawing, NEC
3356 Nonferrous metals rolling, drawing, and extruding, NEC
3357 Nonferrous wire drawing and insulating
3363 Aluminum die-castings
3364 Nonferrous die-castings, except aluminum
3365 Aluminum foundries

3366 Copper foundries
3369 Nonferrous foundries, except aluminum and copper
3398 Metal heat treating
3399 Primary metal products, NEC

Sector G: Metal mining (ore mining and dressing)

1011 Iron ores
1021 Copper ores
1031 Lead and zinc ores
1041 Gold ores
1044 Silver ores
1061 Ferroalloy ores (except vanadium)
1081 Metal mining services
1094 Uranium-radium-vanadium ores
1099 Miscellaneous metal ores, not elsewhere classified, NEC

Sector H: Coal mines and coal mining-related facilities

1221 Bituminous coal and lignite surface mining
1222 Bituminous coal underground mining
1231 Anthracite mining
1241 Coal mining services

Sector I: Oil and gas extraction and refining

1311 Crude petroleum and natural gas
1321 Natural gas liquids
1381 Oil and gas well drilling
1382 Oil and gas field exploration services
1389 Oil and gas field services, NEC
2911 Petroleum refining

Sector J: Mineral mining and dressing

1411 Dimension stone
1422 Crushed and broken limestone
1423 Crushed and broken granite
1429 Crushed and broken stone, NEC
1442 Construction sand and gravel
1446 Industrial sand
1455 Kaolin and ball clay
1459 Clay, ceramic and refractory minerals, NEC
1474 Potash, soda and borate minerals
1475 Phosphate rock
1479 Chemical and fertilizer minerals mining, NEC
1481 Nonmetallic minerals services
1499 Miscellaneous nonmetallic minerals, except fuels

Sector K: Hazardous waste treatment, storage, or disposal facilities - See Narrative Activities list

Sector L: Landfills and land application sites - See Narrative Activities list

Sector M: Automobile salvage yards

5015 Used motor vehicle parts

Sector N: Scrap recycling and waste recycling facilities

5093 Scrap and waste materials

Sector O: Steam electric generating facilities – See Narrative Activities list

Sector P: Land transportation and warehousing

4011 Line-haul railroad operation
4013 Railroad switching and terminal establishments
4111 Local and suburban transit
4119 Local passenger transportation, NEC
4121 Taxicab service
4131 Intercity and rural bus transportation
4141 Local bus charter service
4142 Bus charter service, except local
4151 School bus operation
4173 Terminal and service facilities for passenger transportation
4212 Local trucking without storage
4213 Trucking, except local
4214 Local trucking with storage
4215 Courier service, except by air
4221 Farm product warehousing and storage
4222 Refrigerated warehousing and storage
4225 General warehousing and storage
4226 Special warehousing and storage, NEC
4231 Trucking terminal and maintenance facilities
4311 United States Postal Service
5171 Petroleum bulk stations and terminals

Sector Q: Water transportation

4412 Deep sea foreign freight transportation
4424 Deep sea domestic freight transportation
4432 Freight transportation on the Great Lakes/Saint Lawrence Seaway
4449 Water freight transportation, NEC
4481 Deep sea passenger transportation, NEC
4482 Ferry operation
4489 Water passenger operation, NEC
4491 Marine cargo handling
4492 Towing and tugboat services
4493 Marina operation
4499 Water transportation services, NEC

Sector R: Ship and boat building and repair yards

3731 Ship building and repairing
3732 Boat building and repairing

Sector S: Air transportation

4512 Scheduled air transportation
4513 Air courier services
4522 Nonscheduled air transportation
4581 Airports, flying fields, and airport terminal services

Sector T: Treatment Works - See Narrative Activities list

Sector U: Food and kindred products

2011 Meat packing plants
2013 Sausages and other prepared meat products
2015 Poultry slaughtering and processing
2021 Creamery butter
2022 Natural, processed and imitation cheese
2023 Dry, condensed and evaporated dairy products
2024 Ice cream and frozen desserts
2026 Fluid milk
2032 Canned specialties
2033 Canned fruits, vegetables, preserves, jams and jellies
2034 Dried and dehydrated fruits, vegetables and soup mix
2035 Pickled fruits and vegetables, sauces, seasonings, and salad dressings
2037 Frozen fruits, fruit juices, and vegetables
2038 Frozen specialties, NEC
2041 Flour and other grain mill products
2043 Cereal breakfast foods
2044 Rice milling
2045 Prepared flour mixes and doughs
2046 Wet corn milling
2047 Dog and cat food
2048 Prepared animal and foul feeds (except dog and cat food)
2051 Bread and other bakery products (except cookies and crackers)
2052 Cookies and crackers
2053 Frozen bakery products (except bread)
2061 Cane sugar (except refining)
2062 Cane sugar refining
2063 Beet sugar
2064 Candy and other confectionary products
2066 Chocolate and other cocoa products
2067 Chewing gum
2068 Salted and roasted nuts and seeds
2074 Cottonseed oil mills
2075 Soybean oil mills
2076 Vegetable oil mills, except corn, cottonseed and soybean
2077 Animal and marine fats and oils
2079 Shortening, margarine, and other fats and oils, NEC
2082 Malt beverages
2083 Malt
2084 Wines, brandy and brandy spirits
2085 Distilled and blended liquors
2086 Bottled and canned soft drinks and carbonated waters
2087 Flavoring extracts and flavoring syrups, NEC
2091 Canned and cured fish and seafoods
2092 Prepared fresh or frozen fish and seafoods
2095 Roasted coffee
2096 Potato chips, corn chips, and similar snacks
2097 Manufactured ice
2098 Macaroni, spaghetti, vermicelli and noodles
2099 Food preparations, NEC
2111 Cigarettes
2121 Cigars
2131 Chewing and smoking tobacco and snuff
2141 Tobacco stemming and redrying

Sector V: Textile Mills, Apparel, and Other Fabric Products Manufacturing

2211 Broadwoven cotton mills
2221 Broadwoven manmade fiber and silk mills
2231 Broadwoven wool mills
2241 Narrow cotton, wool, silk, and manmade fiber mills
2251 Women's full-length and knee-length hosiery (except socks)
2252 Hosiery, NEC
2253 Knit outerwear mills
2254 Knit underwear and nightwear mills
2257 Weft knit fabric mills
2258 Lace and warp knit fabric mills
2259 Knitting mills, NEC
2261 Broadwoven cotton finishing plants

2262 Broadwoven manmade fiber and silk finishing plants
2269 Textile finishing plants, NEC
2273 Carpets and rugs
2281 Yarn spinning mills
2282 Yarn texturizing, throwing, twisting, and winding mills
2284 Thread mills
2295 Coated fabrics, not rubberized
2296 Tire cord and fabrics
2297 Nonwoven fabrics
2298 Cordage and twine
2299 Textile goods, NEC

