Sondra Erickson
State Representative

District 16A
Benton, Mille Lacs,
Morrison and Sherburne Counties

Minnesota House of Representatives

COMMITTEES: GOVERNMENTAL OPERATIONS AND VETERANS AFFAIRS POLICY; RULES AND LEGISLATIVE ADMINISTRATION; ETHICS; EDUCATION FINANCE; EDUCATION POLICY

I, Representative Sondra Erickson, chair of the Committee on Ethics, received a complaint against Representative Greg Davids at 8:36p.m. on May 14, 2004.

Sondra Erickson

REP. SONDRA ERICKSON, CHAIR

May 19, 2004

Date

1947 Ridge Road, Princeton, Minnesota 55371 (763) 389-4498
State Office Building, 100 Rev Dr Martin Luther King Jr Blvd, St. Paul, Minnesota 55155-1298 (651) 296-6746
FAX: (651) 296-3949 TTY: (651) 296-9896 Email: rep.sondra.erickson@house.mn (800) 709-0578

Minnesota House of Representatives

May 14, 2004
Delivered 8:36 p.m.

May 14, 2004

The Honorable Steve Sviggum
Speaker of the House
463 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Speaker Sviggum:

Pursuant to Temporary House Rule 6.10, we request that the House Committee on Ethics convene for the purpose of investigating the conduct of Representative Greg Davids. The subject of this ethics filing is contained in the enclosed complaint.

It is our request that a preliminary hearing be held on this complaint immediately, pursuant to the procedures of the Committee on Ethics.

Alice Hausman
Representative Alice Hausman

Representative John Lesch

Enclosure

cc: Representative Greg Davids

FORMAL NOTICE OF COMPLAINT AGAINST REPRESENTATIVE GREG DAVIDS FOR VIOLATION OF RULES OF THE MINNESOTA HOUSE OF REPRESENTATIVES

NOTICE OF COMPLAINT

We, the undersigned, as members of the Minnesota House of Representatives, and in furtherance of our responsibilities to uphold the Constitution and Rules of the House, hereby notify the Speaker of the House of our filing of a complaint against Representative Greg Davids.

Representative Davids' violation of Rule 6.10 of the Temporary Rules of the House, as promulgated pursuant to the Minnesota State Constitution, Article IV, Section 7, requires the immediate convening of the House Ethics Committee for a preliminary hearing as provided by House Rule 6.10.

The complaint is hereby enclosed and contains, with specificity, the allegations sworn by the undersigned Representatives.

We swear the statements in the complaint are true, so help us God.

Dated this 14th Day of May 2004.

Alice Hausman

Representative Alice Hausman

Representative John Lesch

ETHICS COMPLAINT
AGAINST REPRESENTATIVE GREG DAVIDS
FOR VIOLATION OF MINNESOTA STATUTES, HOUSE RULE 6.10, AND THE HOUSE CODE OF CONDUCT

COMPLAINT

The Minnesota State Constitution, Article IV, Section 7, provides that each house may determine the rules of its proceeding and for the punishment of members.

> **Sec. 7. RULES OF GOVERNMENT. Each House may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two thirds expel a member; but no member shall be expelled a second time for the same offense.**

Rule 6.10 of the Temporary Rules of the House provides, in relevant part:

> **A complaint may be brought about conduct by a member that violates a rule or administrative policy of the House, that violates accepted norms of House behavior, that betrays the public trust, or that tends to bring the House into dishonor or disrepute.**
>
> **A complaint may be brought about conduct by a member that . . . violates accepted norms of House behavior.**

Pursuant to House Rule 9.01, the Rules Committee has established a code of conduct for members, officers and employees of the House. The pertinent rule, as adopted the House Committee on Rules and Legislative Administration February 8, 2001, reads as follows:

> A State Representative shall:
>
> Accept public office as a public trust and endeavor to be worthy of that trust – by respecting the principles of representative democracy, by exemplifying good citizenship and high personal integrity, and by observing the letter and spirit of laws and rules.
>
> Promote the health of democracy – by fostering openness in government, full public understanding of government actions, and public participation in governmental processes.
>
> Treat everyone with respect, fairness, and courtesy.
>
> Exercise sound judgment by deciding issues on their merits.
>
> Be respectful of the House of Reprsentatives as a fundamental institution of civil government.
>
> Use the powers and facilities of office only to advance the common good.

Further, Minnesota Statutes 609.749 provide for a Gross Misdemeanor, punishable by up to a year in jail and a $3000 fine, to any one who is proven to have engaged in:

Subd. 1. ...intentional conduct which:

(1) the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated; and
(2) causes this reaction on the part of the victim;

or a person who, under Subd. 2:

(1) directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act; or
(2) repeatedly makes telephone calls...whether or not conversation ensues.

The complainants hereby allege that the following facts do establish probable cause to believe that Representative Greg Davids has committed acts that violate the Constitution and/or laws of the State of Minnesota and the Rules and Code of Conduct of the Minnesota House of Representatives.

FACTS

In the last year, a series of constituent complaints from residents of House District 31B have been forwarded to various members of the Minnesota House of Representatives. The common thread of these complaints have alleged intimidating, harassing and threatening behavior on the part of State Representative Greg Davids toward constituents in his district. These complaints contain information alleging that Representative Greg Davids uses threats of severe financial and legal repercussions against citizens who voice concern over, or disagree with, his policies at the legislature. Citizens have felt intimidated by threats of lawsuits, employment ramifications and physical harm – all as a consequence of disagreeing with Representative Greg Davids' actions.

Further allegations arise from Representative Greg Davids' conduct in voting for legislation by which he, or his family, stands to directly benefit. On some votes, Representative Greg Davids has recused himself. On others, he has both taken votes in favor of legislation to which he has a direct connection and, perhaps more significantly, has taken numerous actions, under title of his office, to advocate for this legislation.

Over 100 residents of House district 31B have seen fit to affix their names to a petition or letters requesting an ethics investigation into Representative Greg Davids' actions (Attachment 1). It is the contention of the undersigned complainants that the facts, as alleged and taken in the whole as a pattern of conduct, bring the Minnesota House of Representatives into dishonor and disrepute pursuant to House Rule 6.10.

Determination of what may constitute dishonor or disrepute has been considered by the House Ethics Committee and by the body itself on numerous occasions; however, the most recent, relevant and on-point analysis was provided by then Representative Steve Sviggum in 1996. Representative Sviggum had asked for then Representative Jeff Bertram's expulsion for allegations of intimidation and harassment of constituents, and in doing so stated:

"Members, at stake is the credibility of this institution to the people of the State of Minnesota. At stake, is the feelings (sic) of justice of numerous victims throughout the state--people that I want you to look at today when you make your decision. The acts that you are about to hear of misconduct are those of premeditation, are those of intention, intention to destroy, intention to harm, intention to harm private citizens in the State of Minnesota. Intention to bring forward harassment, intimidation, coercion, issues that none of us in the House of Representatives can be proud of. And if we truly have a code of conduct in this body, if we truly are interested and concerned about the institution and what the people around the State of Minnesota, what they feel about us, about the body of the House of Representatives in Minnesota, we have to take action...

The motion, the action, the request for expulsion is brought forward by the people...I know that this is hard for us to understand the apparent power of this place the perceived power of this place. You and I as Representatives don't think we have any special power but our folks in our district, they see that election certificate we have, they see the honorable Representative or the honorable Senator and believe me, there is power, there is intimidation that comes with that. Put yourself in the position of those average citizens Minnesotans those who are sitting up there...

Many, many of those individuals are so frightened so much intimidation so much fear in their life that they wouldn't even leave their name. They would not even leave their name, but think of the average citizen out there the strength that they had to have to come forward and bring charges to bring forward the facts to come forward to testify against a powerful representative this place should not be about power..." (Attachment 2)

Indeed, many individuals who voiced concerns of harassing and intimidating behavior on the part of Representative Greg Davids were likewise too frightened to come forward publicly. That fear still pervades Preston and its surrounding communities. (Attachment 3) Nonetheless, a handful of constituents have seen fit to go on the record in response to what has been described as "intimidation and bullying." (Attachment 4) Furthermore, the public record contains numerous other supplements which buttress these affiants' contentions, and which are proffered below.

A. Reiland Farms

In March of 2000, constituents in Representative Greg Davids' district sought to question the propriety of a feedlot at Reiland Farms in Fillmore County. The Minnesota Department of Health (MDH) addressed routine public health concerns over the proposed expansion of this feedlot in its administrative review. Upon discovering the nature of this review, Representative Greg Davids convened a meeting of MDH staff where he demanded the Department's removal from the feedlot process. (Attachment 5) Staff described the hostility level toward them as "HIGH," demanded to know how they were qualified to interfere and announced he would immediately take legislative action affecting their agency. In fact, Representative Greg Davids did take such action the following day (3/30/00) with a House floor amendment (see House Video Archive) – a fact not unnoticed by those very same MDH employees.

MDH staff, in referring to the lawmakers present, wrote: "Their primary goal...seemed to be to threaten us into submission so that we do not do our job." (Attachment 5)

In the above referenced meeting, Representative Greg Davids expressed contempt for his own constituents with the statement, "Why do we care that local people are concerned about this? After all, they are just jealous and not qualified to know if this is a good project or not." (Attachment 5)

Neighbors described the MDH's subsequent unexplained reversal of their position on Reiland Farms as "based on political pressure, not science." (Attachment 6) Many residents had lingering unanswered questions about what appeared to be a backroom deal brought to bear by political pressure. One resident questioned Representative Greg Davids about this at a community meeting in the summer of 2002. Referencing the e-mail from the MDH employee, she asked Representative Greg Davids about his role in the reversal of MDH's position. Representative Greg Davids' response was only concerned with which employee released the e-mail, stating simply, "I got that bitch fired." (Sealed Affidavit A)

B. Heartland Energy

On March 22, 2001, HF 2133 was introduced in the Minnesota House of Representatives, providing tax exemptions for waste tire-fueled electric generation plants. Prior to this, Representative Greg Davids had asked Representative Bob Gunther to accept a phone call from his father-in-law, Robert Maust, in relation to the introduction of this legislation. (Attachment 7). Robert Maust is the principal investor and promoter for Heartland Energy's tire-burning facility in Preston, Minnesota. A revenue note for HF 2133 dated April 4, 2001 noted that the only project in Minnesota that would qualify for the bill's tax exemptions is located in Preston, Minnesota. (Attachment 8)

On June 28, 2001, Representative Greg Davids voted for the 2001 omnibus tax bill which contained a number of tax advantages for electric generating plants that use waste tires as a primary fuel source. (Attachment 9) After his relationship with Robert Maust was disclosed, Representative Greg Davids subsequently recused himself from these votes on the floor and in committee on account of a "possible conflict of interest. (Attachment 10)

Ten internal e-mails from staff at the MPCA indicate that Representative Greg Davids continued to make inquiries to agency staff through June, 2002 about expediting the permitting process for Heartland Energy and wanted to know "plain and simple" when the permit will be issued, and demanded a "specific date." (Attachment 11)

Controversy over Heartland Energy continued to swirl in Preston and surrounding communities throughout 2002, and support or opposition to the tire incinerator became a, if not *the*, pivotal issue in the January 15, 2003 special election for Preston City Council.

After that election, Preston Mayor David Pechulis was the only elected official in Preston to publicly oppose the tire incinerator. On February 28, 2003, David Pechulis, in his role as Mayor of Preston, attended a legislative meeting of the Minnesota Municipal Utility Association (MMUA) at a Saint Paul Hotel during the legislative session. A representative of the MMUA announced at that meeting that Representative Greg Davids is their liaison for legislation dealing with tire burning. (Attachment 12)

On April 11, 2003, The Fillmore County Journal published the letter of resident and district 31B constituent Steve Roessler. The letter was critical of Representative Greg Davids' vote for the

2001 omnibus tax bill which included tax benefits for the Preston tire incinerator; it also highlighted the heretofore relatively unknown nature of Representative Greg Davids' familial relationship with Heartland Energy's principal, Robert Maust. (Attachment 13)

On April 16, 2003 Representative Greg Davids called Mayor Pechulis at his home. In a conversation laced with profanity and threats, Representative Greg Davids stated he "kick[s] the shit out of people" and "all you guys better watch out." Unable to finish the conversation, Mayor Pechulis arranged to call Representative Greg Davids back. Mayor Pechulis returned the call in a few minutes and created a taped recording of the conversation without the knowledge of Representative Greg Davids. (Attachment 14)

The ensuing conversation is detailed in a transcript prepared by Mayor David Pechulis. (Attachment 15) All of the following statements from that conversation are made by Representative Greg Davids.

On Steve Roessler and members of South Eastern Minnesota Environmental Protection (SEMEP):

> "Well do I sue the whole group or him individually or what? Does the SEMEP group have some insurance? You better buy some."
>
> "I got junkyard dog killing attorneys from Chicago that will rip their eyes off and pee on their brains."
>
> "I suggest your SEMEP group go and get general liability and personal injury protection on it as a group."
>
> "Just make sure they got their insurance paid. Make sure they have personal injury for libel and slander on their policy. Make sure they got it cause they're gonna need it."
>
> "They're gonna need it cause it's gonna cost them...then they'll...it's probably a ten thousand dollar deductible so they get to pay the first ten thousand dollars for their stupid things and stupid lies they do..."

On his fellow legislators:

> "But see you have to understand me more better cause a lot of legislators are chicken shit, ya know, they get pushed into a corner and they fold and they crumble. When I get pushed into the corner I start kicking the shit out of people. That's the way I do it."
>
> And there's not very many of them like me, and thank God for that, but most of them can be swayed by being scared..."

On Editor/Publisher of the Fillmore County Journal, John Torgrimson, with respect to Steve Roessler's letter to the editor:

> "...after I got done with him with this thing either 'cause he realized he screwed up by printing it like that."

On his own personal style:

> "I don't get scared, I get mad...and then I get even and that's why I've been able to do this so long."
>
> "...the Old Testament says an eye for an eye, a tooth for a tooth and the New Testament says turn the other cheek...I've been reading the Bible and I haven't got to the New Testament yet."

On the future of Steve Roessler's spouse, Janine, as an employee of the public library in Preston:

> "What about his wife, a librarian, taking names against this thing on city time?"
>
> "I mean there's a lot of places we can go that I don't think we want to go."
>
> "So if you want to play this game I play the game but I'll win the game."

On the day following the taped phone conversation, April 17, 2003, Representative Greg Davids arranged a breakfast meeting with the Chair of SEMEP, through a mutual friend. (Attachment 16) Davids made persistent reference to the letter of Steve Roessler, and mentions his wife is on the SEMEP board. He asked whether SEMEP has insurance liability coverage for libel or defamation of character. (Id.) After the meeting, the SEMEP chair visited her insurance agent to inquire about the coverage they may need. The agent's answer left her even more worried, as SEMEP had very limited funds. Throughout that day, Representative Greg Davids called her phone six times reiterating that she and SEMEP had better get some insurance. (Id.) Within days, SEMEP's board asked for Janine Roessler's formal resignation.

Subsequently, Steve Roessler listened to the tape of the conversation between Mayor David Pechulis and Representative Greg Davids. Steve Roessler was "terrified" for "himself and for his family." He states, "Representative Davids clearly wanted to intimidate me so that I would stop opposing the tire burning plant. I also feel that he threatened my wife's job during the conversation with the Mayor. My wife is still fearful of losing her job. Shortly after the conversation between Representative Davids and Mayor Pechulis, my wife was asked to resign from the SEMEP board in order to protect that organization from a possible lawsuit by Representative Davids. As a result of the intimidation and threats used during the taped conversation, my wife and I have stopped being vocal opponents of the Heartland Tire plant project." (Attachment 28)

On May 16, 2003, MPCA staff exchange internal e-mails in response to inquiries from Representative Greg Davids about when the environmental review for Heartland Energy's air quality permit request will be completed. In response to his inquiry about the delay, an MPCA employee writes that there are seven projects ahead of Heartland Energy for review. (Attachment 17) Nine weeks later, Heartland Energy's air quality permit request was approved. (Attachment 18)

On May 19, 2003, Representative Greg Davids announced he was recusing himself from voting on the Prairie Island nuclear waste storage bill due to a conflict of interest. While he recused

himself from a particular line-item on the bill, he still registered a recorded vote for passage. (Attachment 19)

During the 2003 Houston County Fair, which took place during the week of August 16, district 31B resident Nadine Wise approached Representative Greg Davids' at the fairgrounds to deliver a letter stating her concerns over the proposed tire burning plant and concerns over the apparent conflict of interest Representative Greg Davids had due to his relationship with Robert Maust. Upon discovering the nature of her letter, Representative Greg Davids had another man crumple up the letter in front of her and throw it in the trash. Nadine Wise felt she was being intimidated and was very disturbed at the prospect that Representative Greg Davids would use his authority in such a mean spirited way. (Attachment 20)

On December 2, 2003, District Court Judge Joseph Wieners heard arguments with respect to the need for an environmental impact study for Heartland Energy. (Attachment 21). The Findings of Fact and Order were filed on February 17, 2004. (Attachment 22) In that order, Judge Wieners directed the MPCA to review its decision not to require the environmental impact study. In the second of what the court described as it's three "matters of concern," the Judge noted:

> "...beginning at least as early as May 13, 2002, and continuing through June 11, 2002, a state representative had contact with the PCA's Commissioner and other PCA personnel in what this court believes can be fairly characterized as a ham-handed effort to speed up the permitting process despite the fact that the Heartland project was behind seven other air projects to be analyzed by the PCA." (Id.)

Despite the above information, residents of district 31B are still largely reluctant to come forward and describe the atmosphere of hostility and intimidation they feel toward their elected representation. Said one resident who was unwilling to go on the record, "If his fellow legislators are chicken shits, is the Capitol the chicken coop? I mean, we send our sixth graders up there for pete's sake. Is this really how you people do business and we're sending our kids up there?" (Sealed Affidavit B) Numerous other citizens of district 31B have expressed their feelings of fear and intimidation by the actions of Representative Greg Davids and by the atmosphere that those actions have engendered.

