

Report to the House and Senate Divisions on Environmental Finance

Air and Water Fees **Legislative Report**

January 15, 2008

Prepared by the Minnesota Pollution Control Agency

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Legislative Directive

The 2007 Legislature required the Minnesota Pollution Control Agency (MPCA) to submit the following:

“By January 15, 2008, the commissioner shall amend agency rules and, where legislative action is necessary, provide recommendations to the house of representatives and senate divisions on environmental finance on water and air fee changes that will result in revenue to the environmental fund to pay for regulatory services to the ethanol, mining, and other developing economic sectors.”

This report has been prepared to fulfill this requirement.

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Cost to prepare this report: \$1,300

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#2 - Budget Change Item: Ethanol, Mining, and Economic Development Fact Sheet	
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– Minnesota Pork Producers Association, letter dated January 4, 2008 and signed by Brandon Schafer, President and David Preisler, Executive Director	
– Minnesota Farm Bureau Federation, letter dated January 8, 2008 and signed by Kevin Paap, President	
– Poet Energy, e-mail dated January 8, 2008 from Erin B. Heupel, P.E. Lead Environmental Engineer, Poet Design and Construction	
– Minnesota Turkey Growers Association and Broiler and Egg Association of Minnesota, letter dated January 11, 2008 and signed by Steve Olsen, Executive Director	
– Minnesota Chamber of Commerce, letter dated January 14, 2008 and signed by Mike Robertson, Environmental & Natural Resources Policy Committee	
– Minnesota Association of Cooperatives, letter dated January 10, 2008 and signed by William Oemichen, President & CEO	

Background

Demand for Core Regulatory Activities

Minnesota is experiencing economic expansion on many levels. Two examples are the growth of the ethanol and mining industries. Along with the growth there has been a push to find alternative fuels to power the state's industries to reduce Minnesota's carbon footprint and respond to the rising price of natural gas. On top of these two factors, comprehensive regulations, higher levels of public participation in permitting actions and recent court decisions impact the MPCA's regulatory work. This regulatory work includes: permitting, environmental review, technical assistance, data management, compliance and enforcement, program development and administrative and business support. These collectively reflect the increasingly complex, interrelated nature of environmental review, permitting and associated regulatory activities. This has impacted MPCA's ability to complete timely environmental review and permitting actions to meet this growing demand. The MPCA has redirected staff to focus on ethanol and mining construction projects; yet, the demand for environmental review and permitting is greater than such efforts can meet. It also creates a staffing deficit for environmental review and permitting for other industrial and municipal activities. The gap in regulatory resources to meet the regulatory demand is not new. An Office of the Legislative Auditor report entitled "Minnesota Pollution Control Agency Funding, January 24, 2002, stated:

During the past decade, MPCA has experienced a variety of funding challenges. The agency's water and hazardous waste fee revenues have not kept pace with inflation, and legislators have had to transfer money into these fee accounts on many occasions to address potential deficits. Water quality fees have not increased since 1992, and several MPCA proposals for fee increases have not been enacted by the Legislature.

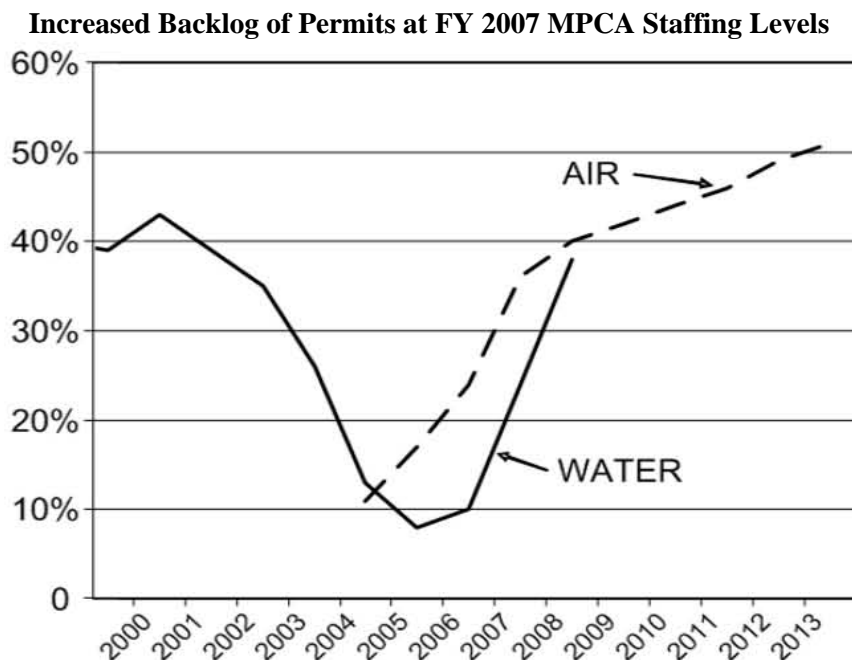
(See Exhibit #1 for full Evaluation Report Summary: Minnesota Pollution Control Agency Funding, January 24, 2002)

Process Improvement

Knowing that the demand on resources was going to be an ongoing issue, the MPCA initiated multiple process improvement efforts to enhance proficiency and productivity. These improvements enabled the Agency to shorten the time required to issue permits and reduced backlogs, while fulfilling core regulatory responsibilities to protect the environment. However, the gains in efficiency cannot compensate for the volume and complexity of permit applications received and currently exceeds the capacity of the available resources.