2311 Men's and boys' suits, coats, and overcoats
2321 Men's and boys' shirts (except work shirts)
2322 Men's and boys' underwear and nightwear
2323 Men's and boys' neckwear
2325 Men's and boys' separate trousers and slacks
2326 Men's and boys' work clothing
2329 Men's and boys' clothing, NEC
2331 Women's, misses' and juniors' blouses and shirts
2335 Women's, misses' and juniors' dresses
2337 Women's, misses' and juniors' suits, skirts, and coats
2339 Women's, misses' and juniors' outerwear
2341 Women's, misses' children's, and infants' underwear and nightwear
2342 Brassieres, girdles and allied garments
2353 Hats, caps and millinery
2361 Girl's, children's and infants' dresses, blouses and shirts
2369 Girl's, children's and infants' outerwear, NEC
2371 Fur goods
2381 Dress and work gloves (except knit and all-leather)
2384 Robes and dressing gowns
2385 Waterproof outerwear
2386 Leather and sheep-lined clothing
2387 Apparel belts
2389 Apparel and accessories, NEC
2391 Curtains and draperies
2392 House furnishings (except curtains and draperies)
2393 Textile bags
2394 Canvas and related products
2395 Pleating, decorative and novelty stitching, tucking for the trade
2396 Automotive trimmings, apparel findings and related products
2397 Schiffli machine embroideries
2399 Fabricated textile products, NEC
3131 Boot and shoe cut stock and findings
3142 House slippers
3143 Men's footwear (except athletic)
3144 Women's footwear (except athletic)
3149 Footwear (except rubber), NEC
3151 Leather gloves and mittens
3161 Luggage
3171 Women's handbags and purses
3172 Personal leather goods (except women's handbags and purses)
3199 Leather goods, NEC

Sector W: Furniture and Fixtures

2434 Wood kitchen cabinets
2511 Wood household furniture (except upholstered)
2512 Upholstered wood household furniture
2514 Metal household furniture
2515 Mattresses, foundations, and convertible beds
2517 Wood TV, radio, phonograph and sewing machine cabinets
2519 Household furniture, NEC
2521 Wood office furniture
2522 Office furniture (except wood)
2531 Public building and related furniture
2541 Wood office and store fixtures, partitions, shelving and lockers
2542 Office and store fixtures, partitions and shelving (except wood)
2591 Drapery hardware, window blinds, and shades
2599 Furniture and fixtures, NEC

Sector X: Printing and Publishing

2711 Newspaper publishing or newspaper publishing and printing
2721 Periodical publishing or periodical publishing and printing
2731 Book publishing or book publishing and printing
2732 Book printing
2741 Miscellaneous publishing
2752 Commercial lithographic printing
2754 Commercial gravure printing
2759 Commercial printing, NEC
2761 Manifold business forms
2771 Greeting cards
2782 Blankbooks, looseleaf binders, and devices
2789 Bookbinding and related work
2791 Typesetting
2796 Platemaking and related services

Sector Y: Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries

3011 Tires and inner tubes
3021 Rubber and plastic footwear
3052 Rubber, plastic hose, and belting
3053 Gaskets, packing and sealing devices
3061 Molded, extruded and lathe-cut mechanical rubber goods
3069 Fabricated rubber products, NEC
3081 Unsupported plastics film and sheet
3082 Unsupported plastics profile shapes
3083 Laminated plastics plate, sheet and profile shapes
3084 Plastics pipe
3085 Plastics bottles

3086 Plastics foam products
3087 Custom compounding of purchased plastics resins
3088 Plastics plumbing, fixtures
3089 Plastics products, NEC
3931 Musical instruments
3942 Dolls and stuffed toys
3944 Games, toys, and children's vehicles (except dolls and bicycles)
3949 Sporting and athletic goods, NEC
3951 Pens, mechanical pencils, and parts
3953 Marking devices
3955 Carbon paper and inked ribbons
3961 Costume jewelry and novelties (except precious metal)
3965 Fasteners, buttons, needles, and pins
3991 Brooms and brushes
3993 Signs and advertising specialties
3995 Burial caskets
3996 Linoleum and other hard surface floor coverings, NEC
3999 Manufacturing industries, NEC

Sector Z: Leather Tanning and Finishing

3111 Leather tanning and finishing

Sector AA: Fabricated Metal Products

3411 Metal cans
3412 Metal shipping barrels, drums, kegs, and pails
3421 Cutlery
3423 Hand and edge tools (except machine tools and handsaws)
3425 Saw blades and handsaws
3429 Hardware, NEC
3431 Enameled iron and metal sanitary ware
3432 Plumbing fixtures and trim
3433 Heating equipment (except electric and warm air furnaces)
3441 Fabricated structural metal
3442 Metal doors, frames, sash, molding and trim
3443 Fabricated plate work (boiler shops)
3444 Sheet metal work
3446 Architectural and ornamental metal work
3448 Prefabricated metal buildings and components
3449 Miscellaneous structural metal work
3451 Screw machine products
3452 Bolts, nuts, screws, rivets, and washers
3462 Iron and steel forgings
3463 Nonferrous forgings
3465 Automotive stampings
3466 Crowns and closures
3469 Metal stampings, NEC
3471 Electroplating, plating, polishing, anodizing, and coloring
3479 Coating, engraving, and allied services, NEC
3482 Small arms ammunition
3483 Ammunition (except small arms)
3484 Small arms
3489 Ordnance and accessories, NEC
3491 Industrial valves
3492 Fluid power valves and hose fittings
3493 Steel springs (except wire)
3494 Valves and pipe fittings, NEC
3495 Wire springs
3496 Miscellaneous fabricated wire products
3497 Metal foil and leaf
3498 Fabricated pipe and pipe fittings
3499 Fabricated metal products, NEC
3911 Precious metal jewelry
3914 Silverware, plated ware, and stainless steel ware
3915 Jewelers' findings and materials and lapidary work

Sector AB: Transportation Equipment and Industrial or Commercial Machinery

3511 Steam, gas and hydraulic turbines and generator units
3519 Internal combustion engines, NEC
3523 Farm machinery and equipment
3524 Lawn and garden tractors and home lawn and garden equipment
3531 Construction machinery and equipment
3532 Mining machinery and equipment (except oil and gas field)
3533 Oil and gas machinery and equipment
3534 Elevators and moving stairways
3535 Conveyors and conveying equipment
3536 Overhead traveling cranes, hoists, and monorail systems
3537 Industrial trucks, tractors, trailers, and stackers
3541 Metal cutting machine tools
3542 Metal forming machine tools
3543 Industrial patterns
3544 Special dies, tools, die sets, jigs, fixtures and molds
3545 Cutting tools, accessories and precision measuring devices
3546 Power-driven handtools
3547 Rolling mill machinery and equipment
3548 Electric and gas welding and soldering equipment
3549 Metalworking machinery, NEC
3552 Textile machinery
3553 Woodworking machinery
3554 Paper industries machinery

