

1 1ST MULTI-AGENCY SILICA SAND
2 RULEMAKING ADVISORY PANEL MEETING

3 WEDNESDAY JANUARY 29, 2014
4 1:00 TO 4:00PM
5 STATE OFFICE BUILDING, ROOM 300 NORTH
6 OPERATIONAL AGENDA

7 1:00 WELCOME AND COMMISSIONER’S MESSAGE JOHN STINE

8 **Goal:** Commissioner Stine will welcome participants and introduce himself; he will create the context for
9 this work and address why it is important for the state of Minnesota.

10 **Notes:** Commissioner Stine welcomed the panel and introduced himself, giving an overview of his
11 background in state government.
12 He gave some context for the rulemaking effort, describing laws as a broad outcome and rules as “how
13 we get there” and context for the work of the Advisory Panel. Advisory groups assist, to ensure there is
14 thorough dialogue about the rules – and to help Agencies understand the impact of various rule
15 directions. We look forward to the input from the panel. This group will not replace all of the dialogue
16 about the rules; there will be additional public input through the normal rulemaking process.

17 1:15 LEGISLATIVE MESSAGE RICK HANSEN

18 **Goal:** Legislative authors were invited, if available, to provide a brief overview of the intent of the
19 enabling legislation.

20 **Notes:** Rep. Rick Hansen welcomed and thanked the panel, and also provided context for the work. He
21 asked the Panel members to provide their insight and ideas to the rulemaking process, to help resolve
22 the key issues, and discussed the roles of both local governments and statewide rules. Rep. Hansen also
23 suggested that there are benefits from resolving disagreements, and that solutions we find in MN can
24 influence what happens in other places.

25 1:30 ADVISORY COMMITTEE INTRODUCTIONS FACILITATOR

26 **Goal:** Understand who is on the committee and why they want to be a part of this effort.

- 27 Name
- 28 Organization or perspective
- 29 Question: What attracted you to this effort?

30 **Notes:** Committee members were asked to introduce themselves, talking about their organization or
31 perspective, and why they wanted to participate in the advisory panel. Some of the themes or topics
32 that came up included:

- 33 • Baseline Data Gathering – There should be a process to spend a year to take the baseline air,
34 water, and environmental conditions of a community before a project starts/is permitted.
- 35 • Protecting water quantity, air quality, home values, roads, landscape.

- 36 · The need to enjoy and use property in a way that does not inhibit others' enjoyment of their
- 37 own property.
- 38 · Leave our children an appealing and healthy landscape.
- 39

40 Facilitator's notes:

41 **ADVISORY COMMITTEE INTRODUCTIONS**

42 **Goal:** Understand who is on the committee and why they want to be a part of this effort.

43

What attracted you to this effort?	<ul style="list-style-type: none"> · Make silica sand mining safe as possible. · Consider additional rules and the impact · Provide input · Assure the community is protected; in property values and in the environment · Insure the rules consider all sides (perspectives) · Insure a fact based decision process · To bring my experience to the table and the expectation for sound decisions based on science (three members repeated the <i>decisions based on science</i> statement) · Bring code enforcer perspective · Bring the anthropological perspective - consider how this will affect the culture – impact on how people live. · Protecting what has been discovered in other efforts · Want to protect the land and my well · Represent the stream restoration perspective · Share my environmental review experience and learn <ul style="list-style-type: none"> ○ Ordinances ○ Condition · Professional expertise: forester etc. focus is on reclamation
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44 2/4/14

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46	2:10 <u>GROUND RULES</u>	FACILITATOR
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47 **Goal:** Identify a set of ground rules to optimize the group's interaction and time.

48 **Notes:**

- 49 See tan Ground Rules handout sheet.
- 50 Minds – have ideas
- 51 Voices – share your ideas; share them in the room, to everyone.
- 52 Ears – Listen to what other people have to say, take in their perspective (even as you are formulating
- 53 your own ideas)
- 54 Respect – respect yourself, respect others, respect others' ideas, and respect the process.
- 55 Remember that conflict can polish the idea. Use the conflict – that's where the ideas come out and
- 56 where creativity happens.

57 Start from agreed-upon goals.
58 “Getting to Yes” Harvard Negotiation Project. Focus on interests, not positions. This may be a good way
59 to start the next session.
60 Many people have not been involved in rulemaking. Have we had this robust a discussion about
61 rulemaking before? What do we want it to be on the back end?
62 We would rather work in four hour chunks rather than two hour chunks. Try to schedule things
63 together to make the flow easier, not just start and have to stop.
64 Subgroups of the panel? Most people seem to prefer the whole panel and all day meetings – 6 hours.
65 Give us time to get to where we are meeting. Small groups might prevent some level of transparency.
66 Long meetings, lunch, sit with people we don’t know. Reserve any subgroup processes for later, if the
67 Panel determines that might be helpful.