Air and Water Permit Backlog Trend

Based on available data, projections were developed of the potential backlog of permitting work, as shown in the table below.



2007 Budget Initiative

To address the need for increased resources for core regulatory activities, the Governor recommended a 2007 budget initiative seeking six million dollars as “bridge” funding for FY08-09, with the development of permit fee changes to support the Agency’s core regulatory needs in future years (See Exhibit #2 Budget Change Item: Ethanol, Mining, and Economic Development Fact Sheet).

FY08-09 Appropriation for the Pollution Control Agency

In response to the Governor’s budget recommendation the Legislature appropriated \$3 million the first year and \$3 million the second year from the Environmental Fund to provide regulatory services for ethanol, mining and other developing economic sectors.

The appropriation bill also directed...by January 15, 2008, the commissioner shall amend agency rules and, where legislative action is necessary, provide recommendations to the house of representatives and senate divisions on environmental finance on water and air fee changes that will result in revenue to the environmental fund to pay for regulatory services to the ethanol, mining, and other developing economic sectors.

Fee Increase Context

An increase in permit fees of \$3 million per year to maintain the level of core regulatory activities resulting from increased appropriations to the MPCA for 2008-09 would be significant. Currently, no fees are charged for air permit applications so new fees in the amount of \$1,552,500 would be required from an anticipated universe of 314 permit applications annually, to support the Agency's core regulatory activities in air quality. If the total revenue required was distributed evenly to the 314 applications anticipated on an annual basis, a fee of \$5,000 per application would be required. When distributing the fees based on the level of effort required to process an application and cover associated regulatory requirements, the fees would range from \$450 to \$105,000.

For water permits, application fees of \$240 or \$350 are currently assessed, providing the Agency with annual average revenue of \$415,133 to provide core regulatory activities in water quality. With the addition of new fees, \$1,862,633 (current fee revenue of \$415,133 plus \$1,447,500 for the Economic Development Initiative) would be required annually. If the total revenue required to support the Agency's core regulatory activities in water quality was distributed evenly among the universe of 1,724 permit applications anticipated annually, the fee per application would be \$1,085. When distributing the fees based on the level of effort required to process an application and associated regulatory work, with the exception of sewer extensions (see discussion in recommendations below), the fees would range from \$440 to \$55,000.

Stakeholder Input Process

Identification of Fee Systems Used in Other States/Local Units of Government

In order to obtain input from stakeholders on changes to air and water permit fees, the MPCA developed background information on the requirement to change the air and water fees and identified examples of fee systems used in other states and local units of government. This information provided context for stakeholders to use in providing feedback on criteria which could be used in developing/establishing fees for permits to generate the required revenue in Minnesota to support the MPCA's core regulatory activities. Examples were selected that focused on construction activities, based on the legislative directive, but the stakeholders were informed that other ideas could also be proposed. (See Exhibit #3 - Air & Water Permit Fees – Keeping Up with Economic Growth, PowerPoint presentation used in meetings with stakeholders).

Stakeholder Meetings

Meetings were held with representatives of the following six groups of stakeholders:

- Agricultural Livestock Industry
- Ethanol Industry
- League of Minnesota Cities
- Metropolitan Council Environmental Services
- Minnesota Chamber of Commerce (included representatives of mining industry)
- Small Businesses

At the meetings background was provided as to why the MPCA was seeking their input and examples were given of fees systems used by other states or local units of government. Next, those attending the meeting were asked to discuss the various options and identify criteria that they considered important in developing fees for different permitting actions. The representatives were also asked to identify any approaches that they felt would not work or that they felt carried more merit.

The participants were informed that the information collected from these meeting would be used by the MPCA in developing the recommendations which would be presented to the legislature. A draft of this report was also provided to the meeting participants by e-mail on December 21, 2007 for review and comment.

Criteria Identified by Stakeholders

Discussions with stakeholders resulted in the following list of criteria that participants identified as being important to consider in making changes to the air and water fees:

1. The fee associated with a permit action should correlate with the level of effort required by the MPCA;
2. The system should not be so complex that a facility submitting a permit application has difficulty calculating the fee, or that Agency staff must spend extensive time in administering the fee system;
3. The facility submitting a permit application should have a clear idea of what the fee will be so that they can budget for this expense (e.g. not an hourly fee because the facility cannot determine how many hours that it will take to process the permit);
4. Small businesses, feedlots, or units of government should not be burdened with high fees (i.e. ability to pay);
5. Fees should encourage the reduction of impacts to the environment by a facility (i.e. less pollutants...lower fee);
6. Apply fees to new construction or modifications only...do not increase fees for applications for permit reissuance;
7. Revenue received from the municipal and industrial sectors for water permits should be proportional to the associated increase in workload attributable to those sectors; and
8. Develop a fee system for construction activities that compensates for the high annual fees that some facilities pay.