3555 Printing trades machinery and equipment
3556 Food products machinery
3559 Special industry machinery, NEC
3561 Pumps and pumping equipment
3562 Ball and roller bearings
3563 Air and gas compressors
3564 Industrial and commercial fans, blowers, and air purification equipment
3565 Packaging machinery
3566 Speed changers, industrial high speed drives and gears
3567 Industrial process furnaces and ovens
3568 Mechanical power transmission equipment, NEC
3569 General industrial machinery and equipment, NEC
3581 Automatic vending machines
3582 Commercial laundry, dry cleaning, and pressing machines
3585 Air-conditioning, heating, and refrigeration equipment
3586 Measuring and dispensing pumps
3589 Service industry machinery, NEC
3592 Carburetors, pistons, piston rings, and valves
3593 Fluid power cylinders and actuators
3594 Fluid power pumps and motors
3596 Scales and balances (except laboratory)
3599 Industrial and commercial machinery and equipment, NEC
3711 Motor vehicles and passenger car bodies
3713 Truck and bus bodies
3714 Motor vehicle parts and accessories
3715 Truck trailers
3716 Motor homes
3721 Aircraft
3724 Aircraft engines and engine parts
3728 Aircraft parts and auxiliary equipment, NEC
3743 Railroad equipment
3751 Motorcycles, bicycles, and parts
3761 Guided missiles and space vehicles
3764 Guided missile and space vehicle propulsion units parts
3769 Guided missile and space vehicle parts and equipment NEC
3792 Travel trailers and campers
3795 Tanks and tank components
3799 Transportation equipment, NEC

Sector AC: Electronic and Electrical Equipment and Components, Photographic and Optical Goods

3571 Electronic computers
3572 Computer storage devices
3575 Computer terminals
3577 Computer peripheral equipment, NEC
3578 Calculating and accounting machines (except electronic computers)
3579 Office machines, NEC
3612 Power, distribution and specialty transformers
3613 Switchgear and switchboard apparatus
3621 Motors and generators
3624 Carbon and graphite products
3625 Relays and industrial controls
3629 Electrical industrial apparatus, NEC
3631 Household cooking equipment
3632 Household refrigerators and home and farm freezers
3633 Household laundry equipment
3634 Electric housewares and fans
3635 Household vacuum cleaners
3639 Household appliances, NEC
3641 Electric lamp bulbs and tubes
3643 Current-carrying wiring devices
3644 Noncurrent-carrying wiring devices
3645 Residential electric lighting fixtures
3646 Commercial, industrial and institutional electric lighting fixtures
3647 Vehicular lighting equipment
3648 Lighting equipment, NEC
3651 Household audio and video equipment
3652 Phonograph records and prerecorded audio tapes and disks
3661 Telephone and telegraph apparatus
3663 Radio and TV broadcasting and communications equipment
3669 Communications equipment, NEC
3671 Electron bulbs
3672 Printed circuit boards
3674 Semiconductors and related devices
3675 Electronic capacitors
3676 Electronic resistors
3677 Electronic coils, transformers, and other inductors
3678 Electronic connectors
3679 Electronic components, NEC
3691 Storage batteries
3692 Primary batteries (dry and wet)
3694 Electrical equipment for internal combustion engines
3695 Magnetic and optical recording media
3699 Electrical machinery, equipment, and supplies, NEC
3812 Search, detection, navigation, and guidance systems
3821 Laboratory apparatus and furniture
3822 Automatic environmental and appliance

controls
3823 Process measurement, display, and control instruments
3824 Totalizing fluid meters and counting devices
3825 Electricity and signal measurement and testing instruments
3826 Laboratory analytical instruments
3827 Optical instruments and lenses
3829 Measuring and controlling devices, NEC
3841 Surgical and medical instruments and apparatus
3842 Orthopedic, prosthetic and surgical appliances and supplies
3843 Dental equipment and supplies
3844 X-Ray apparatus and tubes and related irradiation apparatus
3845 Electromedical and electrotherapeutic apparatus
3851 Ophthalmic goods
3861 Photographic equipment and supplies
3873 Watches, clocks, clockwork operated devices and parts

Narrative activities list

A4: Logging: discharges from wet decking storage areas

C1: Stormwater runoff from phosphate fertilizer manufacturing that comes into contact with any raw materials/finished products/by-products/waste products

D2: Stormwater runoff from an asphalt emulsion facility

E3: Cement manufacturing facility, material storage runoff (Note: this is **not** a ready mix concrete facility.)

K1: Hazardous waste treatment/storage/disposal facility for discharges not subject to effluent limitations in 40 CFR pt. 445 subp. A (Note: this is **not** a hazardous waste generator.)

K2: Hazardous waste treatment/storage/disposal facility for discharges subject to effluent limitations In 40 CFR pt. 445 subp. A (Note: this is **not** a hazardous waste generator.)

L1: Municipal solid waste landfill areas closed in accordance with 40 CFR 258.60

L2: Open or closed non-hazardous waste landfill and land application site not discharging to surface water

L3: Landfill that discharges to surface waters stormwater that has directly contacted solid waste

O1: Coal fired and oil fired steam electric generating facility

O2: Nuclear, natural gas fired, and any other fuel source used for steam electric generation

O3: Runoff from coal storage piles at steam electric generating facility

S3: Existing and new primary airports with 1,000 or more annual jet departures that discharge wastewater associated with airfield pavement deicing that contains urea commingled with stormwater

T1: Treatment works with design flow of 1 million gallons per day or more or that are required to have an approved pretreatment program under 40 CFR pt. 403.

ATTACHMENT 12

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Repeated exposure to odors induces affective habituation of perception and sniffing

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Abstract

Go to:

Olfactory perception, and especially hedonic evaluation of odors, is highly flexible, but some mechanisms involved in this flexibility remain to be elucidated. In the present study we aimed at better understanding how repeated exposure to odors can affect their pleasantness. We tested the hypothesis of an affective habituation to the stimuli, namely a decrease of emotional intensity over repetitions. More specifically, we tested whether this effect is subject to inter-individual variability and whether it can also be observed at the olfactomotor level. Twenty-six participants took part in the experiment during which they had to smell two odorants, anise and chocolate, presented 20 times each. On each trial, sniff duration and volume were recorded and paired with ratings of odor pleasantness and intensity. For each smell, we distinguished between “likers” and “dislikers,” namely individuals giving positive and negative initial hedonic evaluations. Results showed a significant decrease in pleasantness with time when the odor was initially pleasant (“likers”), while unpleasantness remained stable or slightly decreased when the odor was initially unpleasant (“dislikers”). This deviation toward neutrality was interpreted as affective habituation. This effect was all the more robust as it was observed for both odors and corroborated by sniffing, an objective measurement of odor pleasantness. Affective habituation to odors can be interpreted as an adaptive response to stimuli that prove over time to be devoid of positive or negative outcome on the organism. This study contributes to a better understanding of how olfactory preferences are shaped through exposure, depending on the individual's own initial perception of the odor.