Other occurrences related to the Heartland Energy project highlight the nature of hostility to which citizens were subject:

1. Early 2003 saw the aftermath of a heated special election for Preston City Council. At stake was the balance of interests for more critical scrutiny of the Heartland Energy project and its procedural approvals by the City Council of Preston. The winner of the open seat was Steve Konepke, a Heartland Energy supporter. Many citizens complained of similar frightening behavior in the course of this election campaign, including one citizen whose construction contract with Pro Corn, L.L.C. (adjacent property to the proposed tire-burning plant and avowed beneficiary of its steam generation) was cancelled for hosting political yard signs for a candidate critical of Heartland Energy. (Attachment 23)
2. In a constituent letter to Representative Davids: "What role did you play in the intimidation campaign against the citizens of Preston during the recent election for City Council? Your silence on this bullying was deafening. Your ardent followers who are pro-incinerator certainly took your lead in how to silence dissent through intimidation and bullying." (Attachment 24)

3. In a constituent letter, calling for an investigation of Representative Greg Davids conduct:
   "Your behavior of threats and intimidation are nearly identical to the behaviors of those individuals for the tire burning plant in Preston (members of the City Council and your relatives). Who taught who the tactics? ...Strong arm tactics used by organized criminals such as the mafia should never be allowed in our government operations." (Attachment 25)
4. From a constituent's e-mail to her friend, highlighting a conversation at a baby shower: "After the gifts were opened the subject of the tire plant came up by his mom. The reaction was surprise that something like that could actually go through & I made a comment to his sister-in-law about the people standing up to the big-wigs. She basically said that everyone was scared to do anything." (Attachment 26)
5. From a constituent letter to the Preston City Council: "people supporting an EIS study were in jeopardy of losing their jobs and scare tactics were being used against them." A direct statement was made to this constituent that "others opposed to the plant were going to be ruined, their livelihoods taken away." (Attachment 27)
6. From a Newschannel 3 story about a reporter trying to determine the nature of renewed negotiations between the City of Preston and Heartland Energy despite a court-ordered halt to its construction: "And another 18 residents I tried to talk with wouldn't comment either for fear of property damage." (Attachment 3)

The above facts tell the story of a campaign of fear and intimidation in which Representative Davids was a primary participant. Representative Greg Davids use of his office to bully, intimidate, harass and illegally influence constituents is conduct which fails to comport with all applicable rules followed by members of the Minnesota House of Representatives. The conduct is made further repugnant by Representative Greg Davids' personal familial interest and opportunity to financially gain by his actions.

The actions of Representative Greg Davids, as detailed in this statement of probable cause, violate the Minnesota Constitution, Minnesota Statutes, accepted norms of House behavior as promulgated by House Rule 6.10 and the Minnesota House of Representatives Code of Conduct. The actions further tend to bring the House and its members into dishonor and disrepute. We are therefore compelled to bring the following 44 counts to the attention of the House Committee on Ethics:

(see Attachment 29)

Conclusion and Request for Relief

We, the undersigned, believe that the counts detailed herein require immediate consideration by the House Committee on Ethics. We respectfully request that the Committee find that probable cause exists for the violation of these rules and that the Committee, in open hearing, recommend an appropriate sanction for the violation of our rules.

Dated this 14th Day of May 2004.

Representative Alice Hausman

Representative John Lesch

REQUEST FOR AN ETHICS INVESTIGATION OF REPRESENTATIVE GREG DAVIDS

We, the undersigned, request that the Minnesota House of Representatives conduct an ethics investigation of Representative Greg Davids of Preston, for the following reasons:

Representative Davids has made abusive, threatening and derogatory comments about and toward local residents who are opposed to the Heartland Tire Burning plant his father-in-law is proposing for Preston;

Representative Davids used his position to bully and threaten staff of the MN Department of Health to withdraw their objections to the Rieland Dairy expansion proposed for Fillmore County in 2000; and

Representative Davids used his position to pressure MN Pollution Control Agency staff related to the Environmental Assessment Worksheet for the Heartland Tire Burning plant.

The enclosed tape and emails provide documentation of Greg Davids' actions.

Name	Address
J.F. GRIGGS	6698 ROCK RD HOUSTON MN 55943
A.S. GRIGGS	2633 S 15th ST LaCrosse WI 54601
LINDA GRIGGS	6698 ROCK RD HOUSTON MN 55943
Dawn Schimisch	RT 1 BOX 213 Mabel MN 55954
Brian Schimisch	RT. 1 Box 213 Mabel MN 55954
Matt Betz	905 Redfield st. LaCrosse Wi. 54601
M. Dengel	7246 Chisholm Rd Houston, MN 55943
Peter W. Dengel	
Bryan Van Gorp	4382 Ferndale Rd. Rushford, Minn. 55971
Lisa Crichton	613 Sheridan St Houston, MN 55943
Lawrence M. Gomes	1101 GRANT DR. HOUSTON, MN 55943
Sharon Schlueter	3935 State 76 Houston, MN 55943
Stephen Erickson	613 S. SHERIDAN ST HOUSTON MN 55943
Tony Epp	729 S Grant st Houston Mn 55943
Susan VanGorp	4382 Ferndale Rd. Rushford, Mn. 55971
Steve Hartwig	23584 COUNTY 26 HOUSTON, MINNESOTA 55943
Donna Buckbee	5853 FERNDALE RD, RUSHFORD, MN 55971

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Name	Address
E. Jaques Lauer	317 Chatfield Ave - Preston, Mn. 55965
[illegible] Steake	213 Franklin Ave Preston, Mn. 55965
[illegible] MD	317 Chatfield Ave. Preston Mn. 55965
Janene M. Rekstad	RR3 Box 58 Preston MN 55965
Stephe [illegible]	516 Pleasant St Preston 55965
Ken Steger	Box 202 Preston, Mn 55965

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Name	Address
Edith Krueger	RR1 Box 215 Mabel, Mn 55954
Daniel Lee Fall	BOX 148 Canton MN 55922
[illegible] Gerard	Mabel Minn 55954
Cora Gerard	Mabel Mn 55954
Wallace Starkoff	Rt 1 Mabel, Mn. 55954
Sharon Starkoff	Rt 1 Mabel Mn 55954
Darlene Langoff	Rt. 1 " "
Bernard Larson	Rt. 1 Box 219 Mabel, MN 55954

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Name	Address
Sister Trudy Schommer, osf	113 St. Paul St Preston, MN 55965
Bonita A. Underbakke	200 N. St. Anthony St, Preston MN 55965
Jackie Rehm	303 West Sheridan ST Lanesboro, MN 55949
Christine Winkler	PO Box 292 Lanesboro MN 55949
Carl Allen	Box 44 Lanesboro MN 55949
Stephanie J. Buck	Box 222 Lanesboro MN 55949
[illegible]	Box 222 Lanesboro MN 55949
Jill Underwood	BOX 283 Lanesboro MN 55949
Vera Taylor	RR2 Box 492 Lanesboro MN 55949
Nancy Martinson	302 Kirkwood Lanesboro MN 55949
Kim Charlebois	503 East Fillmore Lanesboro, MN 55949
Art Gemlo	600 Pkwy Rd S Lanesboro, MN 55949
Dale Forster	600 Parkway Ave S Lanesboro, MN 55949

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Name	Address
Ruth C. Lavelle	19206 Red Tail Drive Spring Grove, MN. 55974
Brian B Lavelle	19206 REDTAIL DR SPRING GROVE, MN. 55974
Nadine Wise	Spring Grove, Minn.
James K Wise	
James K Wise	Spring Grove MN 55974
[illegible]	15116 Pleasant Preston MN 55965
Art Burfield	Sheldon, MN.

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Name	Address
Darla Holland	Rushford, MN
Anita Lorenz	Hokah Mn.
Deb Schmeckel	Altura MN
Louise Menke	City Council Member Houston MN
Ruth Kampter	Houston, Mn.
Katrina Smith	Houston, MN
Becky Iverson	Houston, MN
Judy Munson	Houston Mn
Almquist Kidd	Houston MN
Jackie Wallace	Houston M.N.
[illegible]	Houston MN
Carolyn Smith	Houston, MN
Emma Sno Donald	Houston MN
Marilyn Jore	Houston Minn
Ruth Knutson	Caledonia, Mn
Dorothy Solle	Houston, Mn
Melinda Jockenste	Houston, MN
Mary Gaustad	Houston, Mn

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Representative Davids used his position to bully and threaten staff of the MN Department of Health to withdraw their objections to the Rieland Dairy expansion proposed for Fillmore County in 2000; and

Representative Davids used his position to pressure MN Pollution Control Agency staff related to the Environmental Assessment Worksheet for the Heartland Tire Burning plant.

The enclosed tape and emails provide documentation of Greg Davids' actions.

Name	Address		
Teresa Tighe	Houston	MN	55943
Kelly A. Jacobs	Houston	MN	55943
Carolyn Powell			
Richard Halverson	Houston	MN	55943
Rebecca Halverson	Houston	MN	55943
Jerry + Rosie VanDeWalle	Hokah	MN	55921
Kimberly Jo Hessel	Rushford	MN	
Lloyd Babbitt	Lewiston	MN	

REQUEST FOR AN ETHICS INVESTIGATION OF REPRESENTATIVE GREG DAVIDS

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Name	Address
Melba Stauss	Caledonia, Mn
Joyce M. Pe	Winona, MN
Don Peters	Houston Mn
Angela Wallace	Houston, MN
Judey Hawkins	La Crescent, M.N.
Kenneth J Miller	Houston Mn
Shirley Wallace	Houston, Mn 55943
Jerry & Cheryl Skifton	Houston MN. 55943
Clyde A Dahl	Houston Mn 55943
[illegible]	Houston, mn 55943
Rosemarie Bruegge	Houston, Mn. 55943
Florence Sanden	Houston Mn. 55943
Cheryl Ladsten	Houston MN 55943
Judy Frank	Houston,
Diane Wilhelm-Crone	LaCrescent 55947
Beth Kropp	Houston MN 55943
Katie Dunning	Houston MN 55943
Kathy Jonteck	Houston MN 55943

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Name	Address
Benjamin T. Fore	317 Preston St. NW Preston, MN 55965
Lisa Van Eyssen	Rt 1 Box 217 Preston, MN 55965
Patricia Schwarz	112 Maple St SW - Preston, MN 55965
Harold R Schwarz	——— Preston

RE: Davids and Sviggum Floor Statements on 79th Session Day 104, Jeff Bertram Expulsion Minority Report 3/22/96

Rep. Davids: Thank you Mr. Speaker. Members I didn't want to get up and talk today, but I do have to make one thing clear. The first vote that we had in committee was to expel. I voted to expel at that time, we were deadlocked the committee was deadlocked I did not feel it would be fair to the victims or the people of this great state not have this situation go further. Had we continued to be in a deadlock situation the motions would have died in committee. I was unwilling for that to happen. So I decided to change my vote from expulsion to censorship simply so we could get it through the rules committee to the floor. It is my intention today to vote for the minority report. Again I just want to be clear that when I switched my vote, it was for so that this matter could come to the rules committee and then to the floor so that it would not die in committee.

Rep. Sviggum: Mr. Speaker to my motion. The motion is not brought forward by Republicans in the State of Minnesota, the motion the action the request for expulsion is brought forward by the people, by citizens of Representative Bertram's district those to which his acts of misconduct mad victims. Mr. Carruthers other members of this body it is a very difficult choice that you make in the next few minuets whether it is to expel or not. Your choice is going to be extremely extremly difficult. Either you have to look Representative Bertram in the eye or you have to look in the eye Ms. Peterson, Ms. Gritch, Ms. Kruger and others I can right down the line. You need to be able to look one of those in the eye in the relationship to the vote you are about to cast. Members I try to always put myself in the position of being the average citizen the average person in the State of Minnesota and I am trying to think about what their thinking right now. First of all, two thoughts come to my mind. The first is that and I know that this is hard for us to understand the apparent power of this place the perceived power of this place you and I as Representatives don't think we have any special power but our folks in our district they see that election certificate we have, they see the honorable Representative or the honorable Senator and believe me there is power there is intimidation that comes with that. Put yourself in the position of those average citizens Minnesotans those who are sitting up there or those that called me anonymously and said, "Sviggum, you have to go ahead." We can't give you our name, we can't give you our address, you don't have caller identification do you? And many of them folks, many of them are saying you have to go ahead and move for an ethics complaint you have to go ahead and ask for expulsion.

Many, many of those individuals are so frightened so much intimidation so much fear in their life that they wouldn't even leave their name. They would not even leave their name, but think of the average citizen out there the strength that they had to have to come forward and bring charges to bring forward the facts to come forward to testify against a powerful representative this place should not be about power absolutely not if it is we are wrong and then think of the average Minnesotan that average citizen sitting out there that person who is going to read the paper tomorrow or who maybe watching right now if we are on TV or who maybe listening to the radio on the reports this afternoon. That Minnesotan is thinking what is that body going to do? Is that House of Representatives as an institution going to do the right thing or are they going to protect their own. That's what they are thinking. Is it the good old boys club? Are they going to protect their own? What's the institution going to do to bring credibility back to the State of Minnesota? Folks, the choice is tough for each and everyone of is, you have to be able to look Representative Bertram in the eye or folks up there in the eye. I would ask you to vote for expulsion. The action of misconduct are such that it was warranted.

RE: Sviggum Floor Speech (3/22/96) 79th Session RE: Minority Report on Bertram Expulsion

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Speaker: Representative Sviggum.

Rep. Sviggum: Mr. Speaker, members, this is a most serious day. A most serious day not for Republicans, not for Democrats, but for the Minnesota House of Representatives as an institution. Members each and every one of us do not take lightly what is going to happen in the next few days or hours. Members the amendment before you the "Minority Report" will call for the expulsion of Representative Jeff Bertram rather than censor. Members none of us, none of us on the House floor is with out blame none of us hold a corner on virtue, none of us is less sinful than others but members I will tell you I will tell you honestly as well as other members today that the actions that we are about to consider warrant expulsion for this body for the citizens of the stat of Minnesota and for the individuals who have become victims of out State Representative in West Central Minnesota. Members looking at the issue before us in rules committee I tried to resemble it to that of a basketball game. Members in a game of basketball and in the game of life we all do wrong. There are fouls that are made there are common fouls that we all make each and everyone of us. Because none of us, none of us do not sin. But there are common fouls and there are technical fouls and for technical fouls you get expelled from the game. I contend to you that the violations of ethical conduct that we will discuss today warrant that of a technical foul. More then a technical foul, numerous technical fouls. Members at stake is the credibility of this institution to the people of the State of Minnesota. At stake, at stake is the feelings of justice of numerous victims through out the state people that I want you to look at today when you make your decision. People sitting up in those chambers, people by the name of Peterson, people by the name of Koschel, people by the name of Krueger, people by the name of Grench. I want you to consider them; I want you to consider all citizens as we go forward in our actions this afternoon. Members the first year I was elected in 1978 the very first actions on this house floor during this time was a question of whether he would seat one of our own members who had been elected the question before us was Representative Bob Pavlak and whether he would be seated. We chose that day not to seat Representative Pavlak in a day I will remember until the day I die. And the reason that Representative Pavlak was not seated as many members of this body well know who were there who voted who ere there brought forward the complaint as you can see in what I brought forward to you was that there were false statements with respect to personal and political character that had taken place. False statements with regards to personal and political character. Members I will contend to you that the situation today if it was warranted in 1978 it is many, many, many times

Local News

Printer-Friendly Version
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Mediator hired in Preston tire suit

Susan Thomsen
Mason City, Iowa (KIMT)
Wednesday, May 5, 2004

When Heartland wanted to build a tire burning plant in this Southern Minnesota community, the Preston City Council balked on the required permits....

So Heartland sued the City and the City responded.

David Pechulis, the Preston City Mayor, tells KIMT NewsChannel 3, "The city council hired a mediator."

But what problem the mediator is going to help solve isn't clear since a district court has put construction on hold because of state permits dealing with air quality concerns.

"Why are we even mediating?" wonders Mayor Pechulis.
"Maybe we should actually move to dismiss the case."

Despite attempts to contact owner Bob Maust about the latest regarding his tire burning plant, he was out of town and unavailable for comment on Wednesday.

And another 18 residents I tired to talk with wouldn't comment either for fear of property damage. But one resident who did talk, sided with the mayor.

Trudy Joerg, a Preston resident, tells KIMT NewsChannel 3, "I'm wondering what they have to mediate against because Mr. Maust, at this time, does not have a building permit."

A building permit that currently sits in the lap of a judge waiting for new air quality studies on the proposed plant.

Recently, Heartland filed an appeal in hopes of lifting the district court's hold on its permits. But the Minnesota Court of Appeals says it won't

overturn the stay until the District Court sees the air quality studies.

Davids refutes conflict-of-interest accusations

Friday, February 13, 2004

By Matthew Stolle

The Post-Bulletin

ST. PAUL -- Having apologized recently for remarks that he says were not befitting a legislator, state Rep. Greg Davids disavows any conflict of interest in relation to the Heartland Energy and Recycling project in Preston.

The primary developer of the proposed tire-burning plant is his father-in-law, Robert Maust. Opponents say Davids has used his legislative influence to advance the proposal. He denies the charges.

Last week, Davids, a Republican from Preston, said he opposed the plant. In an interview in his office on Thursday, Davids said his position on the plant has been one of neutrality from the start. Davids said his involvement in the issue was limited to calling Rep. Bob Gunther, a Republican from Fairmont, and asking him to accept a call from his father-in-law. Davids said he maintained his neutrality on the issue after facilitating the meeting.

Gunther echoed Davids' account, saying, "He had nothing to do with it after that."

Pechulis and others also accuse Davids of using intimidation and bullying tactics toward state agencies such as the Minnesota Pollution Control Agency to expedite a review of the project.

Davids acknowledges that he contacted the MPCA but maintains that it was only to inquire about the timeline for issuing a permit. He said he made calls to the agency on behalf of those who oppose and support the plant. A call to the MPCA was not returned.

Mayor David Pechulis and a small group of Heartland opponents arrived in St. Paul on Thursday calling for an ethics investigation into Davids' conduct in the matter.

According to state House rules, an ethics complaint must be signed by two or more members to trigger an inquiry. Asked whether he had sought support among House members for an investigation, Pechulis said he spoke with DFL House members, specifically Rep. Margaret Anderson Kelliher, a DFLer from Minneapolis. He did not say whether he had received any support.

Citizens Call on Attorney General to Investigate MDH Decision on Reiland Farms

Documents show Health Department officials were subjected to 'hostility' and political pressure at March 29 meeting

[EDITOR'S NOTE: The full-text of the MDH e-mail and the Citizen Letter to the Attorney General is available in PDF format and can be viewed with Adobe® Acrobat® Reader. Both documents are hot-linked in this press release.]

CONTACT: Jeff Tart, 507-346-2316 (leave message)
Bobby King, LSP, 507-523-3366 bking@landstewardshipproject.org

7/25/00

FORESTVILLE TOWNSHIP, Minn. — A group of more than 30 Land Stewardship Project members from Fillmore County has requested that the state Attorney General investigate the Minnesota Department of Health's (MDH) unexplained reversal on whether an extensive environmental study of a controversial dairy expansion in Forestville Township should be conducted.

Accompanying the three-page letter is an MDH e-mail memo dated March 30 showing that during a March 29 meeting MDH staffers were pressured to consider withdrawing their involvement in an environmental review of a proposal by **Reiland** Farms to build a 7.3 million gallon manure lagoon system. According to the memo, which was obtained by the Land Stewardship Project through the Minnesota Data Practices Act, that meeting was attended by several state legislators, as well as top officials at the Minnesota Department of Agriculture and the Minnesota Pollution Control Agency (MPCA).