The following comments were also received on some of the examples:

1. Fees based on the capital cost of a project is not a good idea;
2. Hourly fees are problematic because the number of hours worked on a permit application will vary based on the experience of the staff assigned; and
3. A point system can work well but needs to be balanced against the level of complexity of the points system.

Recommendation

The MPCA recommends that the legislature consider the following fee amendment option. This recommendation was informed by the criteria identified by stakeholders and the following considerations:

1. Air emission sources, which primarily represent industrial sources, are all treated in a similar manner;
2. Water permitting work is divided approximately equally between the level of effort applied to work done for municipalities and work done for non-municipal facilities and feedlots. For municipalities the annual average number of permit actions is 1,084 with 248 actions completed for wastewater treatment facilities and 836 actions for sewer extension permits, which are not as complex. Permit actions for non-municipal permits and feedlots average 562 annually with 272 for non-municipal facilities and 290 actions annually for feedlots. Because of this split, the revenue generated from municipal permits/sewer extensions and non-municipal/feedlots in the fee option is approximately equal.
3. To address the concern of high fees for municipalities when they are constructing new facilities or expanding existing facilities, the fee option in this report increases fees for sewer extensions, as a proxy for economic growth; as growth occurs, sewers must be extended to address new residential or industrial development. Sewer extension permitting is not a resource intensive activity however, this approach was developed as a mechanism to support core regulatory work on municipal wastewater treatment facilities and would result in lower fees when a municipality must build a new facility or expand/enhance an existing facility.
4. Stakeholders identified that they preferred to see fee increases only applied to new construction or modifications to existing facilities. Because the universe of facilities proposing new construction or modifications is so small for water permits, moderate fee increases were included in the fee option presented for permit reissuance applications. For air permits there is a separate federal permit fee program that covers the cost of reissuance of operating permits, so no additional fees were included for permit reissuance applications for air permits.
5. To reflect a correlation between the fee and the level of effort required for regulatory activities, fees were broken down by different types of permit applications and a system of additional fees. The additional fees were based on the amount of flow for water permits and specific additional actions required for a specific permitting action, such as a requirement to complete an Environmental Assessment Worksheet (EAW), approve a variance, or review air modeling data.

The air and water fee recommendations presented in this report for consideration, as directed by the legislature in Minnesota Laws 2007 Chapter 57, are comprehensive yet require additional analysis, stakeholder dialogue, and legislative review and guidance.

Some of the issues requiring additional thought, discussion and analysis include:

- The point system and associated dollars per point are based on data for 2006. Additional data analysis needs to be undertaken to fully assess the number of permit applications, specific permit actions and associated regulatory activities over the past five years. This additional analytical work may result in a change in the dollars per point required to generate the required revenue to the Environmental Fund
- Further analysis of the point system and fee levels is needed to ensure fairness, equity and ability to pay;
- Compare and contrast the fee recommendations in this report with other states' fee systems in terms of maintaining a competitive business climate;
- Further analysis of the Environmental Assessment Worksheet (EAW) review fees to determine if fees could be structured to account for varying levels of complexity of projects (i.e. one size fits all fee vs. tiered fee);
- Explore opportunities for the fee system to provide incentives for innovative projects which voluntarily exceed regulatory requirements in order to achieve positive environmental outcomes (eg. voluntarily reducing the carbon footprint of a project; implementation of additional best management practices to enhance protection of air/water quality, etc.).

Based on the additional analytical work proposed above, guidance from the legislature and input from stakeholders, the MPCA will prepare a legislative initiative for the 2009 Session to provide the necessary resources to allow the MPCA to deliver our core regulatory services.

Fee Amendment Option to:

116 Pollution Control Agency

116.07 Powers and Duties.

Subd. 4d. **Permit fees.** (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of developing, reviewing, and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The fee schedule must reflect reasonable and routine direct and indirect costs associated with permitting, implementation, and enforcement. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. The agency shall prepare a review of the air and water permit fees and permit program work. The review shall include information on the agency appropriation, fee revenue, revenue projections for future years, status of permitting actions and projected permitting actions for future years. The review shall be presented to the legislature on January 15th of the odd number years. Any money collected under this paragraph shall be deposited in the environmental fund.

(1) All persons who apply for a permit, request a water quality effluent review or request a technical review of the applicability of the rules to a permit are subject to these fees. The agency shall refuse to accept any of the following permit applications without payment of the application fee at the time the application is received by the agency.

(2) An application fee, based on the following point-based fee schedule, shall be submitted with each filing of an application, received after _____, for the following permits, water quality effluent reviews or technical reviews of the applicability of the rules to a new, modified or revised permit. If a permit application is returned due to being incomplete, an addition to the application fee of 10% shall accompany the revised permit application when resubmitted.