Keywords: pleasantness, smell, repeated exposure, sniff, habituation

Introduction

Go to:

Olfactory perception is known to be highly flexible as a function of perceiver's age, sex, or motivation state, of the context where the odor is perceived or of the characteristic of the odorant itself like its structure or its concentration. Another prominent factor of variations in odor perception is repeated exposure, which is able to improve olfactory detection thresholds (Stevens and O'Connell, 1995; Dalton et al., 2002) and can even boost

olfactory sensitivity in seemingly anosmic participants (Wysocki et al., 1989; Mainland et al., 2002). Some studies also investigated the effect of exposure on discrimination abilities. There is now clear evidence that unreinforced exposure to odors can improve discrimination between odorants in humans (Rabin, 1988; Jehl et al., 1995). In line with this, it has been shown that exposure to odor mixtures can alter the perceived quality of the individual components (Stevenson, 2001). For instance, exposure to wine or beer through personal experience or through controlled training improves the ability to discriminate between different wines or beers (Owen and Machamer, 1979; Peron and Allen, 1988; Melcher and Schooler, 1996).

Although these studies show that exposure improves odor perception through differentiation of stimulus features, dimensions, or categories, how repeated exposure to odors affects one of the most prominent dimension of olfaction, namely pleasantness, remains understudied. What happens when we are exposed to the same odorant repeatedly? Do we like it more, or on the contrary do we like it less, or does liking remain stable overtime? A pioneer work in the field conducted by Cain and Johnson (1978) showed that mere presentation of a given odor significantly changed its hedonic value. More specifically, repeated presentation of a pleasant odor (citral) led to a decreased pleasantness whereas repeated presentation of an unpleasant odor (isobutyric acid) led to a decreased unpleasantness. In others words, repeated exposure shifted odor pleasantness ratings toward neutrality, a phenomenon called by Cain and Johnson "affective habituation." However, to the best of our knowledge, non-verbal correlates of self-reported decrease in pleasantness (for pleasant odors) and unpleasantness (for unpleasant ones), such as psychophysiological responses, remain very scarcely investigated in the olfactory domain (but see evoked potentials for the unpleasant pole in Croy et al., 2013). Such a physiological indicator would be of particular interest, because it would strengthen the notion that affective habituation phenomenon is not due to experimental demand or even to a change in the use of the subjective scale over time.

Non-verbal measures of odor hedonics include autonomous (Alaoui-Ismaili et al., 1997; Bensafi et al., 2002a), or motor responses as reflected by reaction time studies (Bensafi et al., 2002b; Jacob and Wang, 2006; Boesveldt et al., 2010) and by sniffing responses to odors (Bensafi et al., 2003, 2007). Indeed, research in animals and humans has shown that sniffing behavior, i.e., the motor component of olfaction, is of considerable importance in odor perception. Sniffing is driven by stimulus attributes such as odor concentration (Laing, 1983; Frank et al., 2003; Johnson et al., 2003), and induces by itself activation in human primary olfactory cortex (Sobel et al., 1998). Furthermore, there is psychophysiological evidence that sniffing is modulated by subjective pleasantness of an odor: sniff duration and sniff volume increase when pleasant odors are sampled compared to unpleasant ones (Frank et al., 2003; Mainland and Sobel, 2006; Bensafi et al., 2007, 2003). Moreover, even when participants are asked to maintain their sniff for a specific duration irrespective of odor content, they sniff pleasant odors stronger and for a longer time (Bensafi et al., 2007). Thus, measuring sniffing patterns has two main advantages in studies on odor hedonics. First, it allows testing whether modulations in pleasantness are consistent with modulations in physiological/motor response. Second, this measure appears less vulnerable than verbal ratings to modulation by explicit or voluntary strategies, which makes it a more objective measure of hedonic responses. The main aim of the present study was therefore to examine whether affective habituation is not only observed at the self-reported level but also reflected at the psychophysiological level, by modulating sniffing responses to pleasant and unpleasant odors.

One striking particularity of odor hedonic responses is their variation between individuals: whereas affective evaluation of a given odor is positive for some individuals, the same smell may be considered unpleasant by others. For example, Doty (1975) emphasized the "large differences between observers in regard to the assessment of odorant hedonicity" (p. 495) based on 10 odorants, and noted for example that benzaldehyde had a bimodal distribution with half of the participants describing it as unpleasant and the other half as pleasant. In the same line, Bensafi et al. (2012) showed that two CO_2-odor mixtures received varied hedonic ratings from one participant to another, and revealed differential activations in the brain according to whether the stimulation was perceived as pleasant or unpleasant. Moreover, Lundström et al. (2006) evidenced variability between individuals as regards pleasantness of the smell of androstenone, going from unpleasant to neutral. These hedonic rating differences were accompanied by distinctive verbal descriptions and neural responses in olfactory evoked

potentials: Individuals who gave the lowest pleasantness ratings described the smell as “sweaty” and “urinous” and showed larger P3 amplitudes than individuals who gave higher pleasantness ratings and who described the smell with non-body descriptors (“smoky,” “fresh,” “sweet,” and “chemical”). In accordance with this finding, Keller et al. (2007) showed that variation of olfactory receptor expression accounted for a significant part of olfactory perceptual differences, especially between likers and dislikers of androstenone. Neuroimaging studies also shed light on these inter-individual differences in hedonic ratings of smells. In an fMRI study, Rolls and McCabe (2007) showed that chocolate cravers rated this flavor as more pleasant than non-cravers, and that an increasing level of pleasantness was associated with an enhanced activity in the pregenual cingulate cortex, the medial orbitofrontal cortex, and the dorsolateral prefrontal cortex. Altogether, these findings suggest that in olfaction studies, and especially in these dealing with pleasantness, it is of the utmost importance to take into account inter-individual differences because they have significant implications at the peripheral and central levels of olfactory processing.