"In this case the Minnesota Department of Health decided to protect themselves instead of our air and water," said

farmer Jeff Tart, whose land sits across the road from the site where the lagoon is proposed for construction. "Their decision was based on political pressure, not science."

The Fillmore County citizens are requesting that the Attorney General investigate, among other issues, whether political pressure exerted by legislators caused the MDH to withdraw its request for an EIS and whether anyone from MPCA attempted to force the Health Department into reversing its stand on the issue.

On March 22, the Minnesota Department of Health sent a nine-page letter to the MPCA recommending that an Environmental Impact Statement (EIS) be conducted before **Reiland** Farms is allowed to build in an ecologically sensitive area near Forestville State Park. The nine-page analysis concluded that there was a "high potential" the expansion project would contaminate drinking water supplies in the area. In addition, the letter listed 23 specific areas of concern. The Minnesota Department of Natural Resources is also recommending that an EIS be done.

However, on May 16 Patricia Bloomgren, Director of the MDH's Environmental Health Division, sent a two-paragraph memo to the MPCA withdrawing the request for the EIS. The May 16 memo gave no explanation for the sudden reversal, other than to refer to a May 8 meeting between MPCA and MDH officials. However, minutes show that during the May 8 meeting none of the 23 concerns originally raised by the Health Department were resolved. In fact, Bloomgren wrote in the March 30 e-mail that it "...would be hard to find a worse place to put this facility... ." The e-mail was addressed to David Wulff, Supervisor of the MDH Environmental Health Division's Policy, Planning and Analysis Unit.

According to Bloomgren's e-mail memo, during the March 29 meeting a "high" level of "hostility" was shown to both MDH and DNR staffers. The March 29 meeting was called by Sen. Kenric **Scheevel** of Preston. It was attended by, among others, Sen. Dallas Sams of Staples, Sen. Steve Dille of Dassel, Sen. Dan Stevens of Mora and Rep. Gregory **Davids** of Preston. The meeting was also attended by Minnesota Agriculture Commissioner Gene Hugoson and Harold Stanislawski, Dairy Development Specialist for the Agriculture Department. In addition, MPCA Deputy Commissioner Lisa Thorvig attended, as well as MPCA staff members Kevin Kain, Beth Lockwood and Rod Massey. DNR Commissioner Alan Garber and Tom Balcom, supervisor of the DNR's Environmental Planning and Review Section, were also present.

In referring to some of the lawmakers present, Bloomgren wrote: "Their primary goal...seemed to be to threaten us into submission so that we do not do our job (protecting public health and groundwater)."

On May 23, the MPCA's Citizens Board voted 5-2 against requiring **Reiland** Farms' proposed lagoon to undergo an EIS. The board was following the advice of MPCA staff members, but going counter to overwhelming evidence provided by scientists such as University of Minnesota geologist Calvin Alexander, experts at the DNR and local farmers. The Fillmore County citizen's group is challenging the MPCA's decision in court.

"That decision might have been different had the MDH stuck to the science and maintained its request for an EIS," wrote the citizens in their letter to Attorney General Mike Hatch. "So not only did the MDH receive undue pressure, but its decision to knuckle under played a major role in a decision affecting the health and well-being of citizens of the state."

Links
me
Tel: 651 653-0618

MINNESOTA Department of Revenue

PROPERTY TAX
SALES TAX
Exemption for an Electric Generation Facility Using Waste Tires as Fuel

April 4, 2001

	Yes	No
Separate Official Fiscal Note Requested		X
Fiscal Impact		
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of H.F. 2133 (Gunther) / S.F. 2026 (Scheevel)

	Revenue Gain or (Loss)			
	F.Y. 2002	F.Y. 2003	F.Y. 2004	FY2005
	(000's)			
Homeowner property tax refunds	($0)	($0)	($0)	($14)
Sales and use tax exemption	($270)	($220)	($0)	($0)
General Fund Total	($270)	($220)	($0)	($14)

The property tax exemption is effective for taxes payable in 2002 and thereafter.
The sales tax exemption is effective for purchases and sales made after the date of final enactment.

EXPLANATION OF THE BILL

Current Law: With some exceptions, personal property which is part of an electric generating system is subject to property tax.

Construction materials and supplies used or consumed in and equipment (that does not qualify as capital equipment) incorporated into a construction project are normally considered taxable retail sales. Capital equipment essential to the integrated production process is exempt from the sales tax when used primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold at retail. The exemption extends to capital equipment used for the commercial production of electricity and steam and includes foundations that support machinery or equipment.

The exemption for waste processing equipment is an upfront exemption that applies to specific resource recovery facilities and also allows an exemption for pollution control equipment.

EXPLANATION OF THE BILL (cont.)

Proposed Law: Attached machinery and other personal property which is part of an electric generating facility that is designed to use waste tires as a primary fuel source, to be a cogeneration electric generating facility of 15 to 25 megawatts, would be exempt from property tax. Construction of the facility must begin after January 1, 2000, and before January 1, 2004.

The waste processing equipment exemption would be changed to specify that an electric generation facility that processes and utilizes waste tires as its primary fuel is included as a resource recovery facility. This exemption would allow all electric generation facilities using waste tires as fuel a sales tax exemption for purchases of pollution control equipment.

Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of such a facility would be exempt from sales and use tax.

REVENUE ANALYSIS DETAIL

Property Tax Exemption

- The proposed electric generating facility would be located in the City of Preston in Fillmore County. The total cost of attached machinery and other equipment, excluding currently exempt pollution control equipment, that would be exempt from personal property tax is about $15 million.
- It is assumed that the plant will be completed in 2002, and will affect property taxes for payable year 2004.
- Upon completion of the proposed plant, the property tax exemption will reduce the local tax base relative to the base under current law, and cause a property tax shift to all other property including homeowners.
- The increased property tax burden on homeowners caused by the exemption (relative to current law) will increase state-paid homeowner refunds by about $14,000 in fiscal year 2005.

Sales Tax Exemption

- It is assumed that this plant would qualify for the sales tax exemption since it has an expected installed cogeneration capacity of 20 megawatts (approximately 4 megawatts from electricity and 16 megawatts from steam). Further it is assumed this is the only project that would qualify during the specified years.
- The project equipment is exempt as capital equipment used for commercial production of electricity or steam. The effect of specifying that the facility is eligible for the waste processing equipment exemption is that the equipment exemption is extended to pollution control equipment.
- The pollution control equipment for this project is estimated to be $5 million.

REVENUE ANALYSIS DETAIL (cont.)

- The project is in the permit phase. The project consultant advised that the total project cost would be about $25 million and the facility construction would cost about $5 million.
- Based on the preliminary project costs, it is estimated that $2.5 million of the $5 million construction estimate and $5 million of pollution control equipment would be the amount of exempted purchases that otherwise would have been subject to sales tax.
- Discussion with the project consultant indicates that about 55% of the purchases would occur between January 1, 2002, and July 1, 2002 and the balance of the purchases would occur in fiscal year 2003.

Number of Taxpayers Affected: The property tax exemption and the sales tax exemption are assumed to affect one construction project. All property taxpayers in Fillmore County will be affected by the proposed property tax exemption.

ADMINISTRATIVE/OPERATIONAL IMPACT

There will be no significant administrative or operational costs or savings to DOR in administration of this bill.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/polic.html#analyses

hf2133(sf2026)-1 / JB / RS

April 1, 2001, under the authority in Minnesota Statutes, section 469.1831, and Laws 1990, chapter 604, article 7, section 29, as amended by Laws 1991, chapter 291, article 10, section 2. This section applies only to revenues derived from tax increments received on or before April 1, 2001.

[EFFECTIVE DATE.] This section is effective as of April 1, 2001, after compliance with Minnesota Statutes, section 645.021, subdivision 3."

Renumber the sections in sequence and correct internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Mullery et al amendment and the roll was called. There were 22 yeas and 111 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Dawkins	Gray	Kahn	Rukavina	Wagenius
Biernat	Dibble	Jaros	Kelliher	Sertich	Walker
Clark, K.	Entenza	Johnson, S.	Mariani	Skoglund	
Davnie	Gleason	Juhnke	Mullery	Swapinski	

Those who voted in the negative were:

Abeler	Erhardt	Howes	Lipman	Ozment	Stang
Abrams	Erickson	Huntley	Luther	Paulsen	Swenson
Anderson, B.	Evans	Jacobson	Mahoney	Pawlenty	Sykora
Bakk	Finseth	Jennings	Mares	Paymar	Thompson
Bernardy	Folliard	Johnson, J.	Marko	Pelowski	Tuma
Bishop	Fuller	Johnson, R.	Marquart	Penas	Vandeveer
Boudreau	Gerlach	Kalis	McElroy	Peterson	Walz
Bradley	Goodno	Kielkucki	McGuire	Pugh	Wasiluk
Buesgens	Goodwin	Knoblach	Milbert	Rhodes	Wenzel
Carlson	Greiling	Koskinen	Molnau	Rifenberg	Westerberg
Cassell	Gunther	Krinkie	Mulder	Ruth	Westrom
Clark, J.	Haas	Kubly	Murphy	Schumacher	Wilkin
Daggett	Hackbarth	Kuisle	Ness	Seagren	Winter
Davids	Harder	Larson	Nornes	Seifert	Wolf
Dehler	Hausman	Leighton	Olson	Skoe	Workman
Dempsey	Hilstrom	Lenczewski	Opatz	Slawik	Spk. Sviggum
Dorman	Hilty	Leppik	Osskopp	Smith	
Dorn	Holberg	Lieder	Osthoff	Solberg	
Eastlund	Holsten	Lindner	Otremba	Stanek	

The motion did not prevail and the amendment was not adopted.

The Speaker resumed the Chair.

H. F. No. 1, A bill for an act relating to the financing and operation of government in this state; providing for payment of a sales tax rebate; providing for education finance; providing property tax reform; making changes to income, corporate franchise, sales and use, property, motor vehicle sales, motor vehicle registration, mortgage

registry, deed, insurance premiums, MinnesotaCare, motor fuels, cigarette and tobacco, liquor, lawful gambling, minerals, estate, and special taxes; changing and allowing tax credits, subtractions, and exemptions; conforming with changes in federal income tax provisions; providing for allocation of income; changing property tax valuation, assessment, levy, classification, credit, aid, homestead, exemption, review, appeal, and distribution provisions; imposing a state property tax levy on certain property and providing for use of the proceeds; providing a property tax homestead credit; imposing levy limits; changing certain property tax notice and hearing provisions and authorizing waivers; abolishing certain tax levies for metropolitan transit, establishing a transit fund, and dedicating certain tax proceeds to the fund; providing for local government aids; changing certain provisions relating to biomass facilities; providing for utility pass-through of certain property tax reductions; allowing utility rate adjustments for lowering emissions; providing for uniform sales and use tax administration; providing for taxation and incentive payments on forest lands; providing for state takeover of certain costs of district court administration and out-of-home placements; reducing taconite production tax rates and providing for state aid; providing for the distribution of certain taconite production tax payments; providing for electronic filing and payment of taxes; changing procedures for disposition of seized contraband; changing tax increment financing provisions; providing for biomedical innovation initiative grants; changing budget reserve provisions; providing for payments in lieu of taxes; changing provisions relating to property tax refunds; authorizing special taxing districts; changing and clarifying tax administration, collection, enforcement, interest, and penalty provisions; transferring administration and enforcement of the Unfair Cigarette Sales Act from the commissioner of revenue to the commissioner of commerce; changing revenue recapture provisions; authorizing abatements and waivers of fees and certain taxes in disaster areas; changing and imposing fees; changing debt collection provisions for student loans; providing certain powers to certain political subdivisions; providing certain duties and powers to the commissioner of revenue; authorizing publication of names of certain delinquent taxpayers; authorizing border city allocations; changing provisions relating to tax-forfeited lands and providing for tax-forfeited lands transfers; defining a lottery and other terms; classifying data; requiring studies and reports; imposing penalties; appropriating money; amending Minnesota Statutes 2000, sections 16A.152, subdivisions 1a, 2; 16D.08, subdivision 2; 45.011, subdivision 1; 69.021, subdivision 5; 84.922, by adding a subdivision; 88.49, subdivisions 5, 9a; 88.491, subdivision 2; 97A.065, subdivision 2, as amended; 103D.905, subdivision 3; 115B.24, subdivision 2; 116J.424; 123A.45, subdivisions 2, 6; 123B.42, subdivision 3; 123B.53, subdivisions 2, 4, 5; 123B.54; 123B.75, subdivision 5; 123B.92, subdivision 9; 126C.01, subdivision 3; 126C.10, subdivisions 1, 2; 126C.13, subdivision 4; 126C.17, subdivisions 1, 2, 5, 6, 7, 8, by adding subdivisions; 126C.21, subdivision 4; 126C.48, subdivision 8; 126C.63, subdivision 8; 126C.69, subdivisions 2, 3, 9, 12, 15; 144.3831, subdivision 2; 168.013, subdivision 1a; 168.017, subdivision 3; 174.24, subdivision 3b; 179A.101, subdivision 1; 179A.102, subdivision 6; 179A.103, subdivision 1; 216B.2424, subdivision 5; 239.101, subdivision 3; 256L.02, subdivision 3; 270.06; 270.07, subdivision 3, by adding a subdivision; 270.271, subdivisions 1, 3; 270.60, by adding a subdivision; 270.70, subdivision 13; 270.73, subdivision 1; 270.771; 270.78; 270A.03, subdivisions 5, 7; 270A.11; 270B.02, subdivisions 2, 3; 270B.03, subdivision 6; 271.01, subdivision 5; 271.21, subdivision 2; 272.02, subdivisions 10, 22, by adding subdivisions; 273.061, subdivisions 1, 2; 273.072, subdivision 1; 273.11, subdivisions 1a, 14, by adding subdivisions; 273.1104, subdivision 2; 273.111, subdivision 4; 273.121; 273.124, subdivisions 1, 8, 11, 13, 14; 273.13, subdivisions 22, 23, 24, 25, 31; 273.134; 273.135, subdivisions 1, 2; 273.136, subdivision 2; 273.1391, subdivisions 2, 3; 273.1392; 273.1393; 273.1398, subdivision 4a, by adding subdivisions; 273.166, subdivisions 2, 3, 5; 273.42, by adding a subdivision; 274.01, subdivision 1; 274.13, subdivision 1; 275.02; 275.065, subdivisions 3, 5a, 6; 275.066; 275.07, subdivision 1; 275.16; 275.28, subdivision 1; 275.61; 275.62, subdivision 1; 275.70, subdivision 5, by adding subdivisions; 276.04, subdivision 2; 276.11, subdivision 1; 276A.01, subdivisions 2, 3; 276A.06, subdivision 3; 281.17; 282.01, subdivisions 1, 1b, 1c, 1d, 1e; 282.04, subdivision 2; 282.241; 287.035; 287.04; 287.08; 287.12; 287.13, by adding a subdivision; 287.20, subdivisions 2, 9; 287.21, subdivision 1; 287.28; 289A.02, subdivision 7, by adding a subdivision; 289A.12, subdivision 3; 289A.18, subdivision 4, as amended; 289A.20, subdivisions 1, 2, 4; 289A.26, subdivision 2a; 289A.31, subdivision 7; 289A.50, subdivisions 2, 2a; 289A.55, subdivision 9; 289A.60, subdivisions 1, 2, 7, 21, as amended, by adding a subdivision; 290.01, subdivisions 6b, 7, 19, 19b, 19c, 19d, 22, 29, 31, by adding a subdivision; 290.014, subdivision 5; 290.05, subdivision 1; 290.06, subdivisions 2c, 22, 23; 290.067, subdivisions 2, 2b; 290.0671, subdivisions 1, 1a, 7; 290.0674, subdivision 1; 290.0675, subdivisions 1, 3; 290.091, subdivision 2; 290.0921, subdivisions 1, 2, 3, 6; 290.0922, subdivision 2; 290.093; 290.095, subdivision 2; 290.17, subdivisions 1, 4; 290.191, subdivision 2; 290.21, subdivision 4; 290.92, subdivision 23; 290.9725; 290A.03, subdivisions 6, 12, 13, 15; 290A.04, subdivisions 2, 2a, 2h, 4; 290A.15; 291.005, subdivision 1; 295.50,

