

Subject: comments regarding Erickson mine

Date: Wednesday, June 11, 2014 4:56:58 PM Central Daylight Time

From: Johanna Rupprecht

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CC: Bobby King

Dear Environmental Quality Board members,

I want to share the comments below with you, and call to your attention the Writ of Mandamus, which is attached as well as in your June 18 Board packets. I hope you will have a chance to read this short document, as it is extremely relevant to the Erickson mine matter on next Wednesday's agenda.

Thank you,
Johanna

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Date: Wednesday, June 11, 2014 4:39 PM

To: "kate.frantz@state.mn.us" <kate.frantz@state.mn.us>, "Seuffert, Will (MPCA)" <Will.Seuffert@state.mn.us>, "leah.hedman@ag.state.mn.us" <leah.hedman@ag.state.mn.us>

Cc: Bobby King <bking@landstewardshipproject.org>

Subject: comments regarding Erickson mine

Dear Ms. Frantz, Mr. Seuffert, and Ms. Hedman,

I am writing to comment on the Erickson mine matter on the agenda for the June 18 EQB meeting.

I think it's important to understand that, in light of the Writ of Mandamus signed by Judge Birnbaum on June 2, there is no urgency for this matter to be decided on by the EQB. Under the writ, Houston County may not approve a permit for the Erickson mine until the county moratorium expires on March 2015, and any new permit is subject to current state law, which would require obtaining the DNR Silica Sand Mining Trout Stream Setback permit, with its one-year period of pre-application monitoring. This removes the need for the EQB to make a special decision, outside of the normal environmental review scoping process, on whether the Erickson mine is to be included in the Minnesota Sands EIS. Using the scoping process to determine which sites are and are not to be included is a reasonable course of action, as suggested by Commissioner Stine at the May meeting.

In the event that the Board does vote on June 18 to remove the Erickson mine from the EIS, we believe any resulting order should specifically state that the EAW requirement on the mine is still in place. This EAW was ordered by Houston County on August 7, 2012, noticed in the EQB Monitor on September 3, 2012, and has never been

completed. Reinforcing this EAW requirement in any order made on the issue is appropriate to EQB's role as the agency charged with overseeing environmental review. Also, in light of the DNR Silica Sand Mining Trout Stream Setback permit, it would be appropriate for the DNR to become the RGU on the EAW for the project.

To accomplish this, we would suggest that the "Findings of Fact, Conclusion and Order" be amended as follows:

To "Findings of Fact" add:

- The Erickson 19.11 acre mine will mine silica sand and is within one mile of a designated trout stream.
- In 2013, the Minnesota legislature passed legislation requiring new silica sand mines within a mile of a designated trout stream to obtain a "Silica Sand Mining Trout Stream Setback Permit" from the DNR.
- A previously issued conditional use permit for the Erickson Quarry has expired and the site currently has no permit to mine, and so future mining is subject to the 2013 law. This has been affirmed by the courts.

To "Conclusions" add:

4. The Erickson 19.11 acre mine is required to obtain a "DNR Silica Sand Mining Trout Stream Setback Permit" before any mining can take place.
5. The Erickson 19.11 acre mine is still subject to the previously ordered EAW, and the RGU is reassigned to the DNR.

To "Order" add:

- The EQB orders the EAW completed on the Erickson 19.11 acre mine site and the RGU reassigned to the DNR.

Thank you,
Johanna

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