Therefore, the secondary aim of the present study was to investigate inter-individual variability of the effect of repeated exposure on perceptual ratings and sniffing activity. To this end, participants were exposed to odors for which a previous study revealed large hedonic variability between raters (anise and chocolate; Barkat et al., 2008). In our study, participants were classified as “likers” or “dislikers” for each particular smell based on their initial hedonic ratings. They were then exposed 20 times to each odorant while hedonic ratings and sniffing behavior were recorded. We hypothesized that: (1) olfactory repeated exposure should decrease odor pleasantness in “likers” and odor unpleasantness in “dislikers,” (2) such affective habituation should be accompanied by changes in sniff parameters, namely decreased sniff volume and duration in “likers” and increased sniff volume and duration in “dislikers.”

Materials and methods

Go to:

Participants

Twenty-six young adults (mean age ± s.e.m: 21.5 ± 0.46, range 19–29; 18 women and 8 men) attending the Claude Bernard University of Lyon (France) participated in the experiment. The experimental procedure was explained in great detail to the participants, who provided written consent prior to participation. The study was conducted according to the Declaration of Helsinki and was approved by the local ethical committee. Based on participant's reports, exclusion criteria were: abnormal olfaction, history of neurological disease or injury, or history of nasal insult (broken nose or surgery).

Odorants and olfactometry

Based on the results of a hedonic ranking task involving 8 odorants in a previous study (Barkat et al., 2008), two odorants, anise and chocolate (Euracli, France), were chosen because (1) they received a medium mean rank, and (2) they exhibited a large inter-individual variability. Odorants were diluted in mineral oil (10%) and presented to both nostrils via a nasal mask (Figure 1A). They were presented 20 times each in a random order, with an inter-stimulus interval of 30 s and duration of 3 s. Stimulations were delivered via a computer-controlled air-dilution olfactometer whereby odorants were diffused synchronously with the beginning of participant's inspiration (respiration was recorded continuously during the study).

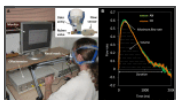

Figure 1

(A) Experimental device ensuring odor delivery and sniff recording. Nasal respiration was monitored with a flow sensor connected both to the subject's nose via a nasal mask and to the olfactometer. The nasal inspiration, detected by the flow sensor, triggers **...**

The general principle of the olfactometer is to mix two airflows (odorized and pure air) to deliver a constant odorized or non-odorized airflow to the participant's nose. Pure air is sent by a compressor and cleaned by an

activated carbon filter before being carried to the olfactometer input line (6 mm diameter, 5 m length tube). A manometer allows selecting the air input pressure. Then, air enters two channels: (1) a channel where it works as air carrier, and (2) an "odor" channel (one per odorant). For each odorant, a glass tube is set with polypropylene marbles where the odor is adsorbed. At the exit of each channel, an electric valve is programmed to be closed or open so that the odorant is pushed into the airflow for a given duration and pressure. The output odorous air is led by a 4 mm tube (20 cm length) into the nasal mask.

The experimental room was well-ventilated and included two areas, one for the experimenter and one for the participant. The experimenter area contained the computer controlling the olfactometer and two control screens showing the processing of the olfactometer and the answers the participant was giving on his/her own screen. The participant's area included the olfactometer output, as well as a screen and a mouse allowing them to read the instructions and give their ratings after each olfactory stimulation.

Procedure

After providing written informed consent and reading instructions, participants were taken into the testing room. At this point, the experimenter fitted the sniffing equipment to the participants. Sniffing was recorded using an airflow sensor (TSL®, 4000 series, Model 40211, USA) connected to the nasal mask delivering odors to both nostrils. Sniffing signal was amplified and digitally recorded at 100 Hz using Python software®.

Upon installation of the nasal mask, the experiment started. Each trial was timed, and cued by the computer-generated visual instructions "please prepare to smell," displayed for 3 s and announcing odor delivery. Once the instruction disappeared, participants were to sniff, which enabled the airflow sensor to detect the beginning of subject's inspiration and trigger odor delivery via the olfactometer. Following each odor presentation, participants rated stimulus pleasantness and intensity on an on-screen visual analog scale: the left end of the scale was labeled "extremely unpleasant" or "no stimulus perceived" (0), and the right end "extremely pleasant" or "extremely strong" (100). Instructions, odor presentation and sniffing recordings were all time-locked through one central computer.

Data analysis

For each participant, we recorded intensity and pleasantness ratings (0–100) and sniff parameters on 20 occasions per odor (T1 to T20, for anise and chocolate). Sniffs (see Figure 1B) were pre-processed by removing baseline offsets and aligned in time by setting the point where the sniff entered the inspiratory phase as time zero. Sniff maximum flow rate, duration, and volume (see Figure 1B) were calculated for the first sniff of every trial, for every participant. Before analyzing how the ratings and sniff parameters changed with repeated exposure, outliers defined as values exceeding three standard deviations from the participant's mean were removed (0.65% of the trials). Then, analyses of the time-related changes in ratings and sniff parameters were performed (1) at the group level, by comparing time-related changes of "likers" (participants giving the highest pleasantness scores) and "dislikers" (participants giving the lowest pleasantness scores), and (2) at the individual level, by correlating each participant's initial pleasantness rating at T1 with the time-related changes across the trials T1 to T20. Time-related changes in hedonic and intensity ratings, sniff maximum flow rate, duration, and volume were represented by the slope of each variable as a function of trial number (1 to 20). A positive slope and a negative slope, respectively correspond to an increase and a decrease of the measured variable over time. For the group analysis, slopes were computed on average scores for "likers" and "dislikers" on each trial T1 to T20. The significance of the increases/decreases was assessed by using linear regressions with trial number as predictive variable. For the individual level analysis, slopes were computed for each participant individually. Correlation between individual pleasantness rating at T1 and the slopes of pleasantness, intensity and sniff parameters were investigated using Spearman rank correlation coefficient. Here, we expect "likers" to exhibit negative slopes and "dislikers" to display positive slopes in both perceptual and sniffing variables. This should be confirmed at the individual level by negative correlations between individual hedonic scores at T1 and individual slopes.

Results

Go to:

Inter-rater variability in odor pleasantness

Anise and chocolate were selected for their average neutral valence and the variability of pleasantness ratings they receive in the population. To verify that this was true in our sample, we examined both the average and individual ratings on the very first trial of each odor (i.e., at T1). As expected, anise and chocolate had moderate average pleasantness on the 0–100 hedonic scale, with large inter-individual variations (anise: $M \pm SD = 40.5 \pm 25.2$, range 1–100; chocolate $M \pm SD = 40.5 \pm 25.2$, range 1–85). The large variations in pleasantness ratings across participants allowed categorizing them as either "dislikers" or "likers" for each odorant. There were 14 "dislikers" (pleasantness ratings between 1 and 31 at T1) and 12 "likers" (ratings 47–100) for anise, and 13 "dislikers" (ratings 1–47) and 13 "likers" (ratings 50–85) for chocolate.