subdivisions 3, 4, 15; 295.52, subdivisions 4, 7; 295.55, subdivision 4; 295.57, subdivision 1; 296A.07, subdivision 4; 296A.08, subdivision 3; 296A.15, subdivisions 1, 7; 296A.16, subdivision 2; 296A.21, subdivisions 1, 4; 296A.24, subdivisions 1, 2; 297A.01, subdivision 5; 297A.07, subdivision 3; 297A.25, subdivisions 3, 11, 28; 297A.61, subdivisions 2, 3, 4, 6, 7, 9, 10, 12, 14, 17, 19, 22, 23, by adding subdivisions; 297A.64, subdivisions 3, 4; 297A.66, subdivisions 1, 3; 297A.67, subdivisions 2, 8, 23, 24, 25, by adding subdivisions; 297A.68, subdivisions 2, 3, 5, 11, 13, 14, 18, 19, 25, by adding a subdivision; 297A.69, subdivision 2; 297A.70, subdivisions 1, 2, 3, 4, 7, 8, 10, 13, 14; 297A.71, subdivision 6, by adding subdivisions; 297A.72, subdivision 1; 297A.75; 297A.77, subdivision 1; 297A.80; 297A.82, subdivision 3, by adding a subdivision; 297A.86, subdivision 1; 297A.89, subdivision 1; 297A.90, subdivision 1; 297A.91; 297A.92, subdivision 2; 297A.94, as amended; 297A.99, subdivisions 7, 9, 11; 297B.03; 297B.09, subdivision 1; 297E.02, subdivision 4; 297E.16, subdivisions 1, 2; 297F.04, subdivision 1; 297F.09, subdivision 7; 297F.13, subdivision 4; 297F.16, subdivision 4; 297F.20, subdivision 3; 297F.21, subdivisions 1, 2, 3; 297G.09, subdivision 6; 297G.15, subdivision 4; 297G.16, subdivisions 5, 7; 297G.20, subdivisions 3, 4; 297H.04, by adding a subdivision; 297H.06, by adding a subdivision; 297I.05, subdivision 5; 297I.20; 297I.35, subdivision 2; 297I.40, subdivisions 1, 2, 7; 297I.85, subdivision 7; 298.01, subdivisions 3b, 4c; 298.018, subdivisions 1, 2; 298.17; 298.22, subdivision 2, by adding a subdivision; 298.2211, subdivision 2; 298.2213, subdivision 3; 298.2214, subdivision 1; 298.223, subdivision 1; 298.225, subdivision 1; 298.227; 298.24, subdivision 1; 298.28, subdivisions 3, 4, 6, 7, 9a, 10; 298.282, subdivision 1; 282.292, subdivision 2; 298.293; 298.296, subdivision 2; 298.2961; 298.298; 298.75, subdivisions 1, 2; 299D.03, subdivision 5; 325D.33, subdivision 8, by adding a subdivision; 325D.405; 325D.415; 345.41; 349.19, subdivision 2a; 357.021, subdivision 1a; 383A.80, subdivision 1; 383B.80, subdivision 1; 461.12, by adding a subdivision; 469.040, subdivision 5; 469.169, by adding a subdivision; 469.1732, subdivision 1; 469.174, subdivisions 3, 10, 10a, 12; 469.175, subdivisions 1, 6b, by adding a subdivision; 469.176, subdivisions 1b, 1e, 3, 4g, by adding subdivisions; 469.1763, subdivision 6; 469.177, subdivisions 1, 11, by adding a subdivision; 469.1771, subdivision 1; 469.178, by adding a subdivision; 469.1812, subdivision 2; 469.1813, subdivision 6; 469.1814, by adding a subdivision; 469.202, subdivision 2; 469.303; 471.58; 473.388, subdivisions 4, 7; 473.446, subdivision 1; 473.843, subdivision 3; 473F.08, subdivision 3; 475.53, subdivision 4; 475.58, subdivision 1, as amended; 477A.011, subdivisions 35, 36; 477A.013, subdivisions 1, 9; 477A.03, subdivision 2; 477A.12; 477A.14; 480.181, subdivision 1; 487.33, subdivision 5; 488A.03, by adding a subdivision; 488A.20, by adding a subdivision; 574.34, subdivision 1; 609.75, subdivision 1; Laws 1986, chapter 396, section 5; Laws 1992, chapter 499, article 7, section 31, as amended; Laws 1997, chapter 231, article 1, section 19, subdivision 3, as amended; Laws 1997, chapter 231, article 1, section 22; Laws 1998, chapter 389, article 16, section 35, subdivision 1; Laws 1999, chapter 243, article 4, section 19; Laws 2000, chapter 479, article 2, section 1; Laws 2000, chapter 490, article 8, section 17; Laws 2000, chapter 490, article 11, section 26; proposing coding for new law in Minnesota Statutes, chapters 12; 16A; 103B; 116J; 126C; 174; 216B; 270; 272; 273; 275; 290; 295; 296A; 297A; 297F; 297H; 383A; 469; 471; 477A; 480; 484; proposing coding for new law as Minnesota Statutes, chapters 144F; 290C; repealing Minnesota Statutes 2000, sections 16A.1521; 16A.76; 126C.10, subdivisions 9, 10, 11, 12, 19, 20, 21, 22; 126C.11; 126C.13, subdivisions 1, 2, 3; 126C.30; 126C.31; 126C.32; 126C.33; 126C.34; 126C.35; 126C.36; 270.31; 270.32; 270.33; 270.34; 270.35; 270.36; 270.37; 270.38; 270.39; 273.126; 273.13, subdivision 24a; 273.1382; 273.1399; 275.078; 275.08, subdivision 1e; 289A.60, subdivisions 3, 15; 290.06, subdivisions 25, 26; 290.0673; 290.095, subdivisions 1a, 7; 290.21, subdivision 3; 290.23; 290.25; 290.31, subdivisions 2, 2a, 3, 4, 5, 19; 290.35; 290.9726, subdivision 7; 290A.04, subdivision 2j; 296A.16, subdivision 6; 296A.24, subdivision 3; 297A.61, subdivision 16; 297A.62, subdivision 2; 297A.64, subdivision 1; 297A.68, subdivision 21; 297A.71, subdivisions 2, 15, 16; 297B.032; 297E.16, subdivision 3; 297F.21, subdivision 4; 297G.20, subdivision 5; 297I.05, subdivision 8; 297I.30, subdivision 3; 325D.33, subdivision 5; 462A.071; 469.1732, subdivision 2; 469.1734, subdivision 4; 469.1782, subdivision 1; 473.3915; 473.446, subdivisions 1a, 1b; Laws 1988, chapter 426, section 1; Laws 1988, chapter 702, section 16; Laws 1992, chapter 511, article 2, section 52, as amended; Laws 1996, chapter 471, article 8, section 45; Laws 1999, chapter 243, article 6, sections 14, 15; Laws 2000, chapter 490, article 6, section 17; Minnesota Rules, parts 8120.0200; 8120.0500; 8120.0700; 8120.0900; 8120.1300; 8120.1600; 8120.2000; 8120.2100; 8120.2200; 8120.2300; 8120.2500; 8120.2700; 8120.2800; 8120.3000; 8120.3200; 8120.4300; 8120.4400; 8120.4500; 8120.4600; 8120.4900; 8120.5000; 8120.5100; 8120.5300.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 117 yeas and 16 nays as follows:

Those who voted in the affirmative were:

Abeler	Eastlund	Howes	Lindner	Paulsen	Stang
Abrams	Entenza	Huntley	Lipman	Pawlenty	Swenson
Anderson, B.	Erhardt	Jacobson	Luther	Paymar	Sykora
Anderson, I.	Erickson	Jennings	Mahoney	Pelowski	Thompson
Bakk	Evans	Johnson, J.	Mares	Penas	Tuma
Bernardy	Finseth	Johnson, R.	Marko	Peterson	Vandeveer
Biernat	Folliard	Johnson, S.	Marquart	Pugh	Wagenius
Bishop	Fuller	Juhnke	McElroy	Rhodes	Walz
Boudreau	Gerlach	Kelliher	McGuire	Rifenberg	Wasiluk
Bradley	Goodno	Kielkucki	Milbert	Rukavina	Wenzel
Buesgens	Goodwin	Knoblach	Molnau	Ruth	Westerberg
Carlson	Greiling	Koskinen	Mulder	Schumacher	Westrom
Cassell	Gunther	Krinkie	Mullery	Seagren	Wilkin
Clark, J.	Haas	Kubly	Ness	Seifert	Winter
Daggett	Hackbarth	Kuisle	Nornes	Sertich	Wolf
Davids	Harder	Larson	Opatz	Skoglund	Workman
Dehler	Hausman	Leighton	Osskopp	Slawik	Spk. Sviggum
Dempsey	Hilstrom	Lenczewski	Osthoff	Smith	
Dorman	Holberg	Leppik	Otremba	Solberg	
Dorn	Holsten	Lieder	Ozment	Stanek	

Those who voted in the negative were:

Clark, K.	Dibble	Hilty	Kalis	Olson	Walker
Davnie	Gleason	Jaros	Mariani	Skoe	
Dawkins	Gray	Kahn	Murphy	Swapinski	

The bill was passed, as amended, and its title agreed to.

Pawlenty moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

FISCAL CALENDAR, Continued

Pursuant to rule 1.22, Bishop requested immediate consideration of H. F. No. 2.

H. F. No. 2 was reported to the House.

STATE OF MINNESOTA
HOUSE OF REPRESENTATIVES

TWELTH MEETING
EIGHTY-THIRD SESSION

REGULATED INDUSTRIES COMMITTEE

MINUTES

Rep. Torrey Westrom, Chair of the Regulated Industries Committee, called the twelfth meeting to order at 2:30 p.m. on February 26, 2003 in Room 10 of the State Office Building.

The Clerk noted the roll.

Members present:

WESTROM, Torrey, Chair
WESTERBERG, Andy, Vice-Chair
BEARD, Mike
COX, Ray
DAVIDS, Greg
GUNTHER, Bob
HACKBARTH, Tom
HOPPE, Joe
OSTERMAN, Lynne
OZMENT, Dennis
POWELL, Duke
SIMPSON, Dean
VANDEVEER, Ray
ANDERSON, Irv
JOHNSON, Sheldon
JUHNKE, Al
LARSON, Dan
PELOWSKI, Gene
WAGENIUS, Jean
WALKER, Neva

Members excused: NONE

A quorum was present.

Rep. Wagenius moved the minutes for February 25, 2003. The motion prevailed.

HF 208 (Kuisle) Renewable energy source definition expanded to include mixed municipal waste.

Rep. Hackbarth moved that HF 208 be recommended to pass and re-referred to the committee on Environment Policy.

Rep. Kuisle provided a brief overview of HF 208 to the committee.

The following individuals testified regarding HF 208:

Gene Mossing, Olmstead County
Wayne Hanson
Trudy Richter, Minnesota Resource Recovery Association
Bill Grant, Izaak Walton League
Kathleen Schuler, Institute for Agriculture and Trade Policy

Rep. Osterman moved to amend HF 208 (H208A3 amendment).

Rep. Davids recused himself from voting on the H208A3 amendment to HF 208 due to a possible conflict of interest.

withdrawn

..... moves to amend H. F. No. 208, as follows:

Page 1, line 14, after "waste" insert ", including waste tires,"

Page 2, line 15, after "waste" insert ", including waste tires,"

MOTION FOR RECONSIDERATION

Westrom moved that the action whereby S. F. No. 794, as amended, was given its third reading be now reconsidered. The motion prevailed.

Pursuant to rule 2.05, the Speaker excused Davids from voting on the Westrom et al delete everything amendment and on final passage of S. F. No. 794, as amended, as it relates to page 8, lines 27 to 30, provision (e).

Westrom, Rukavina, Juhnke and Beard moved to amend S. F. No. 794, as amended, as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

NUCLEAR AND RENEWABLE ENERGY PROVISIONS

Section 1. Minnesota Statutes 2002, section 116C.71, subdivision 7, is amended to read:

Subd. 7. [RADIOACTIVE WASTE MANAGEMENT FACILITY.] "Radioactive waste management facility" means a geographic site, including buildings, structures, and equipment in or upon which radioactive waste is retrievably or irretrievably disposed by burial in soil or permanently stored. An independent spent fuel storage installation located on the site of a Minnesota nuclear generation facility for dry cask storage of spent nuclear fuel generated solely by that facility is not a radioactive waste management facility.

Sec. 2. Minnesota Statutes 2002, section 116C.779, is amended to read:

116C.779 [FUNDING FOR RENEWABLE DEVELOPMENT.]

Subdivision 1. [RENEWABLE DEVELOPMENT ACCOUNT.] (a) The public utility that ~~operates~~ owns the Prairie Island nuclear generating plant must transfer to a renewable development account ~~$500,000 each year for each dry cask containing spent fuel that is located at the independent spent fuel storage installation at Prairie Island after January 1, 1999~~ $16,000,000 annually each year the plant is in operation, and $7,500,000 each year the plant is not in operation if ordered by the commissioner pursuant to paragraph (c). The fund transfer must be made if nuclear waste is stored in a dry cask at the independent spent fuel storage facility at Prairie Island for any part of a year. Funds in the account may be expended only for development of renewable energy sources. Preference must be given to development of renewable energy source projects located within the state.

(b) Expenditures from the account may only be made after approval by order of the public utilities commission upon a petition by the public utility.

(c) After discontinuation of operation of the Prairie Island nuclear plant and each year spent nuclear fuel is stored in dry cask at the Prairie Island facility, the commission shall require the public utility to pay $7,500,000 for any year in which the commission finds, by the preponderance of the evidence, that the public utility did not make a good faith effort to remove the spent nuclear fuel stored at Prairie Island to a permanent or interim storage site out of the state. This determination shall be made at least every two years.

Subd. 2. [RENEWABLE ENERGY PRODUCTION INCENTIVE.] (a) Until January 1, 2018, up to $6,000,000 annually must be allocated from available funds in the account to fund renewable energy production incentives. $4,500,000 of this annual amount is for incentives up to 100 megawatts of electricity generated by wind energy

The bill, as amended, was placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 81 yeas and 51 nays as follows:

Those who voted in the affirmative were:

Abrams	Demmer	Hoppe	Magnus	Ruth	Sykora
Adolphson	Dempsey	Howes	Mahoney	Samuelson	Tingelstad
Anderson, I.	Dill	Jacobson	Marquart	Seagren	Urdahl
Anderson, J.	Eastlund	Johnson, J.	McNamara	Seifert	Vandeveer
Beard	Erhardt	Kielkucki	Nelson, M.	Sertich	Walz
Blaine	Erickson	Klinzing	Nornes	Severson	Wardlow
Borrell	Finstad	Knoblach	Olsen, S.	Simpson	Westerberg
Boudreau	Fuller	Kohls	Olson, M.	Slawik	Westrom
Bradley	Gerlach	Krinkie	Osterman	Smith	Wilkin
Brod	Gunther	Kuisle	Ozment	Soderstrom	Zellers
Buesgens	Haas	Lanning	Paulsen	Solberg	Spk. Sviggum
Cornish	Hackbarth	Lindgren	Penas	Stang	
Davids	Harder	Lindner	Powell	Strachan	
DeLaForest	Heidgerken	Lipman	Rukavina	Swenson	

Those who voted in the negative were:

Abeler	Eken	Hornstein	Latz	Nelson, P.	Sieben
Atkins	Ellison	Huntley	Lenczewski	Opatz	Thao
Bernardy	Entenza	Jaros	Lesch	Otremba	Thissen
Biernat	Goodwin	Johnson, S.	Lieder	Otto	Wagenius
Carlson	Greiling	Juhnke	Mariani	Paymar	Walker
Clark	Hausman	Kahn	Meslow	Pelowski	Wasiluk
Cox	Hilstrom	Kelliher	Mullery	Peterson	
Davnie	Hilty	Koenen	Murphy	Pugh	
Dorn	Holberg	Larson	Nelson, C.	Rhodes	

The bill was passed, as amended, and its title agreed to.

MESSAGES FROM THE SENATE, Continued

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 754, A bill for an act relating to eminent domain; changing the definition of displaced person to correspond to federal law; amending Minnesota Statutes 2002, section 117.50, subdivision 3.

PATRICE DWORAK, First Assistant Secretary of the Senate

Burman, Shelley

mid; May/May – received preliminary scope – sent Jenny comments –

From: Eger, Paul
Sent: Thursday, May 16, 2002 5:55 PM
To: Burman, Shelley
Subject: RE: Heartland Energy Review

Thank you very much!!!

From: Burman, Shelley
Sent: Thursday, May 16, 2002 4:55 PM
To: Eger, Paul
Cc: Reinertsen, Jenny; Kain, Kevin; Smith, Don A.; French, Nelson; Hora, Marvin; Dymond, Mary; Becker, Dennis
Subject: RE: Heartland Energy Review

Delay in picking Heartland's submittal of a scoping document for an ATR: Loss of an air risk assessor in January and inability to replace. Currently there are 7 air projects ahead of Heartland Energy for analysis of impacts from air emissions. These projects were assigned prior to receipt of Heartland's submittal in January of 2002 and are at various stages in the process. Currently, we have just over 1 FTE available to review air toxics impacts from facilities and provide general guidance regarding analysis of facility impacts. Some of the projects that are ahead of Heartland are waiting for reassignment. (These 7 are Ashland Marathon, Owens Corning, 3M Hutchinson, Pechiney Plastics, New Flyer, Trus Joist, Anderson XL.)

I have been in touch with Heartland's consultant - and have let her know the status. During some down time with the projects listed above, we were able to recently (this week) pick up the submittal and do a preliminary review to determine if there were any obvious gaps in the submittal.

RE average times for review of risk assessment scoping documents: It is very dependent on the quality of the submittal, the complexity of the facility and background and experience in risk assessment priniciples of person/company preparing the submittal. After the preliminary review discussed above, we should have a better idea re Heartland's submittal.

Thanks. Shelley

From: Eger, Paul
Sent: Thursday, May 16, 2002 3:50 PM
To: Burman, Shelley
Cc: Reinertsen, Jenny; Kain, Kevin; Smith, Don A.; French, Nelson
Subject: FW: Heartland Energy Review

Shelley-

Could you please provide me with an estimate of when the scoping document submitted by Heartland will be reviewed, the average length of time to review scoping documents in general, and any explanation for a delay, if there has been one, in reviewing Heartland's document? I need to get back to Rep. Davids' office and these are some of the questions I think they may ask.

I am spending all of my time at the Capitol this week until they adjourn so if you have any questions, please call me on my cell at (651)308-1631 if you have any questions. Also, I will be checking my email from the Capitol regularly.

Thank you!

Paul Eger

From: Schutt, Carolina
Sent: Thursday, June 06, 2002 3:51 PM
To: Reinertsen, Jenny; Braaten, Bruce
Cc: Chikkala, John; Eger, Paul; Smith, Don A.; Burman, Shelley
Subject: Rep. Davids
Importance: High

I responded to a call from Rep. Davids regarding the Heartland project. I believe is about Heartland Energy & Recycling construction permit in Preston, MN and not about the Heartland Corn Products pending administrative amendment(an ethanol facility in Winthrop, MN). Rep. Davids wants specific information about the construction permit action.

Heartland Energy & Recycling is a proposed used tired-derived fuel burning facility. It will be located on property adjacent to Pro-Corn (another ethanol facility). Heartland Energy has plans to sell steam to Pro-Corn.

Apparently Jenny Reinertsen has already provided some information through Paul Eger, but Rep. Davids was hoping that someone could tell him plain and simple when this permit will be issued.
I told him I was not familiar with the project but that we would call him back with additional information to offer in this regard.
I told him we are not always in control of all the aspects affecting permit issuance and thus we are not always able to define a specific date for permit issuance.
He wants to understand what we need to help us complete our review.

I will set-up a meeting to get ready for a phone call conference with Rep. Davids.

Carolina Espejel-Schutt, P.E.
Supervisor, Major Facilities Section,
Majors and Remediation Division
Minnesota Pollution Control Agency
carolina.schutt@pca.state.mn.us
520 Lafayette Rd., St. Paul, MN 55155
Phone: (651) 296-7711
Fax: (651) 296-8717

From: Reinertsen, Jenny
Sent: Thursday, May 30, 2002 2:19 PM
To: Eger, Paul
Cc: Smith, Don A.
Subject: RE: Rep. Davids and Heartland Energy

Paul:

There are three possible scenarios. They are all EAW related and that is what will determine when the permit will be issued. We cannot issue the permit until a declaration is made on the EAW.

1. A multi-pathway risk assessment is requested. This would take 2-3 years.
2. Dispersion modeling is required. This would take 2-3 months.
3. Screening modeling is done, and the permit could possibly go on notice in a month or so.

I am assuming that Heartland gets me information in a timely manner, and that all the permitting work can go on while the EAW is being processed. So, as soon as its done, the permit can be issued. Most companies do, but I am working with another company that wants everything immediately, and never sends in anything, or when they do its not right. Then they go complain to the legislature.

The permit period is a 30 day notice. If no comments are received, the permit is issued at the end of 30 days. So, its possible that Heartland would have a permit in 60-70 days.

If comments are received and the permit is controversial, add another 30-60 days to deal with board meetings, response to comments, etc.