Air Permits

<u>(i) Administrative Amendment</u>	<u>2 Pts</u>
<u>(ii) State General Permit</u>	<u>2 Pts</u>
<u>(iii) Part 70 General</u>	<u>3 Pts</u>
<u>(iv) Minor Amendment</u>	<u>4 Pts</u>
<u>(v) Registration Permits</u>	<u>4 Pts</u>
<u>(vi) Capped Permit</u>	<u>4 Pts</u>
<u>(vii) Applicability Requests</u>	<u>10 Pts</u>
<u>(viii) Moderate Amendment</u>	<u>15 Pts</u>
<u>(ix) Major Amendment</u>	<u>25 Pts</u>
<u>(x) 1st Time State</u>	<u>50 Pts</u>
<u>(xi) Individual Part 70</u>	<u>75 Pts</u>

Water Permits

(i) Water Quality Effluent Review 5 Pts

(ii) Feedlot Applications

a. Reissuance 2 Pts

b. Construction/Modification 10 Pts

(iii) Wastewater Applications

Municipal

a. Reissuance 2 Pts

b. Construction 10 Pts

c. Major Mods with Construction 10 Pts

d. Major Mod without Construction 4 Pts

e. Minor Mods 2 Pts

Non-Municipal

a. Reissuance 4 Pts

b. Construction 50 Pts

c. Major Mods with Construction 50 Pts

d. Major Mod without Construction 8 Pts

e. Minor Mods 4 Pts

(iv) Sewer Extensions

a. 0 to 0.01mgd 2 Pts

b. > 0.01 to 0.10 mgd 5 Pts

c. > 0.099 to 0.25 mgd 8 Pts

d. > 0.25 to 1.0 mgd 12 Pts

e. > 1.0mgd 20 Pts

(3) Additional Fees based on the following actions:

Air Permits

(i) Modeling¹ 16 Pts

(ii) Site Specific Technology Analysis (e.g. BACT)² 15 Pts

(iii) CAIR/Part 75 Analysis 10 Pts

(iv) NSPS Review (per standard) 10 Pts

(v) NESHAP Review (per standard) 10 Pts

(vi) Case-by-Case MACT (per source category) 20 Pts

(vii) Netting² 10 Pts

(viii) Limits to avoid regulatory requirements³ 5 Pts

(ix) Plant-Wide Applicability Limit (PAL)² 20 Pts

(x) Air Emission Risk Analysis (AERA) 25 Pts

(xi) Confidentiality Request 2 Pts

(xii) Variance Request 20 Pts

(xiii) Environmental Assessment Worksheet (EAW) 50 Pts

¹ Not including SCREEN 3 modeling or CAPS modeling

² Per PSD Pollutant

³ For each limit taken to avoid tripping a regulatory requirement e.g. Part 70, NESHAP or EAW (examples of limits include fuel usage, production limits, hours of operation and emission limits but do not include installation of control equipment)

Water Permits

(i) Municipal Increased Flow

<u>0.100 to 4.99 MGD</u>	<u>2 Pts</u>
<u>5 to 19.99 MGD</u>	<u>6 Pts</u>
<u>20 to 49.99 MGD</u>	<u>10 Pts</u>
<u>> 50 MGD</u>	<u>15 Pts</u>

(ii) Non-municipal Increased Flow

<u>0.100 to 4.99 MGD</u>	<u>16 Pts</u>
<u>5 to 19.99 MGD</u>	<u>32 Pts</u>
<u>20 to 49.99 MGD</u>	<u>50 Pts</u>
<u>> 50 MGD</u>	<u>100 Pts</u>

Non contact cooling water/Mine Pit Dewatering

<u><50 MGD</u>	<u>8 Pts</u>
<u>50 or Greater MGD</u>	<u>50 Pts</u>

(iii) Non-deg Review

(iv) Environmental Assessment Worksheet (EAW)

(v) Confidentiality Request

(vi) Variance Request

(4) If a facility requires both an air and water permit the points for an EAW will only be charged once and multiplied by the lower of the dollars per point as set for air and water permits.

(5) The application fee and additional fees shall be the points that are applicable to the permitting action, multiplied by \$230 for air permits and \$220 for water permits.

(6) An invoice for additional fees shall be mailed to the applicant upon completion of the permit review. The agency shall deny any permit application or request for permit revision if the required additional fees have not been paid within thirty (30) days of invoicing, unless the agency has granted an extension. In the event excess fees were paid, the agency shall issue a refund for excess fees and mail the refund to the applicant.

(7) Except for the refund of excess fees paid, all fees paid under this Part shall be non-refundable.

EXHIBIT # 1

OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA

Minnesota Pollution Control Agency Funding

January 24, 2002

Major Findings:

- During the past 20 years, the main source of funding for the Minnesota Pollution Control Agency (MPCA) has shifted from the state General Fund to pollution-related fees and taxes.
- MPCA's staff-related costs per employee have recently increased faster than the agency's operating costs and inflation, although its situation is not unique among state agencies.
- Determining the proper method of funding MPCA will require legislators to make decisions regarding (1) the use of general versus "polluter pays" revenue sources, and (2) whether funding sources should be closely linked to the purposes for which they will be used.
- Minnesota's water quality fee revenues do not cover the cost of MPCA's water-related regulatory activities.
- Federal regulations will likely require MPCA to more comprehensively monitor water quality and address "nonpoint" water pollution, although MPCA is still determining specific strategies and their cost implications.

Funding MPCA involves finding the appropriate mix of general and "polluter pays" revenue sources.