Group analyses: "likers" and "dislikers"

Average pleasantness, intensity, sniff maximum flow rate, sniff duration, and sniff volume of "likers" and "dislikers" across the 20 trials are shown in Figure 2. Results of the linear regressions between the five variables and time (Table 1) suggest that repeated exposure induced a significant decrease in pleasantness and intensity ratings, sniff duration, and sniff volume in "likers," while these variables increased without reaching statistical significance in "dislikers." In both groups, repeated-exposure resulted in a convergence of pleasantness ratings toward neutrality. Indeed, while hedonic ratings of "likers" and "dislikers" significantly differed at T1 (*t*-tests for independent samples, Table 1), they did not differ any more at T20. "Likers" and "dislikers" did not significantly differ on the other variables at T1 or T20, except for sniff maximum flow rate, higher in "dislikers" at T20 for chocolate. Finally, pleasantness ratings did not significantly correlate with intensity nor with sniffing parameters at T1 (Spearman rank correlations).

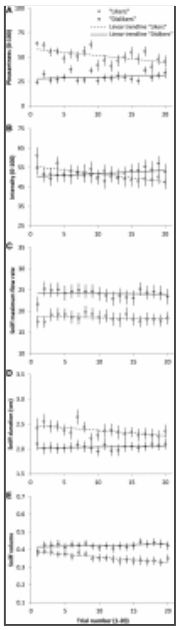

Figure 2

Average hedonic ratings (A), intensity ratings (B), sniff maximum flow rate (C), sniff duration (D), sniff volume (E) (Mean ± s.e.m) of the "likers" and "dislikers" for the odors of anise and chocolate together, ...

Table 1

(A) Linear regressions between pleasantness, intensity, sniff maximum flow rate, sniff duration, sniff volume, and trial number (1 to 20) for "likers" and "dislikers" separately, and for the odors of anise and chocolate ...

Correlation between individual initial pleasantness and time-related perceptual changes

To go further, we then focused on each participant's pleasantness ratings at T1 and we correlated it with the time-related changes in pleasantness, intensity, and sniff parameters represented by the slopes of these variables as a function of trial number. The slopes were positive or negative depending on the participants (e.g., pleasantness ratings: range = −2.21 to +3.57, mean = 0.00 for anise, and range = −3.35 to +2.06, mean = −0.50 for chocolate). As expected, Spearman coefficients showed significant negative correlations between initial pleasantness and the slopes of the variables—except sniff maximum flow rate—for one or both odors. These results, illustrated in Figures 3, 4, mean that: (i) higher initial odor pleasantness ratings were associated with larger decreases of pleasantness, intensity, sniff volume and duration during repeated exposure (more negative slopes), and (ii) lower initial odor pleasantness ratings were associated with smaller decreases (slopes closer to zero) and even to increases of these variables (positive slopes), especially for the pleasantness ratings (Figures 3A,B) and the sniff volume (Figures 4E,F).

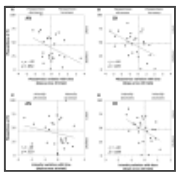

Figure 3

Correlations between pleasantness ratings at T1 (first odor presentation) and time-related changes of pleasantness (A,B) and intensity (C,D) ratings represented by their slopes across the 20 odor presentations, for anise (AN) and chocolate (CH).

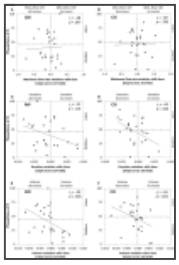

Figure 4

Correlations between pleasantness ratings at T1 (first odor presentation) and time-related changes of the following sniff parameters: maximum flow rate (A,B), duration (C,D), and volume (E,F) represented by their slopes across the 20 odor presentations, ...

Discussion

Go to:

In the present study, we aimed at testing how hedonic perception of odors varies with repeated exposure, and whether inter-individual differences in hedonic perception of a given odor can modulate this variation. Namely, we used two odors people did not agree to find pleasant or unpleasant and presented them twenty times each (T1 to T20) in a random sequence. We explored time-related perceptual and motor (sniffing) changes for each odor, according to the participant's initial hedonic judgment. First, when considering the groups of “likers” (who rated the odor as pleasant at T1) and of “dislikers” (who rated the odor as unpleasant at T1), we found that pleasantness significantly decreased with time in “likers.” In “dislikers,” unpleasantness tended to decrease with time but the effect did not reach significance. These effects were paralleled by similar changes in intensity ratings, sniff duration, and sniff volume. We noticed that these effects led to a decrease in affective responsiveness since pleasantness ratings of both groups did not differ any more after 20 odor presentations. Second, when investigating more precisely the level of initial pleasantness rating at T1, we found negative correlations with the slopes (or time-related changes) of pleasantness, intensity, and sniff volume and duration for at least one odor. Correlation graphs (Figures 3, 4) show that higher initial pleasantness was mostly associated with more negative slopes (decrease in ratings and sniffing) and lower initial pleasantness was mostly associated with more positive slopes (increase in ratings and sniffing). In sum, we showed that affective habituation occurs with repeated exposure, which can be observed both at the self-reported level and at the olfactomotor level. We also provided evidence that repeated exposure influences individuals differently according to whether they initially liked or disliked the odor, affective habituation being more significant for odor “likers.”

One can wonder whether peripheral mechanisms such as olfactory adaptation may explain the present findings. Peripheral olfactory *adaptation* (or olfactory fatigue) is a phenomenon characterized by a decrease of the olfactory receptors' sensitivity due to prolonged or repeated exposure. Our experimental procedure was designed

to limit such phenomenon by using appropriate inter-stimulus intervals (minimum 30 s) and by presenting two different odors randomly. Moreover, olfactory adaptation is characterized by a decrease in perceived intensity (Cain, 1969). Thus, if adaptation had occurred in our study, all participants should have displayed a decrease in perceived intensity, paralleled with an increase in sniff magnitude (see Laing, 1983; Frank et al., 2003, for the link between odor intensity and sniff volume/duration). However, this was not the case since a substantial number of participants displayed positive slopes over time for intensity, sniff volume and sniff duration (see Figures 3C,D , 4C–F). Rather, the time-related variation of pleasantness toward neutrality observed in our study is likely due to more central processes, and may therefore be preferentially qualified of *affective habituation*. It must be kept in mind that both processes are not independent (central processing can reflect changes in peripheral response) and the origin of response reduction due to repeated exposure remains unclear (Dalton, 2000).