I am recommending to the risk managers that we just do screening modeling. I am guessing that there will not be much controvery, but there will be some, so total permit issuance time would be 90 days from today. (This is what I think is most likely to happen.)

I won't know for sure, though, until the risk managers make a decision. I am going to try to get that decision in the

next couple of weeks.

Let me know if I can be of further help. I will let you know when we have a decision on the risk assessment.

From: Eger, Paul
Sent: Thursday, May 30, 2002 1:01 PM
To: Reinertsen, Jenny
Cc: French, Nelson
Subject: Rep. Davids and Heartland Energy

Jenny-

Thank you for returning my call regarding the additional information Rep. Davids is requesting on the Heartland Energy permit. I understand that it is impossible to provide him with the "exact date" that the permit will be approved. However, could you provide me with some information (do you have a fact sheet or some other document?) regarding how the permit process works?

From the information I have received from you so far from email and voice mail, it appears that Heartland is a participant in the permitting process. It is not a case of simply applying for a permit and waiting for it to be processed. Instead, drafts are provided to Heartland and their feedback is considered before the final permit is approved. Therefore, as you stated in your voice mail message to me yesterday, a lot depends on them. Is that correct?

Any additional information you may be able to provide that would assist me in explaining to Rep. Davids' staff why we cannot provide him with an "exact date" for permit approval would be appreciated.

Thanks, again!

Paul Eger
Legislative Liaison
Minnesota Pollution Control Agency
Office: (651)297-8366
Pager: (651)339-2837
Cell: (651)308-7631
Fax: (651)296-7923
Email: paul.eger@pca.state.mn.us

Kain, Kevin

From: Lockwood, Beth
Sent: Wednesday, June 12, 2002 8:29 AM
To: Kain, Kevin
Subject: FW: Rep. Davids
Importance: High

FYI. Not sure why you got missed. -Beth

Beth G. Lockwood
Supervisor
Environmental Review Program
Regional Environmental Management Division
651/296-7780

MPCA Website: http://www.pca.state.mn.us

From: Schutt, Carolina
Sent: Tuesday, June 11, 2002 4:59 PM
To: Eger, Paul; French, Nelson
Cc: Reinertsen, Jenny; Reinhardt, Victoria; Smith, Don A.; Silis, Ainars; Foss, Ann; Tibbetts, Mike; Lockwood, Beth; Burman, Shelley
Subject: FW: Rep. Davids
Importance: High

This is the summary of our latest response to Rep. Davids' inquiry regarding the Heartland Energy & Recycling construction project in Preston.
Please see attached e-mails for background information.
I talked today to Rep. Davids and told him the following:
- Explained that while it is not possible to provide him with the "exact date" that the permit will be issued, we are able to define the issues pending for decision and possible outcomes.
- The only pending issue for decision is the level of analysis we need to conduct for air toxics. This analysis is needed for the EAW process and possibly the permit if further mitigation measures are needed.
- There are three possible outcomes on the level of air toxics review needed and the range of time needed for completion of these is from few weeks for the most simple up to a couple of years for the most complex one.
- We have been working with the consultant to gather information on emission releases of toxics. More data search is needed to find better data. If we were to recommend a level of air toxics review based on the information we have now, we probably would recommend the most complex level to be on the safe side. We believe there is better data available and investing some time up- front not only could shorten the total amount of total time for the permitting process, but will also provide better results overall.
- In the recent past, the proposed permit for the Pro-Corn facility raised a significant level of interest from local citizens as well as from members of nearby communities. Interested parties raised specific concerns about health impacts from air toxics.
- The Agency is trying to be responsive to concerns previously raised by interested parties in this area. We also want to do as much work up-front to better prepare ourselves to answer to questions and concerns that might be raised during the public notice period.
- If there is significant level of interest generated during the public comment period for this project, we will not be in total control of the time it will take to respond to concerns, and if necessary, hold a public meeting and take the proposed permit to the Board for decision.
- The permitting process is technically complex and it is important and most efficient to up-front spend the time and effort needed to address relevant issues. This is what we are trying to do at this point.

Rep. Davids seemed satisfied with my explanations and did not ask further questions or for future updates. Please let me know if you have more questions.

Carolina Espejel-Schutt, P.E.
Supervisor, Major Facilities Section,
Majors and Remediation Division
Minnesota Pollution Control Agency
carolina.schutt@pca.state.mn.us
520 Lafayette Rd., St. Paul, MN 55155
Phone: (651) 296-7711
Fax: (651) 296-9707 or (651) 296-8717

From: Reinertsen, Jenny
Sent: Monday, May 13, 2002 11:43 AM
To: Eger, Paul
Cc: Smith, Don A.
Subject: RE: Heartland Energy Review

Paul: I am working on the draft permit now. I have sent a list of questions to the company regarding some final information I need to complete the permit. Once I have it, it shouldn't take long to get a draft to the company for its review.

The company has proactively proposed doing an air toxics review. To do that, it submitted a scoping document to the MPCA for review and approval. That scoping document was submitted on January 22, 2002. As yet, it has not been reviewed so the company is still waiting to go ahead with the analysis. It is my understanding that we have lost many of the staff in the division that reviews those, and that is the reason for the delay.

You may want to contact Shelley Burman at 651/296-7717 to get an update as to when that review may be gotten to by her staff.

From: Eger, Paul
Sent: Monday, May 13, 2002 9:17 AM
To: Reinertsen, Jenny
Cc: French, Nelson; Kain, Kevin
Subject: FW: Heartland Energy Review
Importance: High

Jenny-

I am trying to gather some information for Rep. Greg Davids concerning the status of an air quality permit for Heartland Energy (see message below).

Could you please provide me with an estimate of when their air quality permit may be issued. Please include any additional information you think may be of interest to Rep. Davids.

Thank you!

Paul Eger
Legislative Liaison
Minnesota Pollution Control Agency
Office: (651)297-8366
Pager: (651)339-2837
Cell: (651)308-7631
Fax: (651)296-7923
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From: Kain, Kevin
Sent: Monday, May 13, 2002 9:10 AM
To: Eger, Paul
Subject: RE: Heartland Energy Review

Paul

Jenny Reinertsen is the permit engineer for this project, you will have to talk to her about the status of the permit. I am working on the EAW and expect to have it ready for publication within the next

Attachment #15

became number one after Greg Davids involvement. (December 2, 2004 MPCA Public Hearing, Rochester, MN Judge Wieners presiding, submitted by attorney Jim Peters of Peters & Peters)

April 16, 2003

8:12pm

Phone conversation

Greg Davids Minnesota House Representative 31B
David Pechulis Mayor of Preston, Minnesota

Davids:	"Greg Davids"
Pechulis:	"Hey Greg, Dave Pechulis, how ya doing guy?"
Davids:	"Good."
Pechulis	"Uh. .talked to Steve.. matter of fact I actually read the article as well...."
Davids:	"Ok."
Pechulis:	"And uh.. it does say slime-ball doesn't it....."
Davids:	"Ya"
Pechulis	"....And he's ah he's pretty upset."
Davids	"With what?"
Pechulis	"Well he just feels I think it's to close of an issue."
Davids:	"But it's not and I did recuse myself. What did he say when you said that I recused myself?"
Pechulis:	"Well I told him that he recused himself ...and he just uh he just found a little uh you know a little ah tough an...as far as... I guess maybe he felt that ...I don't know.... you shouldn't have been involved in it at all."
Davids:	"Is he gonna ....."
Pechulis:	"Huh?"
Davids:	"I wasn't. Is he gonna continue with this?
Pechulis:	"That's a good question...that's a good question."
Davids:	"I like to know."
Pechulis:	"That I don't know. I mean it's.. you know...like I said right now a lot of people are ah you know there's frustration on both sides"
Davids:	"But he lied, he lied. .he said I didn't recuse myself and I did."
Pechulis:	"Right."
Davids:	"And that's ok to lie because your upset?"
Pechulis:	"No."
Davids:	"Apparently it is with him."
Pechulis:	"No I.. believe me.. believe me I don't uh.. you know.. when it comes down to something like that."
Davids:	"Well it.."
Pechulis:	"Well it.. you mean you know how .. but you know it is."
Davids:	"And then to go after Kendrick."
Pechulis:	"Right.. he took a couple of pot-shots there."
Davids:	"He's not even in office."
Pechulis:	"Right.. right and according to this..."

Davids: "He'd better watch it cause he's a private citizen now, he could sue his ass and win big time, you can't if your elected."

Pechulis: "Right."

Davids: "But he could go after him big.. he better just watch it!"

Pechulis: "Right."

Davids: "Cause he's gonna be paying a lot of money in legal fees if he doesn't be a little careful here."

Pechulis: "Sure, why you know."

Davids: "He's got no, ya know .he's got no. .probably doesn't have personal injury on his home owners, he better have....because if he continues I'll sue him."

Pechulis: "Sure, but he I mean...."

Davids: " And if I did something nail me, fine."

Pechulis: "Right."

Davids: "But I didn't."

Pechulis: "Right, I think its one of those, just those perception things"

Davids: "Well the perception is that he's gonna be writing some pretty big checks out to some pretty hot-shot attorneys."

Pechulis: "Right."

Davids: "...cause if he keeps this up."

Pechulis: "Well ya know it, but ya know it's kinda like we were just talking about ya know, it's like a game and you know and it's.. I don't know."

Davids: "But there's sland.. there slander and there's libel>"

Pechulis: "Right"

Davids: "He's crossed the line.. cause he out right lied...and you can't do that."

Pechulis: "Right."

Davids: "So I mean you know if we're gonna have more of these he'd better figure on getting some papers delivered to him ...hand delivered...I ain't puttin up with this shit! "

Pechulis: "Yeah I know but you know it's uh..you know it's uh..kinda like uh...well.."

Davids: **"Well do I sue the whole group or him individually or what? Does the SEMEP group have some insurance? You better buy some."**

Pechulis: "That I don't know."

Davids: "You better get some...cause, cause, ya know if this happens again I will sue 'em."

Pechulis: "Right."

Davids: "Yeah I got good attorneys..."

Pechulis: "Well I..."

Davids: **"I got junkyard dog killing attorneys from Chicago that will rip their eyes off and pee on their brains.."**

Pechulis: "Yeah."

Davids: "If that's the way they want to play this game."

Pechulis: "We'll you know you sure don't hope ..well ya know you hope it doesn't come to it an you know.."

Davids: "He's pushin it! I didn't push it! I'm doin it all right."

Pechulis: "Right."

Davids: "And we're all above board."

Pechulis: "Right."

Davids: "Right on the table.."

Pechulis: "You know it's uh.. that's one thing that's.... well I'll say ya know it's...well you know how it gets uh you know public opinion and all that other stuff."

Davids: "Well you can have all the opinions you want but you don't lie about people."

Pechulis: "Right."

Davids: "That's not acceptable....that's what he did.....so I, ya know if I don't get an apology this thing isn't over, I get an apology and it's done., I discussed it and it's gone...but if I don't I think you know what's gonna happen."

Pechulis: "no.."

Davids: "So before that group says somethin stupid again they better think what they're doin."

Pechulis: "Ya know I'll do my..you know I'll, I'll do my best Greg.."

Davids: "If I get an appology .. you better tell'em that I have an apology come' in in the paper."

Pechulis: "Right."

Davids: "I'll accept it an it's over...and I'll continue to conduct myself as I have."

Pechulis: "right."

Davids: "If don't I'm a free-agent and I'm not happy, I'm damn mad you don't treat people like that, you don't make it personal and you don't bring family into it..that's not acceptable."

Pechulis: "believe me I know that."

Davids: "I been around this...I've been....I've run twelve campaigns an I've been through a lot..and I've seen this and I've seen how it goes and I know how to do it.... but ya know if Mr. Roessler wants to be cute again that's just fine, that's just fine."

Pechulis: "You know I, ya know I know it's more than being a mayor of a town the position you have and uh you know some of this stuff I just let roll off my back, but.."

Davids: "well and I do too, you gotta be able to take a punch and I can take a punch but I can't take lie and have my family drug into it."

Pechulis: "Right."

Davids: "You know I can take a lot ..oh gees I've taken punches over the years ..big time, in fact I've shown I can take more punches than about anyone on this planet, but when you lie about my ethics that is not acceptable.

Pechulis: "Right."

Davids: "...and I'll fight, I'll fight that all the way to city hall."

Pechulis: "Right..and I know a big part of this is, well... you know... I just think he thinks it's just a little to close to the issue"

Davids: "Yeah but he's wrong, it doesn't matter what he thinks, he, he doesn't know what he's talkin about he's wrong."

Pechulis: "Right."

Davids: "Has he ever thought that maybe he doesn't know what he's talking about? And that I've had all these things checked out by attorneys and by the Chief Clerk that nobody would question....buddy give me a little credit."

Pechulis: "Well I know but I think, I think..."

Davids: "It doesn't matter you know it's wrong."

Pechulis: "You know....I know."

Davids: "This is serious stuff."

Pechulis: "I know, but I know.."

Davids: "Kendrick Scheevel is a private citizen."

Pechulis: "Right."

Davids: "Now my threshold. I can. I can make the threshold cause it's an outright lie here, but my threshold is higher than Kendrick's. Kendrick has a very low threshold. he's not an elected official.."

Pechulis: "Oh no"

Davids: "You got work to do.."

Pechulis: "Well you know I think it's one of those situations...(daughter crying)hold on...hold on one second..ok, daddy go get you some milk...I just think it's one of those thing where..well you know and it's I guess no different than what we talked about It's one of those things that I think .."

Davids: "But, but..."

Pechulis: "He feels your to close to the issue."

Davids: "It doesn't matter what he thinks on how close it is. I've done nothing wrong..."

Pechulis: "I know."

Davids: " I have serious accusations against me and I have done nothing wrong, I've done nothing unethical if he's talking about bring this in front of the Ethics Committee...."

Pechulis: "Right, I mean I guess"

Davids: "I suggest your SEMEP group go and get general liability and personal injury protection on it as a group."

Pechulis: "Yeah but I don't control them Greg."

Davids: "Well yeah but I know you talk to that group and they better be prepared, they better have some pretty good insurance....they better be careful on what they say cause words have meaning, words have meaning."

Pechulis: "And I under, and I understand that."

Davids: "You can't lie about people."

Pechulis: "I mean, I ya know."

Davids: "And I got the papers to prove he's lying when he said I didn't recuse myself, I did recuse myself."

Pechulis: "Right."

Davids: "I mean..."

Pechulis: "You know, but.."

Davids: "That deserves an apology."

Pechulis: "I know and I agree, I agree but then, but then it's like you know it's how I take this is like some people like to play games I mean, I ya know."

Davids: "you don't play games about lying about people, that's not a game."

Pechulis: "Right."

Davids: "That, that's personal and games don't get personal."

Pechulis: "Right."

Davids: "You might want to call him that I'm expecting an apology. "

Pechulis: "Ok."

Davids: "And because it doesn't matter what he thinks that it's too close, I didn't do it and I thought it was too close even though legally I could, I could have voted on the whole thing I felt that it would be perceived as too close so I didn't vote on it so how could I be too close if I didn't do it?'

Pechulis: "I know."

Davids: **"And you can't argue on the Omnibus Bill you have to vote on Omnibus bills you can't be recused from Omnibus Bills."**

Pechulis" "Right"

Davids: "So what did I do wrong there?"

Pechulis: "Oh.. I.. you know.."

Davids: "He owes me an apology."

Pechulis: "Alright I'll be more firmer with him.. that's you know.."

Davids: "And if I get it it's done."

Pechulis: "Right."

Davids: "And I don't even think about it.. it's done."

Pechulis: "Right."

Davids: "It's over the line he was wrong."

Pechulis: "I know, but I mean I don't want you to think that I can guarantee that something like that somebody else is gonna take a pot-shot cause lord knows people take pot-shots at me every day for being against this thing (Heartland).

Davids: "Just make sure they got their insurance paid, make sure they have personal injury for liable and slander on their policy."

Pechulis: "Sure."

Davids: "Make sure they got it..cause their gonna need it."

Pechulis: "I know, I know Greg but.."

Davids: **"There gonna need it cause it's gonna cost them...then they'll.. it's probably a ten thousand dollar deductible so they get to pay the first ten thousand dollars for their stupid things and stupid lies they do...."**

Pechulis: "Right."

Davids: "...and then it'll go on their insurance after that.."

Pechulis: "Right."

Davids: "are..are worth more than anything to me and if those are questioned... with a lie.. I mean we.. we don't have to agree on how I voted on stuff but that's not about being unethical that's just disagreeing on an issue."

Pechulis: "Right."
Davids: "But that's not what we're talking about here, we're talking about someone who lied about me and .. and questioned my ethics."
Pechulis: "Right."
Davids: "He said I was unethical."
Pechulis: "Right."
Davids: "He can't do that.... unless he's got proof."
Pechulis: "Right."
Davids: "And I got the proof that I did nothing wrong... and even if I have recused myself I still did nothing wrong."
Pechulis: "No, I know and.. believe me anybody that I have ever talked about this whole thing, ya know I've told, I've said nope here you go..I... I mean I've showed everybody that, you know, paper you've given me. (sigh)
Davids: "Well... if he can't apologize make sure he has his insurance papers."
Pechulis: "Alright ..I'll.. uh.. I'll do what I can."
Davids: "I..."
Pechulis: "I'll do what I can..."
Davids: "I'd like this thing to go away..
Pechulis: "I know.."
Davids: "It can go away..."
Pechulis: "I know.."
Davids: "This can be...."
Pechulis: "I know..."
Davids: "This can be taken care of, it can go way."
Pechulis: "I know. I mean I know.. you know."
Davids: "He apologizes its gone."
Pechulis: "I know.. and I.. you know and I do... I do know this...I do know that if you wanted to on this bill yeah you could have probably....there's a lotta things you might have done differently."
Davids: "No...there's nothing I could have done differently."
Pechulis: "Well no I'm just saying I , you know .. as far as uh.....you've could have taken the high road or taken the low road, I guess I...."
Davids: "I've taken the high road."
Pechulis: "Right."
Davids: "I took the high road that he says I didn't take."
Pechulis: "Right."
Davids: "because I recused myself I took the high road."
Pechulis: "Right."
Davids: "So doesn't it bother him that he was wrong and he made some statements with bad information."
Pechulis: "You know it, you know, but I...(sigh) you know and I don't...."
Davids: "but I didn't realize you recused yourself from it, I'm mad about it, and I made a mistake, that's all I gotta hear."
Pechulis: "Yeah I know, I know it is, I know it is and I you know I think...you know like I said and I'm not defending him Greg, believe me, I'm just saying there's been a lot of frustration going on there's a lot of people upset you know we've had....."
Davids: "you can be upset without lying about people and libeling and slandering people."
Pechulis: "I know."
Davids: "No excuse for that, none."
Pechulis: "No and ..I and.. I agree, I agree, I agree, I agree people shouldn't play those games you know but, ..lord knows I don't wanna, but then ...."
Davids: "You've got insurance."
Pechulis: "Yeah."
Davids: "Ha, Ha..."
Pechulis: "Trough the city ."(City of Preston)

Davids: **"You've got insurance...they can only get you for six hundred grand."**

Pechulis: "Well you know, I and.. and its one of those public opinions."