Key Recommendations:

- The Legislature should clarify state laws that define which categories of MPCA activities should be funded with fees. It should then consider any adjustments in fee levels necessary to comply with these laws.
- To comply with current law, MPCA and the Legislature should address the imbalance between hazardous waste fee revenues and appropriations.
- MPCA should report to the 2003 Legislature on (1) plans for implementing and financing "total maximum daily load" requirements, and (2) what, if any, additional state-level strategies would cost-effectively help the state to avoid violations of federal standards for ozone and particulate matter.

Report Summary

The Minnesota Pollution Control Agency (MPCA) is the state's main environmental protection agency. It monitors and regulates air, water, and land pollution, works with citizens and businesses to prevent pollution, and helps to clean up polluted sites.

MPCA Has Faced Funding Challenges in Recent Years

When it was established in 1967, MPCA was funded solely with the state General Fund and federal funds. Since that time, pollution-based fees and taxes have comprised an increasing share of the agency's funding. For instance, facilities that emit air pollution, discharge wastewater, and treat or store hazardous waste are required to obtain permits from MPCA and pay annual fees. Since 1983, the percentage of MPCA's budget funded by the General Fund has declined from 50 percent to 13 percent.

During the past decade, MPCA has experienced a variety of funding challenges. The agency's water and hazardous waste fee revenues have not kept pace with inflation, and legislators have had to transfer money into these fee accounts on many occasions to address potential deficits. Water quality fees have not increased since 1992, and several MPCA proposals for fee increases have not been enacted by the Legislature.

Meanwhile, cost increases have strained MPCA's staffing resources. MPCA's average salary and fringe benefit cost per full-time-equivalent (FTE) employee increased 33 percent between fiscal years 1996 and 2001. This increase was higher than increases in MPCA's operating expenditures (20 percent), staffing costs in Minnesota state government (25 percent), state and local

staffing costs nationwide (21 percent), and consumer prices (13 percent).

The increased staffing costs are one reason that MPCA's staff size is projected to decline by mid-2003 to its lowest level in a decade. The agency projects a fiscal year 2003 staffing level of 719 FTE, down from a peak of 805 FTE in 1997. To help keep staff focused on higher priority activities, MPCA proposed and the 2001 Legislature authorized reallocations of staff among the agency's programs.

Decisions About MPCA's Funding Mix Will Depend on Key Policy Choices

In 2001, MPCA proposed "environmental tax reform" to address the agency's funding problems. For instance, the proposal would have placed revenues from solid waste management taxes and various other pollution-based charges into a fund that could be directed to high priority areas. Legislators did not pass MPCA's proposal but expressed an interest in continued discussion of funding options.

Determining the "right" mix of funding sources for MPCA will require legislative judgments about some fundamental issues. For instance, policy makers should consider the extent to which they prefer to fund MPCA with general or broad-based revenue sources, as compared to "polluter-based" sources. Pollution is often a reflection of society's general consumer preferences, and pollution control often results in broad-based public benefits—which may justify using the General Fund or other broad-based revenue sources to pay for some of MPCA's activities. Also, it may be necessary to use broad-based revenues to pay the cost of regulating types of pollution that are hard to trace to an individual source.

Cost increases, staffing cuts, and declines in some fee revenues have challenged MPCA in recent years.

The Legislature needs to clarify which costs at MPCA should be covered by fee revenues.

On the other hand, it may be fairer to impose the governmental costs of pollution regulation directly on the polluters, where possible, through fees or other charges.¹ In this way, the prices of polluters' products might more directly reflect pollution's costs, and polluters might have some incentive to reduce pollution.

In addition, policy makers should consider whether it is important to have clear links between revenue sources and the purposes for which they will be used. The 2001 Legislature used revenues from the statewide solid waste tax to fill MPCA's funding gaps in a variety of program areas. This raised concerns among business and local government officials who had supported the tax's use for more limited purposes.² Likewise, MPCA proposed in 2001 to put various environmental fees and taxes (including the solid waste tax) into a fund that could be available for a variety of uses, not just uses directly related to the activities from which the revenues were raised. A flexible funding structure could allow the Legislature and MPCA to direct pollution-based revenues to priority areas, but it might also make it more difficult to relate fee and tax levels to the program costs they were originally designed to support.

Water and Hazardous Waste Fees Need Legislative and MPCA Attention

State law says that fees should be set at levels that do not significantly over-recover or under-recover the costs of providing services. However, water quality fee revenues cover less than

60 percent of MPCA's staff costs for water-related permitting, compliance monitoring, and enforcement—and this does not include administrative overhead costs or the costs of essential activities such as ambient water monitoring, permit-related rule development, environmental review, and technical assistance. In fact, the Legislature should clarify in law the types of costs that should be covered by MPCA fees, thus making it easier to determine the exact extent of compliance with the law.

Once the Legislature clarifies which costs should be covered by fees, it should consider changes in fee levels necessary to comply with these laws. Nationally, water quality fees vary widely, according to a survey of 13 states. For instance, Minnesota collected \$0.56 per capita in water quality fee revenues in fiscal year 2001, while two states (Washington and Wisconsin) collected more than \$1.50 per capita, and two states (Michigan and Kentucky) collected less than \$0.10 per capita.