Affective habituation is a form of learning that has been observed in previous studies, through decreasing strength of responses to repeated emotional stimuli of various nature, at the psychophysiological level (reduction of the electrodermal and electromyographic response: Bradley et al., 1993) and at the neurophysiological level (decrement in amydgala activation: Wright et al., 2001; Mutschler et al., 2010). At the behavioral level, few studies have described affective habituation using odors with contrasted pleasantness. Cain and Johnson (1978), who measured pleasantness of odors before and after repeated exposure, found a shift in the direction of hedonic neutrality: the positively valenced odor of citral became less pleasant and the negatively valenced odor of isobutyric acid became less unpleasant after exposure. Similarly, Prescott et al. (2008) showed an increase of pleasantness of two (neutral and unpleasant) odors after an exposure phase, as did Croy et al. (2013) after three presentations of the unpleasant odor of H_2S. The latter result was corroborated by a reduced neuronal activation at the cerebral level and was interpreted as a decrease in emotional salience. With a more time-related approach, our study provided further evidence that this effect exists and is gradual: using a linear model of the pleasantness change across 20 odor presentations, we showed that pleasantness follows different trajectories, depending on the initial hedonic rating of the participants.

In this study, sniffing behaviors followed the same pattern as pleasantness ratings. This result reinforces the hypothesis that affective habituation occurs when an odor is repeated in a short period of time. Odor pleasantness is known to co-vary with sniffing behavior parameters, whether the odor is really smelled or whether it is imagined: compared to unpleasant odors (like rotten egg or fish), pleasant ones (like strawberry or rose) have been repeatedly found to be associated with larger and longer sniffs (Bensafi et al., 2003, 2007; Joussain et al., 2013). This motor correlate of odor pleasantness seems to be a robust mechanism since it is observed even when participants are asked to maintain constant sniffs across conditions (Bensafi et al., 2007). In line with this, we found that, as for pleasantness, sniff volume and duration mostly decreased over time in “likers” and tended to increase or stagnated in “dislikers.” In sum, not only did repeated exposure cause pleasantness to become more neutral, it also caused more involuntary parameters of olfactory perception (sniff duration and volume) to reflect this tendency toward neutrality. One may be surprised by the fact that “likers” and “dislikers” did not differ in their sniffing patterns for any of the two odors, and that pleasantness ratings did not correlate with sniffing volume or duration at T1. Relationship between sniff and pleasantness reported in the literature was usually found in response to odors with different qualities and more importantly, with highly contrasted valence (e.g., rose vs. rotten egg in Bensafi et al., 2003). In our study we compared individual responses to the same odor: not only are differences thus likely to be less marked but also inter-individual variability may have prevented the difference between “likers” and “dislikers” to reach statistical significance. Sniffing may nonetheless be considered as a reliable measure because, for a given individual, fine time-related changes paralleling changes in pleasantness were found in our study.

Why would affective habituation occur when odors are presented repeatedly? And how can this be interpreted in relation to another apparently contradictory theory, the mere exposure effect, according to which exposure leads to familiarization and higher liking (Zajonc, 1968)? In the conditions of our experimental design, namely 20 repeated presentations of two odors within about an hour, responsiveness to the repeated stimuli decreased. As nicely explained by Dijksterhuis and Smith (2002), habituation is a very useful mechanism that prevents us to be

overwhelmed by the numerous stimulations of our environment. When encountering an emotional stimulus, such as an appetitive or a repulsive odor, we may first react intensely, but if subsequent repeated or prolonged exposure proves not to have any positive or negative consequence on the organism, such an intense response becomes unnecessary. On the course of time, the stimulus becomes less relevant, leading to reduced responsiveness. The effect of repeated exposure can be more pronounced or even reversed if the stimulus has effective or supposed consequences on the organism. For example, repeated chocolate ingestion, which has physiological outcomes, leads an initially very positive stimulus (chocolate) to lose its pleasantness (like in our study) and even to become aversive, and activates accordingly two different cerebral substrates related to reward and punishment, respectively (Small et al., 2001). Another example refers to unpleasant odors. If the odor were associated with the belief that it is harmful, by itself or via its source, responsiveness to the odor would then be more likely to increase rather than to decrease or remain stable like in our study. Indeed, in a study by Dalton (1996), perceived intensity of an odor increased over time for an odorous substance presented as being hazardous (sensitization), whereas it decreased in participants who believed that this substance was healthy. If pleasantness of the repeated harmful substance were measured, it probably would decrease over time (instead of increasing or remaining stable like in our study). These results highlight the importance of cognitive influences on odor perception, both at a given time (Herz and von Clef, 2001; De Araujo et al., 2005) and over time. The mere exposure effect, where novel (never encountered) stimuli that become more familiar with exposure also become more appreciated (Zajonc, 1968), may have the same origins as the habituation pattern of initially negative stimuli found in Cain and Johnson (1978) and more moderately in “dislikers” in our study. It is also the phenomenon that might occur in the case of cultural influences on odor perception: learning to associate initially negative smells with positive consequences (taste enjoyment of smelly cheese in France or of the foul-smelling durian fruit in Asia; Ayabe-Kanamura et al., 1998; Ferdenzi et al., 2013) may decrease its unpleasantness possibly to the point where it even reaches the positive side of the pleasantness scale.

In sum, repeated presentation of emotional stimuli such as odors may produce gradual decrease in responsiveness (tendency to neutral hedonic valence), but cognitive influences related to the consequences on the organism can modulate this pattern, by increasing responsiveness to repeated stimuli that have harmful or beneficial outcomes. In future studies, the asymmetry between affective habituation to pleasant and unpleasant odors (or of “likers” and “dislikers”) should be investigated further. Indeed, our study suggested that habituation was much less pronounced in “dislikers” than in “likers.” In “dislikers,” pleasantness and sniff magnitude seemed to have a tendency to increase with repeated exposure but the effect did not reach significance (Table 1), while reverse time-related changes were highly significant in “likers.” It might be that unpleasant odors are more resistant to the effect of familiarization, because maintaining an aversion for potentially harmful stimuli is an adaptive behavior (Delplanque et al., 2008; Ferdenzi et al., 2013). Affective habituation to unpleasant odors may thus be more limited in amplitude and/or might require longer exposure to reach the same magnitude as with pleasant stimuli, but this remains to be tested.

Finally, our study shows that it is highly relevant for olfaction studies to take into account inter-individual differences in hedonic perception. Agreement between raters and between cultures seems to be lower for neutral and pleasant odors than for unpleasant ones (Schaal et al., 1998). Hedonically neutral odors, in particular, may not be truly “neutral” and may rather receive highly contrasted odor ratings with some participants finding them pleasant and others finding them unpleasant (as in Doty, 1975), which leads to a moderate average score. Our study highlights significant differences from one person to another in the changes of perception and sniffing over time, for the same odor. When investigating odor hedonics, it is hazardous to consider the object *per se* independently of the perceiver (Robin et al., 1999; Rouby and Bensafi, 2002; Forestell and Mennella, 2005) because pleasantness is subjective and depends on personal past experience, current needs and goals.

Author contributions

Go to:

Moustafa Bensafi and Catherine Rouby designed the research, Camille Ferdenzi and Moustafa Bensafi analyzed the data and wrote the paper, Johan Poncelet conducted the data collection.