Davids: "They can get you for six hundred grand."

Pechulis: "Right."

Davids: "That's all..that's the cap for a city."

Pechulis: "Man.. I you know, I just hate being in the middle of this stuff."

Davids: "There's no limit with him..."

Davids: "There's no limit with him...I don't think John Torgremson (Publisher and Editor of the Fillmore County Journal)..."

Pechulis: "I don't think....."

Davids: **"...after I got done with him with this thing either cause he realized he screwed up by printing it like that."**

Pechulis: "I know."

Davids: "Letters to the editor can be edited."

Pechulis: "Oh, I didn't know that."

Davids: "Oh yeah.. lotta times letters to the editor can be edited or, or just not put in... if they're so outrageous, well John...."

Pechulis: "Well than why did John put that in?"

Davids: "Well he used poor judgment, he used...I said John, I said, what. what why did you do this? I said you know better than this. I said you don't start an editorial or letter to the editor out with slime-bag."

Pechulis: "What did he say?"

Davids: "Well he, he was somewhat concerned and. and I faxed him the stuff and I think he's gonna do a little article on Monday., I don't know I'm not sending him nothin except the, except the recusal sheet....."

Pechulis: "Right."

Davids: "....the minutes...I said John. I said I'm not responding to someone who calls me a slim-bag in the press."

Pechulis: "Right."

Davids: "I said I'm not doing that..why did you write that if you could write a letter to the editor what the... so this could go on for more weeks? I said this is, this is to be done now. I want this to end now."

Pechulis: "Right."

Davids: "And you know if I did something wrong then file charges on me."

Pechulis: "Right."

Davids: "Go ahead, but you know it's kinda a waste of time and money when I got all the proof that I did everything properly, in fact I don't even need proof because even if I had voted on directly it's a statewide, it was written statewide...."

Pechulis: "Right."

Davids: "....the way Osterman had it. It was a statewide issue."

Pechulis: "Right."

Davids: "But uh.. eh you know , I made a big mistake about four years ago when under frustration with the Governor because when he had attacked families with suicide and mental illness and families with religion as a crutch for the weak minded, I called him a moron..well that didn't hurt the Governor that hurt me."

Pechulis: "Sure."

Davids: "You know and, and everybody knows in this community what Steve Roeseller's like.. the only thing I don't like is down by Mable they don't know him and some other areas and counties, this Fillmore County Journal is put in ten thousand houses, twenty thousand people... and I can't get to everyone to correct it."

Pechulis: "Right."

Davids: "I'm not gonna put this into a weekly thing to sell more papers for John Torgremson."

Pechulis: "Right."

Davids: "I'm not gonna do that."

Pechulis: "Well I mean have you, well maybe you should call Steve yourself and just say hey listen

I deserve an apology."

Davids: "Yeah, I'm not gonna call him, he doesn't dignify a call from me right now."

Pechulis: "Alright."

Davids: "He's uh..."

Pechulis: "And, and I know this effects you know like I said this is..."

Davids: "This is very personal.."

Pechulis: "I know."

Davids: "If we disagree on an issue and you think I'm a schmuck because I voted yes or no on something fine."

Pechulis: "Right."

Davids: "But this is personal."

Pechulis: "Right."

Davids: "And this is not acceptable, you don't make this stuff personal...and he did he went way over the line with that one, that was so, that was just outrageous, that's lawsuit city, that stuff.

Pechulis: "Right. Well I you know, let me see, let me see what I can do"

Davids: "I mean he owes me an apology, there's no question about it."

Pechulis: "Right."

Davids: "If he makes it I'll accept it and it's over...it probably.. if they (SEMEP) don't do anymore I'll probably won't do much..and I'm not you know, I'm not gonna bring out the mad dog attorneys on this deal right now, but, if this stuff continue from this group I'll defend myself."

Pechulis" "Right."

Davids: "And if.. they shouldn't be stupid."

Pechulis: "Yeah there's a lotta of things that you know that.. uh...."

Davids: "If I do something wrong then nail me."

Pechulis: "Right. Well you know it's just one of those things you know it's uh.. you know, when you get involved in politics and stuff and you see how, you know, you know how letters and stuff like that affect ya and how , and ya know how people seemingly want to shoot you down left and right. "

Davids: "Ya know Martin Baldwin said something stupid about Wellstone the other day he realized he said something stupid and he apologized profusely."

Pechulis: "Right."

Davids: "You know that I'm 99% better than Wellstone or something that he was talking about his relationship with Bush, well what he said was true..."

Pechulis: "I know."

Davids: "...and he didn't lie but he went over the line."

Pechulis: "Right, but ya know and I think where I know, as a matter of fact if I'm understanding Steve right, I just think it's they look at Bob Maust (Proposed builder for Heartland and father in-law of Greg Davids) and they have asked all these questions of Bob and ya know and I know you haven't uh, your staying out of that arena."

Davids: "Well it doesn't matter what Steve Roeseller or anybody thinks, else thinks about it's too close. Why should Bob Maust be penalized cause I'm his son in-law? He doesn't have a state representative."

Pechulis: "Right."

Davids: "He doesn't have one why should he be penalized, why, why doesn't he deserve representation? But he's not gettin it from me. He got Senator Kerlin but he don't he doesn't have me, I'm not gonna carry this stuff."

Pechulis: "Right."

Davids: "You know so, I mean, it doesn't matter what Mr. Roeseller thinks about too close because legally it's not too close legally I'm even one step further away from being too close."

Pechulis: "Right."

Davids: "It's not even too close if I vote on every amendment, if I carried the amendments and carried the bills for my father in-law, which I'd like to do."

Pechulis: "Sure."

Davids: "But I haven't, I can't and I won't, but if this bullshit keeps goin."

Pechulis: "Right."

Davids: "Then its a whole new ball game...and don't think I can't get whatever I want passed up there."

Pechulis: "Oh I believe, I believe you can...believe me your the last guy that I wanna screw with."

Davids: "Well..."

Pechulis: "I mean it's, you know..."

Davids: "And it doesn't have to be that way."

Pechulis: "Right."

Davids: "I wish Steve felt that way...."

Pechulis: "I'll see, I'll see what I can do... ya know."

Davids: "Because I'm willing, I'm willing, here's where I'm at, I'm willing to let this on go if there's no more."

Pechulis: "Right."

Davids: "I still feel I need an apology."

Pechulis: "Right."

Davids: "And if he still says well it's too close, it doesn't matter what he thinks I've done nothing wrong, I have done nothing wrong. And, and you can't even argue I'm too close to it cause I recused myself I didn't vote on it. And the way this on turned out that after I recused myself and there's further debate if you look at the minutes down further the Dale amendment for my father in-law that this Osterman was carrying was pulled and I don't know where he even got the amendment from, cause I had nothing to do with it. So it's not even..so we voted on 208 and it's not even in the bill. If you look at the minutes the 208 A3 amendment was pulled..."

Pechulis: "Right."

Davids: "And I, I ya know but it was on the table and I recused myself, I said I'm not voting on this thing."

Pechulis: "Well maybe uh...."

Davids: "It's not even there."

Pechulis: "Let me try to think, (sigh) ya know I'm gonna I'll take a few minutes to try and think about this, think how I could put this so he so Steve understands that that....."

Davids: "It doesn't even need to be a public apology, he can call the same number you just called.."

Pechulis: "Ok."

Davids: "And I'll accept the apology over the phone."

Pechulis: "Well I think you know, I think Steve needs.."

Davids: "And it's done."

Pechulis: "I think Steve needs to understand that this is a bigger political thing then, then a city council member calling me a moron...."

Davids: "Who wrote, who wrote, who wrote that? Did Steve write that? He had some help because it had specific bill numbers and uh...."

Pechulis: "That I don't know you know I have.. uh....."

Davids: "This Land Stewardship Project deal are they helping out on this?"

Pechulis: "I don't know, I mean you know as much as people think I don't, I don't interact with the group that much."

Davids: "See I don't think, I don't think Steve wrote that, I think the Land Stewardship Project or someone like that did this, I think what there trying to do here Dave, you always have to ask the question, you know what's the question behind the question, I think what they want me to do, not to be able to vote on the, to rattle my cage so much I don't even vote on the uh, uh nuclear power thing.."

Pechulis: "Right."

Davids: "I think that's what they're really after here, I don't think it's, I don't think its, maybe, maybe Steve is really upset about this and there's nothing more to it. But you see you have to understand me more better cause a lot of legislators are chicken

shit, ya know, they get pushed into the corner and they fold and they crumble, when I get pushed into the corner I start kicking the shit out of people.

Pechulis: "Sure."

Davids: **"That's the way I do it.**

Pechuiis: "Right."

Davids: "And there's not very many of them like me, and thank God for that, but most of them can be swayed by being scared....."

Pechulis: "Right."

Davids: "I don't get scared, I get mad...."

Pechulis: "Right."

Davids: **"..and then I get even and that's why I've been able to do this so long."**

Pechulis: "Right ya know..."

Davids: "The old testament guy and the new Testament guy, the old Testament says an eye for an eye, a tooth for a tooth and the New Testament says turn the other cheek, I, I've been reading the Bible I haven't got to the New Testament yet."

Pechulis: "Right."

Davids: "So, so none of this has to happen, but what he did was mean spirited and stupid."

Pechulis: "Ya know what I, what I think ya know kinda going back towards our previous conversation and just let him know that he's gonna let the dog out of the cage and maybe that's not what he needs to do.

Davids: "And, and the other thing is from, if, from ethics charges what about his wife, a librarian, taking names against this thing on city time."

Pechulis: "Right."

Davids: "How ethical is that."

Pechulis: "Right."

Davids: "I mean there's a lotta places we can go that I don't think we want to go."

Pechulis: "Right."

Davids: "I really don't think we want to go.. ask him about this his wife with the city to fight a project. "

Pechulis: "Right."

Davids: "I mean that's a lawsuit right there."

Pechulis: "I'll bring that up to him."

Davids: "I wanna know how to, how....."

Pechulis: "Well I think, I think you know."

Davids: "Mayor, I think , I think that's way to close. I think he, him and his wife are way too close in this thing.

Pechulis: "Right."

Davids: "They're breaking, I haven't broken one laws, they have.

Pechulis: "Right, alright"

Davids: "So if you wanna play this game I play the game but I'll win the game."

Pechulis "I know, I'll try to..."

Davids: "See what you can do."

Pechulis: "I will..I maybe I need to be a little more forceful with him and kinda like you said earlier ya know..I mean uh try to convey that this..."

Davids: "If I got something coming I'm all about fair play, if I got something coming, fine."

Pechulis: "Right."

Davids: "But this is not fair.."

Pechulis: "Ok, I'll relay that to him."

Davids: "This is not fair, and like I said when he starts whining about well he's too close, It doesn't matter what he thinks I'm not to close I wasn't too close I got proof that I wasn't too close."

Pechulis: "I know."

Davids: "I mean God give me a little more credit than that for being you know winning twelve elections."

Pechulis: "Right"

Davids: "Take care of yourself."
Pechulis: "You too, guy."
Davids: "Thanks Mayor."
Pechulis: "You bet."
Davids: "Bye."
Pechulis: "Bye"

Supporting Documentation

Attachment #16

GENERAL AFFIDAVIT

State of Minnesota

County of Fillmore

PERSONALLY came and appeared before me, the undersigned Notary, the within named [redacted] who is a resident of Fillmore County, State of Minnesota, and makes this her statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true to the best of her knowledge.

My name is [redacted] and I am a resident of the City of [redacted] in Fillmore County, Minnesota. I am also the President of Southeastern Minnesotans for Environmental Protections (SEMEP).

Since 2001, residents of the City of Preston and surrounding areas have been debating the merits of a proposal by Heartland Energy and Recycling, LLC to construct a electric generating plant that burns waste tires as a source of fuel. Heartland Energy and Recycling is owned by Robert Maust, who is the father-in-law of Representative Greg Davids.

In July of 2003, the Minnesota Pollution Control Agency approved a permit for the construction of the tire burning plant in Preston without requiring an Environmental Impact Statement to be completed. SEMEP sued the MPCA to get the organization to conduct an EIS. In February of 2004, an Olmsted County judge issued a ruling on the lawsuit that requires the MPCA to review its decision not to require an EIS and stops any further construction on the plant until the review has been completed.

On April 11, 2003, a letter to the editor by Mr. Steve Roessler appeared in the Fillmore County Journal in which Roessler criticized Representative Davids for his vote in favor of a tax bill that provided tax benefits for tire-burning electric generating plants. A

revenue note for the bill indicates that Heartland Energy and Recycling had the only proposal to build such a plant. Steve Roessler's wife, Janene was on the SEMEP Board at the time that the letter was written.

Shortly after Mr. Roessler's letter appeared in the Fillmore County Journal, Richard Nelson contacted me to ask whether I would go to breakfast with Representative Davids on the following day. I agreed to go provided that Mr. Nelson was there as well.

At the breakfast meeting, Representative Davids repeatedly referenced the April 11th letter written by Steve Roessler which appeared in the Fillmore County Journal. Representative Davids kept saying that SEMEP needs insurance coverage in case it is ever sued for slander or libel. Representative Davids mentioned that former State Senator Kenric Scheevel in his now private capacity could sue SEMEP for the references made toward himself and Representative Davids in the letter written by Steve Roessler. SEMEP members are farmers and housewives and the thought of needing liability insurance had never crossed our minds. Representative Davids also asked me to get a letter of apology from Steve Roessler.

Representative Davids made me feel worried and scared about the potential liability faced by SEMEP. Immediately after the breakfast meeting, I went across the street to the Root River Insurance Agency to ask Arnie Keene about getting liability coverage for SEMEP. Mr. Keene said that he doesn't usually look at liability insurance on a regular basis, bu+t he thought it would cost as much as $800 per year. I had no idea how SEMEP would be able to come up with that kind of money.

Later on the same day as the breakfast meeting, Representative Davids called my home six times to ~~warn me~~ reiterate that SEMEP was at risk of a lawsuit and ~~that I needed to~~ repeatedly requested I get a letter of apology from Steve Roessler.

After the breakfast meeting, members of SEMEP asked Janene Roessler to resign from the SEMEP Board to lessen the chance that it would be sued in response to the letter written by Steve Roessler.

DATED this the 13th day of May, 2004.

[redacted]

Signature of Affiant

SWORN to and subscribed before me, this the 13th day of May, 2004.

John Lesch, Representative, 66A District, Minnesota, ex officio notary public. My term expires January 1, 2005.

Representative John Lesch

Attachment #11

Burman, Shelley

mid-May/early — revised preliminary scope — and Jenny comment —

From: Eger, Paul
Sent: Thursday, May 16, 2002 5:55 PM
To: Burman, Shelley
Subject: RE: Heartland Energy Review

Thank you very much!!!

From: Burman, Shelley
Sent: Thursday, May 16, 2002 4:55 PM
To: Eger, Paul
Cc: Reinertsen, Jenny; Kain, Kevin; Smith, Don A.; French, Nelson; Hora, Marvin; Dymond, Mary; Becker, Dennis
Subject: RE: Heartland Energy Review

Delay in picking Heartland's submittal of a scoping document for an ATR: Loss of an air risk assessor in January and inability to replace. Currently there are 7 air projects ahead of Heartland Energy for analysis of impacts from air emissions. These projects were assigned prior to receipt of Heartland's submittal in January of 2002 and are at various stages in the process. Currently, we have just over 1 FTE available to review air toxics impacts from facilities and provide general guidance regarding analysis of facility impacts. Some of the projects that are ahead of Heartland are waiting for reassignment. (These 7 are Ashland Marathon, Owens Corning, 3M Hutchinson, Pechiney Plastics, New Flyer, Trus Joist, Anderson XL.)

I have been in touch with Heartland's consultant - and have let her know the status. During some down time with the projects listed above, we were able to recently (this week) pick up the submittal and do a preliminary review to determine if there were any obvious gaps in the submittal.

RE average times for review of risk assessment scoping documents: It is very dependent on the quality of the submittal, the complexity of the facility and background and experience in risk assessment principles of person/company preparing the submittal. After the preliminary review discussed above, we should have a better idea re Heartland's submittal.

Thanks. Shelley

From: Eger, Paul
Sent: Thursday, May 16, 2002 3:50 PM
To: Burman, Shelley
Cc: Reinertsen, Jenny; Kain, Kevin; Smith, Don A.; French, Nelson
Subject: FW: Heartland Energy Review

Shelley-

Could you please provide me with an estimate of when the scoping document submitted by Heartland will be reviewed, the average length of time to review scoping documents in general, and any explanation for a delay, if there has been one, in reviewing Heartland's document? I need to get back to Rep. Davids' office and these are some of the questions I think they may ask.

I am spending all of my time at the Capitol this week until they adjourn so if you have any questions, please call me on my cell at (651)308-1631 if you have any questions. Also, I will be checking my email from the Capitol regularly.

Thank you!

Paul Eger

Post-Bulletin News
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Judge singles out lawmaker for criticism

Wednesday, February 18, 2004

By Matthew Stolle

The Post-Bulletin

In his order remanding the case back to the Minnesota Pollution Control Agency, Olmsted District Judge Joseph Wieners criticizes a nameless state representative for what he describes as a "ham-handed effort" to speed up the review process.

Related stories

- Judge questions MPCA's calculations (Wed, Feb 18, 2004)
- Heartland opponents win a round (Wed, Feb 18, 2004)

While the ruling does not specifically mention state Rep. Greg Davids, Wieners refers to two dates -- May 13, 2002, and June 11, 2002 -- that make clear that Davids is the target of his derisive comments. Those dates correspond to a series of e-mails sent by staff members of the Minnesota Pollution Control Agency in response to inquiries by Davids.

"Beginning at least as early as May 13, 2002, and continuing through June 11, 2002, a state representative had contact with the PCA's commissioner and other PCA personnel in what this court believes can be fairly characterized as a ham-handed effort to speed up the permit process, despite the fact that the Heartland project was behind seven other projects to be analyzed by the PCA," Wieners writes in his ruling.

Critics of the proposed tire-burning facility, including Preston Mayor David Pechulis, have called on the Legislature to investigate Davids for what they describe as a conflict of interest.

They claim, among other things, that Davids leaned on regulators to speed up the review process for the Heartland Energy and Recycling project, whose primary developer is his father-in-law, Robert Maust. The judge's ruling suggests that he agrees with critics that Davids sought to influence the permit process. The project was moved from No. 7 on the MPCA's list to No. 1, critics say.