MPCA has authority to raise hazardous waste fees administratively, unlike its authority regarding water and air quality fees. In fact, MPCA is required by law to set hazardous waste fees at a level that fully recovers the legislative appropriation for hazardous waste fee expenditures. In recent years, however, MPCA has not increased hazardous waste fees to cover the full appropriation—mainly, it says, because of legislator and industry concerns about fee levels. Thus, the Legislature has had to make up the shortfalls with funding from other sources. MPCA and the Legislature should consider fee

¹ Some economists have suggested setting pollution taxes at levels that reflect pollution's "social" costs (such as health and environmental impacts), not just its governmental costs. But social costs are hard to measure, and they have not been the basis for most pollution taxes.

² On the other hand, half of solid waste tax revenues are deposited in the state General Fund, where they can be used for a variety of purposes.

It is unclear whether MPCA needs new funding to address emerging issues.

increases or statutory changes to ensure compliance with the hazardous waste fee law.

MPCA Should Clarify Strategies for Addressing “Emerging” Pollution Issues

Some emerging pollution control issues might require new funding (or new funding sources), but it is too early to tell. For instance, federal regulations will probably require MPCA to do a more comprehensive job of identifying and addressing polluted waters, partly through greater emphasis on “nonpoint” pollution. But federal and state rules are still being developed, so MPCA’s resource needs for these tasks are unclear. MPCA should provide the 2003 Legislature with more specific

plans for implementing these requirements (known as “total daily maximum load” requirements).

In addition, mobile sources of air pollution might need more of MPCA’s attention so that the state can avoid potentially expensive violations of federal standards for ozone and particulate matter. MPCA should report to the 2003 Legislature on state-level strategies that could cost-effectively address such risks.

The full evaluation report, *Minnesota Pollution Control Agency Funding* (#pe02-02), includes the agency’s response and is available at 651/296-4708 or:

www.auditor.leg.state.mn.us/ped/2002/pe0202.htm

Summary of Agency Response:

In a letter dated January 9, 2002, Commissioner Karen A. Studders of the Minnesota Pollution Control Agency described the report as “thoughtful and thorough” and said that MPCA agrees with the report’s fee-related recommendations. The commissioner said that the report “is fair in pointing out the difficulties of sustaining polluter-pays fee funding at appropriate levels for the on-going regulatory programs, particularly the water quality fees.” She said that “the Legislature has not been willing to authorize increased fees” in recent years. In addition, the commissioner said that the majority of Minnesota’s air and water pollution comes from nonpoint sources that do not pay fees, “yet the general public expects the MPCA to address this pollution.”

“Therefore, we would like to draw the Legislature’s attention to the broader-based funding options described in Appendix C of the report,” the commissioner said. “Broadly based fees and taxes more equitably reflect consumption of the environment because revenue rises when there are more impacts on the environment. These broad-based fees and taxes offer an opportunity to both replace the current (inadequate) permit fee structure and also fund nonpoint source activities from polluter-based sources rather than the General Fund.”

The commissioner said that, as recommended in the report, MPCA will provide the 2003 Legislature with information on funding needs for (1) implementation of federal Total Maximum Daily Load requirements, and (2) strategies to address air toxics. In addition, the commissioner said, “We believe that in 2001 we made the necessary corrective changes to [MPCA’s 1998 reorganization] and believe these changes will allow us to improve implementation of our core environmental programs.”

EXHIBIT # 2



Minnesota
Pollution
Control
Agency

2007 Legislative fact sheet

Budget change item: Ethanol, Mining, and Economic Development

January 30, 2007

The Governor recommends an increase to the MPCA's General Fund appropriation of \$3.0 million in each year of the FY 2008-09 biennium. The additional funding will be used to support increased demands on MPCA's regulatory programs from economic growth experienced in ethanol, mining, municipalities, emerging energy technologies, and other sectors.

Background

Minnesota is experiencing rapid economic expansion on many levels. However, growth in a few specific industries and urbanizing areas has stressed MPCA's ability to complete timely environmental review and permitting actions for those sectors. The MPCA has redirected staff to focus only on ethanol and mining construction projects; yet, the demand for environmental review and permitting is greater than such efforts can meet. It also creates a staffing deficit for other ongoing regulatory programs.

Recent court decisions have also squeezed MPCA's current and future regulatory work. These decisions reflect the increasingly complex, interrelated nature of environmental review and permitting for new or expanded wastewater discharges,

including stormwater, to impaired waters.

Problems

Ethanol and mining

These sectors are developing at unprecedented levels. For ethanol, the MPCA is involved in 25 separate projects in various stages of development, from siting to permit updates. More are in the works. Future ethanol projects will include new processes, generating a wider range of alcohols for fuel use. Biodiesel is expanding in Minnesota. Reviewing air, water, and waste issues for these facilities will be a challenge. These emerging industries may stress municipal wastewater treatment capacity, and may produce new waste streams including hazardous waste.