Conflict of interest statement

The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

Acknowledgments

Go to:

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CITY OF EAST BETHEL
EAST BETHEL, MINNESOTA

RESOLUTION NO. 2016-21

A RESOLUTION ORDERING THE PREPARATION OF AN EAW FOR THE CST PROJECT

WHEREAS, CST Companies proposes to relocate their business from Elk River and Rodgers, Minnesota to the City of East Bethel;

WHEREAS, their proposed operation will be located on 39 acres and include the storage, processing, packaging and distribution of wood mulch;

WHEREAS, there is the potential for impacts to the health, safety and welfare of residential neighborhoods adjacent to and within the immediate vicinity of the proposed CST operation;

WHEREAS, environmental issues associated with the production of mulch and trucking operations generated by CST's operations could negatively impact existing and future development of the area along 237th Ave. and Hwy. 65;

WHEREAS, the Minnesota Environmental Quality Board (EQB) has received a petition requesting that an Environmental Assessment Worksheet (EAW) be prepared for the CST Companies Project in East Bethel, and has determined that the City of East Bethel is the appropriate governmental unit to decide the need for an EAW;

WHEREAS, Minnesota Environmental Program Rules, Chapter 4410, sets forth the requirements for ordering an EAW;

WHEREAS, the petitioners request for an EAW meets the requirements of Minnesota Environmental Program Rules, Chapter 4410;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of East Bethel order the preparation of an EAW based on the evidence presented by the petitioners, the location and nature of the proposed project and the information and details revealed by Staff examination of this proposal.

Adopted this 4th day of May, 2016 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

_____

Steven R. Voss, Mayor

ATTEST:

_____

Jack Davis, City Administrator

VIA US MAIL (cover letter & petition)
VIA E-MAIL (cover letter & petition)

Environmental Quality Board
520 Lafayette Road North
Saint Paul, MN 55155

April 26, 2016

Colleen Winter
Community Development Director
2241 221st Ave NE
East Bethel, MN 55011

RE: Petition for an Environmental Assessment Worksheet for the CST Companies Project in East Bethel

Dear Ms. Winter,

The Environmental Quality Board (EQB) has received a petition requesting that an Environmental Assessment Worksheet (EAW) be prepared on the project described in the petition, and has determined that the City of East Bethel is the appropriate governmental unit to decide the need for an EAW.

The requirements for environmental review, including the preparation of an EAW, can be found in the Minnesota Rules, chapter 4410. The procedures to be followed in making the EAW decision are set forth in part 4410.1100. Key points in the procedures include:

1. No final government approvals may be given to the project named in the petition, nor may construction on the project be started until the need for an EAW has been determined. Project construction includes any activities which directly affect the environment, including preparation of land. If the decision is to prepare an EAW, approval must be withheld until either a Negative Declaration is issued or an Environmental Impact Statement (EIS) is completed (see part 4410.3100, subpart 1).

2. A first step in making the decision regarding the need for an EAW would be to compare the project to the mandatory EAW, EIS, and Exemption categories listed in parts 4410.4300, 4410.4400, and 4410.4600, respectively. If the project should fall under any of these categories, environmental review is automatically required or prohibited. If this should be the case, proceed accordingly.

3. If preparation of an EAW is neither mandatory nor exempted, the City of East Bethel has the option to prepare an EAW. The standard to be used to decide if an EAW should be done is given in part 4410.1100, subp. 6. Note that this requires that a record of decision, including specific findings of fact, be maintained.

4. You are allowed up to 30 working days (Saturdays, Sundays and holidays do not count) for your decision if it will be made by a council, board, or other body which meets only periodically, or 15

working days if it will be made by a single individual. You may request an extra 15 days from the EQB if the decision will be made by an individual.

5. You must notify, in writing, the proposer, the petitioners' representative, and the EQB of your decision within 5 working days. I would appreciate if you would send a copy of your record of decision on the petition along with notification of your decision for our records. This is not required, however.

6. If for any reason you are unable to act on the petition at this time (e.g., no application has yet been filed or the application has been withdrawn or denied), the petition will remain in effect for a period of one year, and must be acted upon prior to any final decision concerning the project identified in the petition.

Notice of the petition and its assignment to your unit of government will be published in the EQB *Monitor* on May 2, 2016.

If you have any questions or need any assistance, please do not hesitate to call me. The telephone number is 651-757-2873.

Sincerely,

Mark Riegel

Mark Riegel
Planner
Environmental Review
Environmental Quality Board

Enclosure

cc: Dave Landes, Petitioner's Representative (email only)
Will Seuffert, EQB Executive Director (email only)

City of East Bethel
City Council
Agenda Information

* *

Date:
May 4, 2016
* *

Agenda Item Number:
Item 8.0 G.2
* *

Agenda Item:
Update for the Castle Towers Wastewater Treatment Plant Decommissioning Project
* *

Requested Action:
Informational Item
* *

Background Information:
As discussed at the April 6, 2016 Council Meeting, staff requested approval to obtain quotes to assist with the removal and disposal of the bio solids and authorize the low bidder to proceed with the work. Staff obtained quotes from Dirtworks, A+ Outdoor Services, and Arnes Excavating. Quotes ranged from $389 to $440 per hour with Dirtworks providing the low quote. Dirtworks was also the only contractor that had immediate access to the spreading equipment required for application of the material. Staff also acquired a Consent to Enter, Release and Waiver of Trespass from the property owners.

The bio solids removal and disposal operation began on April 18, 2016. The process consisted of loading the bio solids onto tandem dump trucks with excavators, hauling the material to the land application site, reloading the material with a front end loader into a spreader, applying the material with the spreader, and incorporating the material into the soil with a disc. Approximately 2,200 cubic yards of material was disposed of from the polishing pond, drying beds, and storage bunker. There is only about 100 cubic yards of material left in the polishing pond. Currently this material is to wet to move. Once the material dries it will be temporarily stockpiled onsite and then respreads over the polishing pond once the liner is removed. The removal of bio solids to offsite locations is complete.

The next step is to remove the liner cover soils and remove and dispose the PVC liners that are in the sand filters, drying beds, and polishing pond. This work is currently on hold because of the rain. Staff plans to proceed with this work once the polishing pond cover soils dry out.

Attachments:
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Fiscal Impact:
This work was bid on July 24, 2015 and bids for the bio solids removal and disposal ranged from $194,033 to $285,558. The City rejected these bids and elected to be the general contractor for this project. To date removal of the bio solids has cost $33,000 which has resulted in a comparable savings of $161,000 for this phase of the work.

Payment for this work will be paid from the remaining 2010 B bond funds that financed the sewer portion of the Municipal Utility Project.

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