68 2:30 BREAK

69

70 2:45 RULEMAKING 101

NATHAN COOLEY

71 **Goal:** Members understand the fundamentals of Minnesota’s rulemaking process.

72

73 **Notes:** Some questions were raised about:

- 74 · General set of rules versus a specific set of rules
- 75 ○ How can one rule impact another rule?
- 76 ○ What existing rules apply?
- 77 ○ Where are there the possibility for overlapping rules and authorities?
- 78 ○ How are we going to weave our way through that?
- 79 § The agencies have begun finding what existing rules already impact this activity.
- 80 § The legislation did take a stab at this through 116C.991, and did an initial look at
- 81 that in terms of specifics.

82

83 3:15 SCOPE AND GROUP PROCESS

CATHERINE NEUSCHLER & HEATHER ARENDS

84 **Goal:** For the group to understand the objective of the rulemaking and how they will function to provide
85 advice to the agencies. Key considerations are the legislative directive, the scope of the rules, the role of
86 the advisory panel, and the panel process (including meeting structure, frequency, and duration).

87 **Notes:** We discussed the scope of the Advisory Panel process and what is envisioned moving forward.

88

89 Questions were raised about:

- 90 · The nature of the rules – will they be retroactive?
- 91 · General vs specific authority

- 92 · How the Agencies are using things that have already been published and received comment, such as
- 93 the EQB's report and model standards.
- 94 · How the panel will go through existing MN Rules that apply to these facilities.
- 95 o It was recommended that rules be provided to the Panel and that technical team members
- 96 from the Agencies be brought in to discuss.
- 97 · Interpretation of an old MN Statutes 103H or 103I – aquifer degradation. Would be within the scope
- 98 of a rule to clarify how that might apply to silica sand mining? The MPCA described how it published
- 99 in its Request for Comments the possibility of using its existing general rulemaking authority to
- 100 address any water quality issues related to silica sand projects if necessary in addition to the
- 101 authority provided in the Legislative directive to address air quality issues related to silica sand
- 102 projects.

103

104 We then discussed how to move forward and the schedule.

105

106 Agencies must give Panelists information needed to give good advice (agencies must make decisions).

- 107 · Natural resource maps for the areas where mining is happening – both Minnesota River and SE
- 108 Minnesota. Even just a list of what the various agencies have.
- 109 · Relevant air rules.
- 110 · Water information, what are the regulations – things that might be useful (like information on
- 111 blasting requirements for taconite companies). Maybe bring in experts from other Agencies to
- 112 help illuminate the information. 5 days in advance of meetings is not enough time to review.
- 113 · Point in direction of information so people can learn.
- 114 · List of websites where information can be found.
- 115 · Try to be prudent about out of meeting conversations in email.
- 116 · Bringing in experts and letting panel ask questions is good.
- 117 · Building common knowledge – the Agencies intend to provide enough information to allow the
- 118 panel members to understand the issues.
- 119 · Send an email with a summary of what is available on each Agency's website relating to silica
- 120 sand.
- 121 · Maybe at next meeting, go over the additional resources that are available.
- 122 · Be mindful of the size of documents that are sent via email, because of email limitations.

123

124 3:45 NEXT STEPS

TBD

125 **Goal:** Discuss meeting dates, times, locations, schedule etc.

126

127 **Notes:** Want to publish the notice of hearing by January 2015. Remember that these are three

128 processes, and one might move ahead faster. How can we best manage the schedule and process

129 moving forward, when some things are unknown – like how long the process will take?

130 Pre-scheduled meetings to be aware of.

131 EQB meetings and MPCA Citizens' Board
 132 Townships have general meetings in March
 133 Pick two places and rotate (and no more than three)
 134 Maybe Shakopee and Red Wing? Rochester and St Paul?
 135 Start in afternoon? 10 am? Not 8 am, to ensure people have time to travel?
 136 10 – 4
 137 Stick with monthly
 138 Meeting spaces
 139 Red Wing History Center, Red Wing
 140 Rochester
 141 St Paul
 142 Doodle Poll
 143 For next four meetings – through May
 144
 145 **Facilitator's additional notes on the meeting process:**
 146 . Seating: face to face, want to see each other
 147 . Name tags & tents with names on both sides
 148 . Outcomes/interests (This came out of the "Getting to Yes" conversation)
 149 . 4+ hour chunks
 150 . Subgroups (Most participants want to remain as large group at this time)
 151 . March meeting
 152
 153 Location considerations:
 154 Driving time
 155 Facility
 156 Rochester & St. Paul
 157 Central
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 159 Meeting duration
 160 Consider driving time
 161 6 hr (10am-4pm)
 162 Monthly
 163 Same day – last Wednesday etc.
 164 Determine by Doodle
 165 Schedule 3-4 at a time
 166