What the money will do

- Provide timely regulatory services to 8 mining projects, 23 ethanol projects, and over 100 municipal wastewater projects; of benefit locally and nationally
- Support the development of new technologies resulting in improvements to regional haze and mercury air emissions
- Eliminate smelting in the mining industry with gains of significant air emission reductions and recycling of process water
- Support development of no-discharge technologies for wastewater and non-contact utility water
- Support the revitalization of Minnesota's rural farming region (18,461 jobs by 2008 and \$4.95 billion in economic impacts) while maintaining our environment
- Support the revitalization of Minnesota's northeastern area through brownfield redevelopment for the first iron nugget production plant.
- Support the governor's goal of 25% renewable energy by 2025

The ethanol and biofuel projects are located across the state.

Eight mining projects in northeastern Minnesota are in various stages of development, requiring environmental review and permits for air emissions and wastewater discharge. Mining companies operate in a highly competitive global marketplace, and the MPCA is expected to complete review and permitting under tight timelines.

To meet current demands, the MPCA has reassigned staff from other regulatory activities. Seven FTE (full-time equivalents) have been redirected to mining projects and 16 (six on a temporary basis) to ethanol projects. Even these staffing shifts don't meet the demands. Moreover, the MPCA cannot sustain this interruption of essential services in other programs over time and meet the needs of other regulated sectors in a timely and effective manner.

Recent court decisions

Over 100 new or expanding wastewater facilities are affected by the Minnesota Appeals Court decision in the Annandale-Maple Lake case. That decision prohibits MPCA from issuing permits if new or increased discharges affect a listed impaired water. The decision is currently under review by the Minnesota Supreme Court, which will further clarify the approach needed to issue permits for affected wastewater facilities. When the Supreme Court issues its decision, a backlog of permit applications will need timely processing or affected municipalities will see economic opportunities go elsewhere.

Finally, a 2003 appeals court decision on MPCA's general municipal stormwater permit required the MPCA to conduct technical reviews and give public notice on 230 stormwater pollution prevention plans. Providing public notice of specific plans under a general permit is new, and decreases the efficiencies gained with a general permit. With the staffing shifts to ethanol and mining growth, MPCA is not sufficiently staffed to meet the demands created by these court decisions in a timely and effective manner.

Recommendation

The Governor's request will increase the appropriation to the MPCA's water program by \$1.035 million, to the

air program by \$1.14 million, and to the multimedia program by \$0.825 million in each year of the biennium. This total \$3 million initiative per year for FY2008-09 represents a six percent increase over MPCA's base-level funding for permitting, compliance and other regulatory activities.

The air and water programs would add staff in permitting, compliance, technical review and, through the multimedia program, in data analysis, assessment and environmental review. The additional staff would address current regulatory demands and prepare for future issues such as air emissions expected from cellulosic ethanol facilities. New environmental standards are likely to be applied to these industries, particularly in the areas of mercury controls, salts, sulfates and hardness from water discharges, for which the MPCA will need to gain new technical understanding.

Providing adequate staff for these new areas will enable the MPCA to maintain focus on established core functions in its water, air and multimedia programs. Other sectors are likely to experience similar short-term, immediate needs followed by extended ongoing regulatory needs. Increased funding in FY2008-09 allows the MPCA to meet the immediate needs and pressures, preserve gains made via process improvements, and bring stakeholders into the discussion to identify and implement funding solutions.

This request will enable the MPCA to address challenges from growth in ethanol, mining, municipal wastewater, emerging energy technologies, and other sectors. The increase for FY2008-09 will address internal competition for resources between mandated and emerging priorities.

Future

The MPCA will work with key stakeholders, particularly the business community, to identify and implement long-term funding solutions so the MPCA can more readily and rapidly respond to areas of significant economic growth.

For more information

For more information contact Myrna Halbach, (651) 296-8399 or myrna.halbach@pca.state.mn.us

EXHIBIT # 3

Air & Water Permit Fees

Keeping up with economic growth

Stakeholder Input Meetings
Fall 2007



Minnesota Pollution Control Agency

1

Presentation Overview

- Permit fee background
- Process improvement
- Permit backlog issues & trends
- Regulatory Program Components
- Fee option ideas from other states
- Meeting objective:
 - *Develop understanding of purpose of this project and obtain input regarding potential fee options.*

2

History and Background

- The 2002 OLA Report on MPCA Funding states...

"Water quality fees have not increased since 1992, and several MPCA proposals for fee increases have not been enacted by the Legislature."

- The legislature has made some increases in water fees since 2002.

3

Process Improvement

- The MPCA implemented a number of process improvements in recent years.
- Specifically, steps have been taken to improve the processes for issuance of air and water permits.
- MPCA will continue to implement process improvements to achieve maximum effectiveness and efficiency.

4

Process Improvement - Water

- In 2003, the average water permit took 300 days.
- By 2005, the average water permit took 192 days.
- The goal: completing 90% of the water permits in 180-days.
- By 2006, 75% were done in 180 days.

