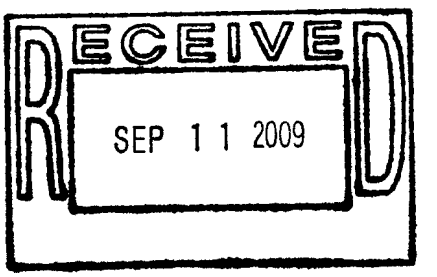
658 Cedar Street
Room 300
St. Paul, MN 55155

(651)297-1257
Fax (651)296-3698
TTY: (800)627-3529
www.eqb.state.mn.u

September 8, 2009

Craig Affeldt, Supervisor
Environmental Review Unit
Regional Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194




RE: Citizens' petitions for an EAW for HERC expansion

Dear Mr. Affeldt:

The Environmental Quality Board (EQB) has received several petitions requesting that an EAW be prepared on the project described in the petitions, and has determined that the MPCA is the appropriate governmental unit to decide the need for an EAW. The petitions are enclosed. 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:

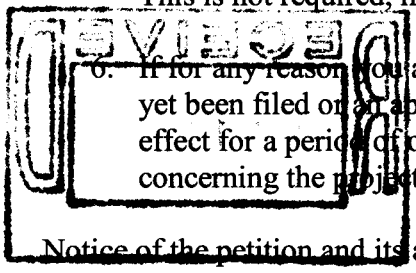
1. No final government approvals may be given to the project named in the petition, nor may construction on the project be started until the need for an EAW has been determined. Project construction includes any activities which directly affect the environment, including preparation of land. If the decision 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 MPCA 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 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 five working days. I would appreciate your sending 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 an 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 October 21, 2009.

If you have any questions or need any assistance, please do not hesitate to call. The phone number is (651) 201-2476.

Sincerely,

Gregg Downing

Gregg Downing
Environmental Review Program staff

cc: Carol Greenwood, petitioners' representative
Nancy Hone, petitioners' representative
Justin Eibenholzl, petitioners' representative
Barbara Sporlein, Planning Director, City of Minneapolis

Admin Minnesota