"I think Judge Wieners hit it right on when it came down to Greg Davids' involvement," Pechulis said of the ruling.

But Davids said the judge was wrong to conclude that he sought to hasten the permit process. He said he called the MPCA for information, not to influence the process.

"If you look at the e-mails, nowhere does it say that I was trying to

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Attachment #19

MOTION FOR RECONSIDERATION

Westrom moved that the action whereby S. F. No. 794, as amended, was given its third reading be now reconsidered. The motion prevailed.

Pursuant to rule 2.05, the Speaker excused Davids from voting on the Westrom et al delete everything amendment and on final passage of S. F. No. 794, as amended, as it relates to page 8, lines 27 to 30, provision (e).

Westrom, Rukavina, Juhnke and Beard moved to amend S. F. No. 794, as amended, as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

NUCLEAR AND RENEWABLE ENERGY PROVISIONS

Section 1. Minnesota Statutes 2002, section 116C.71, subdivision 7, is amended to read:

Subd. 7. [RADIOACTIVE WASTE MANAGEMENT FACILITY.] "Radioactive waste management facility" means a geographic site, including buildings, structures, and equipment in or upon which radioactive waste is retrievably or irretrievably disposed by burial in soil or permanently stored. An independent spent fuel storage installation located on the site of a Minnesota nuclear generation facility for dry cask storage of spent nuclear fuel generated solely by that facility is not a radioactive waste management facility.

Sec. 2. Minnesota Statutes 2002, section 116C.779, is amended to read:

116C.779 [FUNDING FOR RENEWABLE DEVELOPMENT.]

Subdivision 1. [RENEWABLE DEVELOPMENT ACCOUNT.] (a) The public utility that ~~operates~~ owns the Prairie Island nuclear generating plant must transfer to a renewable development account ~~$500,000 each year for each dry cask containing spent fuel that is located at the independent spent fuel storage installation at Prairie Island after January 1, 1999~~ $16,000,000 annually each year the plant is in operation, and $7,500,000 each year the plant is not in operation if ordered by the commissioner pursuant to paragraph (c). The fund transfer must be made if nuclear waste is stored in a dry cask at the independent spent fuel storage facility at Prairie Island for any part of a year. Funds in the account may be expended only for development of renewable energy sources. Preference must be given to development of renewable energy source projects located within the state.

(b) Expenditures from the account may only be made after approval by order of the public utilities commission upon a petition by the public utility.

(c) After discontinuation of operation of the Prairie Island nuclear plant and each year spent nuclear fuel is stored in dry cask at the Prairie Island facility, the commission shall require the public utility to pay $7,500,000 for any year in which the commission finds, by the preponderance of the evidence, that the public utility did not make a good faith effort to remove the spent nuclear fuel stored at Prairie Island to a permanent or interim storage site out of the state. This determination shall be made at least every two years.

Subd. 2. [RENEWABLE ENERGY PRODUCTION INCENTIVE.] (a) Until January 1, 2018, up to $6,000,000 annually must be allocated from available funds in the account to fund renewable energy production incentives. $4,500,000 of this annual amount is for incentives up to 100 megawatts of electricity generated by wind energy

The bill, as amended, was placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 81 yeas and 51 nays as follows:

Those who voted in the affirmative were:

Abrams	Demmer	Hoppe	Magnus	Ruth	Sykora
Adolphson	Dempsey	Howes	Mahoney	Samuelson	Tingelstad
Anderson, I.	Dill	Jacobson	Marquart	Seagren	Urdahl
Anderson, J.	Eastlund	Johnson, J.	McNamara	Seifert	Vandeveer
Beard	Erhardt	Kielkucki	Nelson, M.	Sertich	Walz
Blaine	Erickson	Klinzing	Nornes	Severson	Wardlow
Borrell	Finstad	Knoblach	Olsen, S.	Simpson	Westerberg
Boudreau	Fuller	Kohls	Olson, M.	Slawik	Westrom
Bradley	Gerlach	Krinkie	Osterman	Smith	Wilkin
Brod	Gunther	Kuisle	Ozment	Soderstrom	Zellers
Buesgens	Haas	Lanning	Paulsen	Solberg	Spk. Sviggum
Cornish	Hackbarth	Lindgren	Penas	Stang	
Davids	Harder	Lindner	Powell	Strachan	
DeLaForest	Heidgerken	Lipman	Rukavina	Swenson	

Those who voted in the negative were:

Abeler	Eken	Hornstein	Latz	Nelson, P.	Sieben
Atkins	Ellison	Huntley	Lenczewski	Opatz	Thao
Bernardy	Entenza	Jaros	Lesch	Otremba	Thissen
Biernat	Goodwin	Johnson, S.	Lieder	Otto	Wagenius
Carlson	Greiling	Juhnke	Mariani	Paymar	Walker
Clark	Hausman	Kahn	Meslow	Pelowski	Wasiluk
Cox	Hilstrom	Kelliher	Mullery	Peterson	
Davnie	Hilty	Koenen	Murphy	Pugh	
Dorn	Holberg	Larson	Nelson, C.	Rhodes	

The bill was passed, as amended, and its title agreed to.

MESSAGES FROM THE SENATE, Continued

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 754, A bill for an act relating to eminent domain; changing the definition of displaced person to correspond to federal law; amending Minnesota Statutes 2002, section 117.50, subdivision 3.

PATRICE DWORAK, First Assistant Secretary of the Senate

Attachment #20

GENERAL AFFIDAVIT

State of Minnesota

County of Houston

PERSONALLY came and appeared before me, the undersigned Notary, the within named Nadine Wise, who is a resident of Houston County, State of Minnesota, and makes this her statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true to the best of her knowledge.

My name is Nadine Wise and I am a resident of the City of Spring Grove in Houston County, Minnesota. My home is located in Minnesota House District 31B. I have been involved in various activities to protect the environment in the region.

For the past several years, I have been concerned about the actions taken by Representative Greg Davids in support of a proposal to construct and operate a tire burning plant in the City of Preston. The tire burning plant would be owned and operated by Heartland Energy and Recycling which is owned by Robert Maust, Mr. Davids' father-in-law. I believe that the family connection to the proposed project represents a conflict of interest for Representative Davids, and that the actions he has taken in support of the project in his capacity as a State Legislator were inappropriate.

During the 2003 Houston County Fair, which took place during the week of August 16, I managed the 4-H booth. I took the opportunity to visit another booth where Representative was present greeting fairgoers to give him a letter asking that he resign from the Legislature due to his conflicts of interest. Upon being given the letter, Representative Davids handed it to another man who crumpled it up and threw it away right in front of me. I got the very strong impression that Representative Davids was trying to intimidate me. I found it very disturbing that he would flaunt the power he has in such a mean-spirited way.

DATED this the 13 day of May, 2004.

Nadine Wise
Signature of Affiant

SWORN to and subscribed before me, this the 13 day of May, 2004.

John Lesch, Representative, 66A District, Minnesota, ex officio notary public. My term expires January 1, 2005.

Representative John Lesch

Post-Bulletin online edition News

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Judge questions MPCA's calculations

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Wednesday, February 18, 2004

By John Weiss

The Post-Bulletin

Olmsted District Judge Joseph Wieners took the Minnesota Pollution Control Agency to task Tuesday for not adequately investigating the proposed Heartland Energy and Recycling plant.

Related stories

• Judge singles out lawmaker for criticism (Wed, Feb 18, 2004)
• Heartland opponents win a round (Wed, Feb 18, 2004)

In his ruling filed Tuesday afternoon, the judge said the MPCA Citizens Board's Feb. 26, 2003, decision not to require a large environmental impact statement for Heartland has to go back to the agency for more review and study. He cited "fundamental factual error" in the MPCA investigation in remanding the case.

Southeastern Minnesotans for Environmental Protection and the city of Preston brought the suit, which Wieners heard Dec. 2, because the citizens board said a smaller environmental assessment worksheet was adequate. SEMEF and Preston officials contended the MPCA did not do a good job in examining the full impact, mostly on air pollution, and that a full EIS is needed.

Heartland would burn 10 million tires, brought in from as far as 500 miles away, to create electricity. Leftover ash and metal would be recycled.

Wieners agreed with the group that the MPCA's investigation was flawed, but did not order the full EIS. He ordered the MPCA to give the group and Preston enough time to prepare for further hearings before the MPCA Environmental Review Committee before going back to the full citizens board. That board is to consider new or amended reports and reconsider the need for an EIS, the judge ordered.

One of the main problems Wieners cited in his decision was confusion about the size of burner in a test plant used to extrapolate the proposed plant's emissions.

The record shows the MPCA referred to the nine-square-foot test plant as 81-square-feet. "The error as to the test plant's size has created a number of questions to be set forth below with respect to the PCA's negative declaration as to the potential of the proposed Heartland plant for significant environmental effects," the judge ruled.

Some other issues Wieners said he saw in reviewing the record and also in the hearing, were:

STATE OF MINNESOTA

IN DISTRICT COURT
CIVIL DIVISION
THIRD JUDICIAL DISTRICT
File No. C1-03-404

COUNTY OF FILLMORE

Southeastern Minnesotans for Environmental Protection, et al.,
Plaintiffs,

and

FINDINGS OF FACT,

CONCLUSIONS OF LAW,

ORDER and MEMORANDUM

City of Preston,
Plaintiff-Intervenor,

vs.

Minnesota Pollution Control Agency,
Defendant,

vs.

Heartland Energy & Recycling, LLC,
Defendant-Intervenor.

This matter came on for hearing before the Honorable Joseph F. Wieners, Judge of District Court, at the Olmsted County Government Center, Rochester, Minnesota, on December 2, 2003, on cross motions for summary judgment. James P. Peters of Peters & Peters, PLC, Alexandria, Minnesota, appeared on behalf of Plaintiffs. Tom G. Dunnwald of Dunnwald & Peterson, PA, Minneapolis, Minnesota, appeared on behalf of Plaintiff-Intervenor City of Preston. Kathleen L. Winters, Assistant State Attorney General, St. Paul, Minnesota, appeared on behalf of Defendant Minnesota Pollution Control Agency. B. Andrew Brown of Dorsey & Whitney, Minneapolis, Minnesota, appeared on behalf of Defendant-Intervenor Heartland Energy & Recycling.

Based upon the written and oral arguments of counsel, the 2164-page MPCA Administrative Record, together with Exhibit A thereto, consisting of pages 2165-2410, 2411-2697, 3175-3181 and 3182-3304, and upon all of the other files, records and proceedings herein, the Court hereby finds and orders as follows:

1. Plaintiff Southeastern Minnesotans for Environmental Protection's and Intervenor City of Preston's motions for summary judgment may be and hereby are reserved.

2. Defendant Minnesota Pollution Control Agency's and Intervenor Heartland's motions for summary judgment may be and hereby are reserved.

3. The matter is remanded to the Minnesota Pollution Control Agency and the Minnesota Pollution Control Agency Citizens Board for reconsideration of its Findings of Fact, Conclusions of Law, and Order of February 26, 2003, so as to address the questions more fully set forth in the Memorandum of this Court attached hereto and made a part hereof.

4. After preparation of responses to this Court's questions, the Minnesota Pollution Control Agency

and the Minnesota Pollution Control Agency Citizens Board shall provide Plaintiffs and Plaintiff-Interven with adequate time within which to prepare for a further hearing before the Environmental Review Committee pri to an ultimate further review of this matter by the Minnesota Pollution Control Agency Citizens Board, at whi amended or additional findings of fact, conclusions of law, and an order regarding the need for an environme impact statement are to be considered that address this Court's questions as set forth in the Memorandum attach hereto and made a part hereof.

5. Various motions of the parties to supplement the record are remanded to the Minnesota Pollutic Control Agency for consideration as to inclusion in the record in connection with the remand herein.

The attached Memorandum is incorporated herein by reference and made a part hereof.

Dated: February 17, 2004

BY THE COURT:

/s/ Joseph F. Wieners
Joseph F. Wieners
Judge of District Court

MEMORANDUM

This matter is before the court on cross motions for summary judgment. The matter is before the court pursuant to Minn. Stat. § 116D.04, subd. 10, which allows the court to consider the negative declaration dec n with respect to the need for an environmental impact statement (hereinafter EIS) reached by the Minnesota Pollution Control Agency Citizens Board (hereinafter Board) on February 26, 2003. There are both procedural and substantive issues that have been raised by the parties, and also pending before this court are motions concerning desired additions to the record. Because this court has determined to remand the matter to the Minnesota Pollution Control Agency (hereinafter PCA) and the Board for further review in light of what this court believes to be a fundamental factual error possibly affecting the substantive issues, this court has determined that supplementation of the record can be left to the PCA upon their review. The other procedural issues are moot in light of the remand.

Remand is one option available to a district court to require review of issues the court feels need consideration in connection with a negative declaration with respect to the need for an EIS. *See* American Iron & Supply Company's Proposed Metal Shredding Facility in Minneapolis, Minnesota, v. State of Minnesota, Minnesota Pollution Control Agency, 604 N.W.2d 140 (Minn. App. 2000) (hereinafter the Kondirator case). Remand in the present case seems to be particularly appropriate in light of the principle enunciated in Reserve Mining Co v. Minnesota Pollution Control Agency, 267 N.W.2d 720 (1978), "that in scrutinizing administrative decisions there is a 'need for exercising judicial restraint and for restricting judicial functions to a narrow area of responsibility lest (the court) substitute its judgment for that of the agency.' " The Reserve Mining court suggested that if the agency acted arbitrarily and capriciously, "it was the duty of the trial court to remand the matter to the agency to correct its own errors and fashion amended permits . . ." In White v. Minne Department of Natural Resources, 567 N.W.2d 724 (Minn. App. 1997), the court stated that "if the evidence submitted outside the administrative record demonstrates that the agency's effort was clearly inadequate . . ., the court's proper function is to remand to the agency for correction of the agency's errors."

The factual error with which this court is concerned represents something of a twist on the above-referenced decisions. Specifically, this court is concerned with the mischaracterization of the size of the pilot test plant upon which all, or almost all, of the computations, calculations, and extrapolations of the PCA are based in connection with their air quality determinations.

The record reflects that PCA consistently referred to the three feet by three feet (nine square feet) pilot test plant as being nine feet by nine feet (81 square feet). R. 417, 465, 1274, 1426, 1558, and 3259. No one corrected the PCA as to their error until the plaintiffs did on the day of argument before this court. (This court has chosen to disregard any determination as to the cubic-foot size of either the test plant or the proposed Heartland facility because the court understands that the depth of the burning medium is uniform whether it is the proposed Heartland plant at issue or a three-by-three or nine-by-nine test plant. In other words, what is critical appears to be the square feet of the potential burning surface and not its depth.) The error as to the test plant's size has created a number of questions to be set forth below with respect to the PCA's negative declaration as to the potential of the proposed Heartland plant for significant environmental effects. The specific Findings of Fact that are called into question by virtue of the factual error are as follows: 8(a), (b) and (f); 11; 12; 21; 22; 23; 28; 30 and 31. The spec Conclusions of Law implicated are Nos. 32, 33, 34 and 35.

For the reasons listed below, the court has questions necessitating this remand with respect to the above-cited Findings and Conclusions:

1. There is no 100 % tire-derived fuel (TDF) fluidized bed plant operating in the United States. R. 2117. No EIS has ever been prepared anywhere in the United States as to such a plant. There was discussion at PCA by various personnel as to the proper approach to take with respect to the environmental review involving what was characterized as a new source power or energy plant. (R. 462, 466.) The court believes many scientists are concerned with how new technology will work in practice. The pilot test plant upon which virtually all of PCA's calculations were based was one-ninth the size that PCA thought it was and was itself "first generation." Question Number 1 then to be answered by PCA upon remand is whether or not emissions calculations were incorrect by a factor of nine (or some other number) by virtue of that fundamental mistake of fact.

Exacerbating this mistake in the Court's view is the fact that the pilot plant results have never been peer reviewed, are more than 15 years old, and were disclaimed by the company conducting the tests. R. 32. (While PCA and Heartland appear sanguine as to the absence of peer review of the 15-year-old pilot test plant results, their position in this regard stands in stark contrast to the EPA report concerning air emissions from scrap tire combustion beginning at R. 1857 as that study specifically states that it "has been peer and administratively reviewed . . . .") R. 1858.

2. PCA is required to give a project a "hard look" (*See* O'Neill v. MPCA, 2002 W.L. 1423302 (Minn. App.). The obvious error as to the pilot plant's size highlights three other matters of concern.

First, the record reflects that the PCA was short-staffed with respect to air risk assessment. R. 406, 804.

Second, beginning at least as early as May 13, 2002, and continuing through June 11, 2002, a state representative had contact with the PCA's Commissioner and other PCA personnel in what this court believes can be fairly characterized as a ham-handed effort to speed up the permitting process despite the fact that the Heartland project was behind seven other air projects to be analyzed by the PCA. R. 406-408, 410-412, and 468-473.

Third, the procedural record shows consistent PCA noncompliance with statute §116D.04, subd. 2a (b). Comments on the need for an EIS are to be submitted to the responsible governmental unit (RGU) during a 30-day period following publication of the notice that an environmental assessment worksheet (EAW) has been completed. Here, there were so many comments that PCA apparently extended the deadline which would have been about September 30, 2002, until about October 21, 2002. Section 116D.04, subd. 2a (b) further provides that the RGU's decision on the need for an EIS is to be based on the EAW and the comments received during the comment period and shall be made within 15 days after the close of the comment period. The statute further provides that the board's chair may extend the 15-day period by not more than 15 additional days upon the request of the RGU. Here the decision was not made by November 5 or at the latest November 20, as the statute requires. Rather, the decision was made February 26, 2003, about three months later than the rule envisions.

The record also shows PCA noncompliance with Minnesota Rules Chapter 4410.1700. It states that "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, . . . which meets only on a periodic basis, the decision shall be made between 3 and 30 days after the close of the review period." Thus, it seems to this court that a decision should have been made by about November 20, 2002, at the latest.

Rule 4410.1700, subpart 2a, does indicate that the RGU can postpone the decision on the need for an EI for not more than 30 days in order to obtain lacking information. But if it does so it is to provide written notice c its action, including a brief description of the lacking information, within five days to the project proposer, the EQ staff, and any person who submitted substantive comments on the EAW. There is nothing to indicate that th procedure was followed here.

The question that arises is what was PCA doing between October 21, 2002, and February 26, 2003? Th court understands that under §116D.04, subd. 11, "any person" could have sought "an order of the district cou requiring the board . . . to immediately take the action mandated by subdivisions 2a and 3a." The fact that nobod did so does not change the fact that the statute and rule were not complied with and that an extraordinary amount c testing and additional work seems to have been done by PCA subsequent to the receipt of the comments.

For example, it was during the questioned time frame that the proposer gave up on the idea of using wood a a fuel source. R. 2357. Additional information was provided by the consultant in December 2002. R. 2330. PC/ performed a multipathway risk analysis the same month. R. 2346. Pro-Corn and Heartland cumulative impac modeling was completed in December 2002. R 1052. Other information concerning impacts of mercury on th Root River came in late in December (R. 1091) with PCA preparing additional information on Root River impac on January 7, 2003. R. 1125.

Exacerbating the foregoing questions of procedure and preparedness is the fact that when members of th public asked for more time and a continuance of the February 25, 2003, scheduled Board hearing (R. 1249-50) t review the additional PCA work product, PCA refused. It is ironic that at the argument of this matter both PCA an Heartland argued that "if people wanted more time and were concerned about the process, they should have a for an extension under the rules." It turns out they did and they were denied.

The broader question the foregoing raises is whether PCA had the time, personnel, and independence t give the Heartland project the requisite "hard look."

3. Whether or not the PCA's factual error as to the size of the pilot test plant changes any of the a emissions calculations, the following additional questions arise:

a. With respect to dioxins and furans, both an 18-square-inch pilot plant and a plant in Modesto California, had (high) detectible emissions (R. 050 and 1993-1994) while they were not detected in the 3'x 3 plant. R. 1427. Does PCA claim that the pollution control devices on the 3'x 3' pilot plant totally eliminated a dioxin, furan and mercury emissions? The court's question in this regard repeats questions that staff itself had an questions posed by the Minnesota Department of Health. R. 410, 765.

If the mysterious absence of mercury emissions and PCBs from the 3'x 3' test plant as compared with bot the 18" plant and the Modesto plant turns out to be a mistake, it is the people of the Preston area who will agai suffer because, as the court has learned from a recent article, when mercury hits water, bacteria transform it int methyl mercury, a neurotoxin that irreparable damages brains, eyes and spinal cords, especially in young childre and fetuses. Symptoms include blurred vision, slurred speech, hearing loss, memory loss, cognitive dysfunction behavioral disorders, coma, and death. PCBs produce some of the same symptoms, cause cancer, and reduce IQs i children. *See* attached article.

b. As is discussed in Comment and Response No. 5 and in the corresponding Finding of Fac No. 8, there are other facilities in the United States that burn tires. The EPA has studied their air emissions. None

of these plants employ the fluidized bed technology proposed by Heartland. There are concerns of record as to th technology which have not been addressed in the findings. Specifically, with respect to the important matter turbulence within the burner, there is a question relative to "clumping." R. 1908, 2117, 1845, 1854. Did the te plant use shredded steel-belted tires and demonstrably avoid this problem?

c. With respect to dioxins and furans, the record contains references to European fluidized be plants. Heartland asserted that they were able to meet more stringent European dioxin and furan emissic requirements (R. 3252), but none of these plants burn anything other than a small percentage of tires. R. 324: 3246. Considering that PCA was expressing a concern as to a lack of data and their belief that they needed to fir better data, why, unlike the Kondirator case, *supra*, is there no actual data from European plants?

d. The actual comparative size of the proposed Heartland plant to the pilot test plant is about 6 to 1. The Heartland plant is to be 20'x 30' or 600 square feet. R. 3249. When the pilot test model was erroneousl thought to be 81 square feet, the comparative size ratio of the proposed Heartland plant to the pilot test plant wa thought to be approximately 7.5 to 1. This ratio was apparently of no concern to PCA and would have been much less concern to this court. However, the actual size ratio is about 66 to 1 as to the 3'x 3' test plant and abou 265 to 1 as to the 18"x 18" test plant. (By way of comparison, the 3'x 3' plant has the same surface area as standard card table top and the 18"x 18" model is about the size of the seat on a dining room chair.)

The court believes that PCA must take a second look at their findings in light of the actual size of the te plant for the following reasons:

(a) The Minnesota Department of Health states that "test burns rarely mimic scale-up mod burns." R. 764.

(b) Tom Degen, in a presentation to the West Virginia Joint Finance Subcommittee o December 13, 1998, concerning tire burning and the October 1997 EPA report concerning air emissions, stated wit respect to a simulator that was roughly 20 to 40 times smaller than full-scale units that "because of the difference in scaling, emission factors from the simulator cannot be directly extrapolated to full-scale units." Furthermor Degen quotes Paul Lemieux, project manager for the EPA study, to the effect that it should not be inferred "that th concentrations of pollutants from this apparatus would be the same as those from full-scale units." R. 1993, *et seq* (*See also* R. 1898, 1900, with respect to Mr. Lemieux's comments in this regard.) If Mr. Degen was concerne about a 40-1 or 20-1 ratio, should PCA not be concerned about a 66-1 ratio?

4. Does the mistake as to the size of the test plant call into question the results of the cumulative testin relating to the Pro-Corn ethanol plant and the proposed Heartland plant? Specifically, if the calculations ar inaccurate due to the mistake as to the size of the test plant, or if they are unreliable because of its small size, i seems to the court that the cumulative effects testing would also be erroneous.

The record makes plain that this question as to cumulative effects is perhaps the most important one to th citizens of Preston and their neighbors in the South Branch Root River Valley area. The record shows that ther were an extraordinary number of citizen comments concerning the Heartland project. Appendix B lists 6 comments on the EAW. R. 1425, *et seq*. The comments demonstrate a remarkable citizen familiarity with th process. This is no doubt due to the fact, as noted in Comment Response No. 13 at R. 1436, that the people of th Preston area have already been victimized as a result of the operation of the Pro-Corn facility. People hav

experienced upper respiratory symptoms, eye irritation, and nausea.

While Heartland may prefer to ignore the Pro-Corn cumulative effects issue (R. 192, 193, 1090, 1093), i significance as a central issue was clearly identified by the Department of Health. R. 764. Although Pro-Cor 'il virtually every other ethanol plant in the state of Minnesota, has been fined by the EPA and been required to insta pollution control and monitoring equipment (R. 1515), the PCA soft-pedals the Pro-Corn issue. For example, Response 57 they disingenuously say that the Pro-Corn plant "is a regulated ethanol plant with current state ar local permits." While perhaps technically true now, there is no hint in this response as to the EPA fines nor tl after-the-fact required installation of pollution control equipment and monitoring devices. In other words, the fa that the environmental review process failed with respect to Pro-Corn initially is nowhere admitted in the record.

At R. 1286 and 1515, Finding No. 21 discusses Pro-Corn. While it may have been true at the time of tl consideration of the matter originally that there were no actual stack emissions data available from Pro-Corn, that not the case now. Instead of relying upon some late-blooming, post-EAW prepared extrapolations from a pla that was not demonstrated to be comparable in size or production methodology, there is now actual data from Pr Corn upon which to reach a conclusion.

Procedurally the present case has some striking similarities to Trout Unlimited, Inc. v. The Minneso Department of Agriculture, 528 N.W.2d 903 (Minn. App. 1995). It seems to this court that Trout Unlimited, *supr* appropriately instructs that environmental effects must be determined and addressed before they occur, not ju fixed after the fact, as was done with Pro-Corn. Therefore, this court believes that actual data should now be use from the Pro-Corn plant in connection with reconsideration of the cumulative effects issue.

Apart from the foregoing questions that are directly related to the mistake as to the size of the pilo plant, this court has the following additional questions from its review of the record that PCA and the Board need address:

5. Initially, the Heartland plant was a co-generation facility that would use 80 % TDF and up to 20 ' wood. R. 3, 4, 182, 550. During the comment period following the publication of the EAW, wood as a fuel sour was deleted due to a concern about acrolein. R. 945. The specific question the court has with respect to this chan is whether there was any recalculation or recomputation following this change and whether there was any resultir change in NO_x and/or the single HAP figures.

As can be seen from the table produced in Response 6 (R. 1427), both NO_x and single HAP test results as the proposed Heartland plant are close to "major source level." (The Court understands that the proposer asser that the NO_x level would actually be much less than the 245 tpy listed.)

6. At R. 2014, Dr. Neil Carmon, a Texas Air Control Board investigator of toxic air emissions fro synthetic rubber plants indicates that "aromatic extender oils comprise about 25 % of most tires today and a known to cause cancer in lab animals as well as being suspected human carcinogens. These are highly aromatic multiple benzene-containing chemicals -- petroleum waste materials with complex ring structures that are eve more difficult to burn than benzene." Carmon states: "Anything with benzene will require higher combustio temperatures, higher residence times and higher oxygen to break apart the six-carbon ring with electron c above and below that protect the ring from easy chemical breakdown. The thick black oil and black smoke tha or sees when tires are burning outdoors is due solely to the aromatic extender oils; they too require higher combustio

Attachment #24

2-11-04

Representative Davids,

I am one of your constituents. We the people of your district who are downwind and downstream from your father-in-law's proposed tire-burning incinerator have had no vote whatsoever in stopping this pollution-spewing device.

You say you have recused yourself on this matter. Yet you made calls or sent e-mails to the MPCA to expedite this pollution-spewer. This contact dishonors the principle and intent of recusal.

To those of us who oppose your father-in-law's incinerator you say, "Off the record, I'm against the incinerator." Yet here in the Twin Cities you told people that this largest tire-burning incinerator in the world will be a good thing for the people of Southeastern Minnesota. Speaking out of both sides of your mouth is hardly good representation.

You have abused your power by intimidation and bullying tactics, for example your response to the papers about a local environmentalist. After your response to this person everyone knew that if they challenged Representative Davids they were in big trouble. And you seem to take pride in that. On the audio tape of your threats and verbal abuse you stated that when you get angry you "start kicking the shit out of people." You told a Rochester reporter that you stand by the comments you made on that tape. I've heard that tape in its entirety and there are no comments aside from an endless rampage of threats and intimidation. So which is it? Do you stand by these threats or do you apologize for them?

What role--if any--did you play in the intimidation campaign against the citizens of Preston during the recent election for city council? Your silence on this bullying was deafening. Your ardent followers who are pro-incinerator certainly took your lead in how to silence dissent through intimidation and bullying. And this bullying did not start--nor did it end with--the election.

The people of our district deserve representation to stop this pollution-spewing incinerator. Your apologies do not make up for your inability or unwillingness to do your job to protect the people. The solution is obvious: resign immediately. STEP DOWN!

Donna Buckbee
Rushford MN 55971

Attachment #25

April 06, 2004

To Whom This Concerns:

I am here today to express my grave concerns over the intimidation tactics, conduct and deceptive nature of our State Representative Greg Davids. I find the comments made by Greg Davids (quoted in the City Pages Article "Burn Baby Burn" re: ripping people's eyeballs out and peeing on their brains to kicking the shit out of people) to Mayor David Pechulis disturbing, unacceptable, deplorable, inexcusable, unbecoming of a public figure in any arena, disrespectful to the constituents of District 31B and in dire need of further investigation. An apology is simply not enough; there is a serious temperament/behavioral problem here. Davids is out of control.

My additional thoughts on this are that if Greg Davids makes these kinds of threats (suing people, ripping eyeballs out and peeing on brains, kicking the shit out of people) over a constituent's opinion in a letter to the editor in a local paper, how is he reacting to bigger issues? In a report where Davids was interviewed by KAAL he said he should have counted to ten regarding the comments he had made to Mayor Pechulis. My question is how many times has Davids not counted to ten and reacted out of emotion? This person (Davids) is not how I want to be represented.

Regarding correspondence to Davids, my husband and I have contacted Davids twice, the first was a letter sent to Davids September 11, 2003 to which he contacted us by phone, he spoke with my husband and said that he was "between a rock and hard place" and could not take sides on the tire burning issue. Additionally on November 26, 2003 we sent Davids a "packet" of comment cards (which Davids puts in the local newspapers) asking for peoples opinions etc. we sent 22 of these cards and received the following response (letter attached). Basically stating, thanks for the correspondence. How can Davids tell his constituents that he cannot take sides on the issue, yet go ahead and expedite the MPCA using his influence and position to get results regarding the Heartland Project?

The questions I have for Davids are as follows:

1. Why is your families' wealth more important than the health and financial well being of an entire region?
2. Why were you not forthcoming until it was discovered about your relationship with Bob Maust (that he is your father-in-law)?
3. Why haven't you asked the people of District 31B if they want a tire burning plant in one of your frequent Fillmore County or River Valley Reader Newspapers surveys or comment ads?
4. Why is it that you can hold an elaborate meeting in Caledonia for the White Tail Deer Association, with the DNR leaders and the media present, but you never had a meeting like that anywhere to discuss with the people of District 31B the tire burning plant?

5. Your behavior of threats and intimidation are nearly identical to the behaviors of those individuals for the tire burning plant in the city of Preston (members of the City Council and your own relatives). Who taught who the tactics?

In closing I feel a full investigation needs to be conducted into the disturbing behaviors and possible influences/agenda's which may have been forced by Greg Davids disturbing behavior patterns. Strong arm tactics used by organized criminals such as the mafia, should never be allowed in our government operations.

Sincerely,

Dawn Schomisch
Mabel, MN

[redacted]

From: [redacted]
To: [redacted]
Sent: Monday, February 16, 2004 8:59 AM
Subject: Hello

Hi [redacted]
I went to a baby shower at my niece's house in [redacted] Sunday. [redacted] Mom & Aunt from [redacted] were there along with his Brother & wife from [redacted] After the gifts were open the subject of the tire plant came up by his Mom. The reaction was surprise that something like that could actually go through & I made a comment to his sister-in-law about the people standing up to the big-wigs. She basically said that everyone was scared to do anything. I told them all that they need to get a message up to the governor & request an EIS on the project. It's still not too late. What else can we still do yet? Have you heard anything more now?

[redacted]

Take care & I've got more eggs for you!
[redacted]

Do you Yahoo!?
Yahoo! Finance: Get your refund fast by filing online.

Attachment #27

To Preston City Council, 1.

I have been a resident of Lakeboro for 3 years. I moved to this area because my ancestors settled here in the 1870's and I want to live out my life on the land they loved, and contribute what I can to help preserve the quality of this land, air and water.

I lived on Lake Minnetonka for 27 years and was active in the preservation of the Lake. We had an issue with our city council over expanding a Marina parking lot into the lake. We fought our city council over an EIS study for a long difficult period we were finally successful and the study showed the expansion would be detrimental. My main point is during the entire process our Council + Citizens dealth with the issue in a professional manner. It was always civil at the table

I became interested in the Heartland project and attended

Preston Council meetings, I came with an open mind and had no personal history with anyone. I couldn't comprehend why some Council members were so opposed to an EIS study when so many residents in and surrounding Communities were so concerned about health and environmental issues regarding possible hazards building such a plant. They just wanted to be assured it was safe for their families and their land, air and water. I felt that this is not too much to ask for!!

I heard being a member of the Council audience, in the hallways and outside to Council building many pro Heartland people talk that certain Council members and people supporting an EIS study were in jepordy of losing their jobs and scare tactics were being used against them.

concerned citizens were asked to call council members, either pro or con and express their views. When I called Mr. Schwab and told him of the disturbing conversations I had witnessed his reply without hesitation was that Council members and others opposed to the plant were going to be ruined, their livlihoods taken away as they are all the threat to the progress of our community. I asked him as a Council member how he could make such a statement. He made a few rude comments to me, then I ended the conversation. Issues and certainly professionalism are not left at the table in this arena!

This has become an issue of strong arm tactics that must be stopped if our communities are to survive.

700 E Kirkwood

Dora Conway

Attachment #28

GENERAL AFFIDAVIT

State of Minnesota

County of Fillmore

PERSONALLY came and appeared before me, the undersigned Notary, the within named Steve Roessler, who is a resident of Fillmore County, State of Minnesota, and makes this his statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true to the best of his knowledge.

My name is Steve Roessler and I am a resident of [redacted] Fillmore County, Minnesota. I have been a resident of the area for 30 years.

Since 2001, residents of the City of Preston have been debating the merits of a proposal by Heartland Energy and Recycling, LLC to construct a electric generating plant that burns waste tires as a source of fuel. A judge in Olmsted County has placed an injunction on the construction of the plant until the Minnesota Pollution Control Agency has had an opportunity to complete the evaluation necessary to determine whether an Environmental Impact Statement on the proposed project would be necessary.

On April 11, 2003, the Fillmore County Journal published a letter to the editor I wrote which was critical of Representative Davids for his 2001 vote in favor of a tax bill that provided tax benefits for tire-burning electric generating plants. The letter pointed out that Heartland Energy and Recycling had the only proposal to build such a plant. Heartland Energy and Recycling is owned by Robert Maust who is Representative Davids' father-in-law.

On April 16, Representative Davids contacted David Pechulis, Mayor of the City of Preston to discuss the letter. Mr. Pechulis taped that conversation and played it back for me shortly after the phone conversation occurred. During the taped conversation,

Representative Davids threatened to sue me and the Southeastern Minnesotans for Environmental Protections (SEMEP) which is a non-profit organization that opposes the tire-burning plant. At the time that I wrote the letter, my wife Janene was a member of the SEMEP Board. Representative Davids apparently assumed that SEMEP was involved in writing the letter to the editor.

Among other things, during the phone conversation Representative Davids said that I lied in my letter when I said that he voted for a 2001 Tax bill that provided tax benefits for the Heartland Energy and Recycling. Davids maintains that he recused himself from that vote. Representative Davids said, "And I got papers to prove he's lying when he said I didn't recuse myself." In fact, the House Journal from June 28, 2001 shows that Representative Davids didn't recuse himself from the vote on the Tax Bill and in fact voted for it. (2001 First Special Session, House Journal Page No. 485).

Regarding a possible lawsuit, Representative Davids said in reference to me, "if he continues I'll sue him." "He's going to be writing some pretty big checks out to some pretty hot shot attorneys." "I got junkyard dog killing attorneys from Chicago that will rip out their eyes and pee on their brains."

Later in the telephone conversation, Representative Davids suggested that my wife, who works at the Library in the City of Preston, as a public employee, was campaigning against the Heartland Energy Project while at work. Representative Davids suggested that my wife was breaking the law and that the Mayor should investigate her activities.

(See attached copy of the transcript of the conversation between Representative Davids and Mayor Pechulis.)

After listening to the tape of the telephone conversation, I was terrified for myself and my family. Representative Davids clearly wanted to intimidate me so that I would stop opposing the tire burning plant. I also feel that he threatened my wife's job during the conversation with the Mayor. My wife is still fearful of losing her job.

Shortly after the conversation between Representative Davids and Mayor Pechulis, my wife was asked to resign from the SEMEP Board in order to protect that organization from a possible lawsuit by Representative Davids. As a result of the intimidation and threats used by during the taped conversation, my wife and I have stopped being vocal opponents of the Heartland Tire Plant Project.

DATED this the 13 day of MAY, 2004.

Steven C. Rossler
Signature of Affiant

SWORN to and subscribed before me, this the 13th day of May, 2004.

John Lesch, Representative, 66A District, Minnesota, ex officio notary public. My term expires January 1, 2005.

Representative John Lesch