5

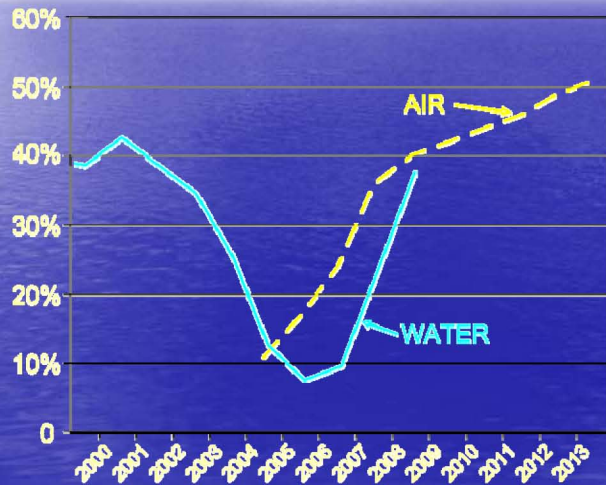
Process Improvement - Air

- Air permitting initiated similar process improvements beginning in 2004.
- By May 2006, 80 percent of the permits were being issued within 150 days – compared to 33% before the project.
- Goal: 90% of permits issued within 150 days.
- The level of improvement began to slip when the number and complexity of applications increased dramatically.

6

Air & Water Permit Backlog Trend

Percentage of permits backlogged



7

Ethanol, Mining & Economic Development 2007 Budget Initiative

- Growth in these sectors, movement towards alternative fuels and municipality expansion continues.
- Workload exceeds MPCA capacity.
- Initiative sought \$3 million per year of "bridge" funding for FY08-09.
- Fee increases to cover the additional costs in future years.

8

2007 Legislative Mandate

...\$3-million the first year and \$3-million the second year are from the environmental fund to provide **regulatory services** to the ethanol, mining, and other developing economic sectors. Priority shall be for permitting new and emerging bioenergy crop utilization technologies. This is a onetime appropriation...

...By January 15, 2008, the commissioner shall amend agency rules and, where legislative action is necessary, **provide recommendations** to the house of representatives and senate divisions on environmental finance **on water and air fee changes that will result in revenue to the environmental fund to pay for regulatory services** to the ethanol, mining, and other developing economic sectors.

9

Existing Fees

- The MPCA currently collects fees for air and water permits.
- New/increased fee(s) would be in addition to existing fees.
 - Water – application and annual fees based on flow
 - Air – Annual fee based on tons of emission

10

Regulatory Program Components

Resources will ensure adequate regulatory capacity in the following areas:

- Permitting
- Environmental Review
- Technical Assistance
- Data Management
- Compliance & Enforcement
- Program Development
- Administrative & Business Systems Support

11

Air and water fees options

- Looked at other state fees for examples.
- Focused on examples associated with construction or modifications, consistent economic development.
- Focus on the approach, not the dollars.
- Examples represent variety of different approaches.

12

Fee Options Discussion



13

Permit Application Fee - Air

Air Application Type	No. of Apps. CY 2006	Example Fees	Example Fees Revenue
Administrative Amendment	75	\$500	\$37,500
Minor Amendment	19	\$1,000	\$19,000
Registration Permits	106	\$1,000	\$106,000
State General Permit	4	\$1,500	\$6,000
Part 70 General	0	\$1,500	\$0
Capped Permit	13	\$2,500	\$32,500
Moderate Amendment	6	\$3,000	\$18,000
Applicability Requests	22	\$5,000	\$110,000
Major Amendment	83	\$10,000	\$830,000
1st Time State	13	\$15,000	\$195,000
Individ Part 70	7	\$30,000	\$210,000
			\$1,564,000

Target \$1,500,000 for Economic Development Initiative

14

Permit Application Fee - Water

Water Application Type	CY 2006 Apps	Example Fees	Example Fees Revenue
Feedlots	322	\$850	\$273,700
Wastewater Applications			
General Apps	187	\$1,000	\$187,000
Municipal (N/M/R Apps*)	140	\$2,000	\$280,000
Non-Municipal (N/M/R Apps*)	70	\$6,200	\$434,000
Cooling Water (N/M/R Apps*)	11	\$4,000	\$44,000
Sewer Extensions			
Sewer Extensions - 0 to 0.01mgd	571	\$500	\$285,500
Sewer Extensions > 0.01 to 0.10 mgd	325	\$1,200	\$390,000
Sewer Extensions > 0.10 to 0.25 mgd	13	\$2,000	\$26,000
Sewer Extensions > 0.25 to 1.0 mgd	4	\$3,000	\$12,000
Sewer Extensions > 1.0mgd	2	\$5,000	\$10,000
		Total	\$1,942,200

Target is \$1,942,700

(Current fee revenue of \$442,700 plus \$1,500,000 for Economic Development Initiative)

*N/M/R is new, modified and reissuance applications

15

Indiana – New Source Air Construction Permit Fees

Base Fees

- Registration Permit -\$600
- Minor Source - \$3,500
- Title V or State - \$4, 375
- Title V with PSD - \$7,500

16

Indiana – New Source Construction Permit Fees

Additional Fees

- Air Quality Modeling Analysis - \$4, 375
- BACT or LAER Analysis...
 - 2 to 5 Analysis - \$4, 375
 - 6 to 10 Analysis – \$7, 500
 - More than 10 - \$12, 500
- NESHAP Review - \$625 each
- NSPS Review - \$625 Each

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Indiana – New Source Construction Permit Fees

Additional Fees Cont.

- Public Hearing - \$625 each
- Source Sampling Test - \$700 each
- Opacity Monitoring - \$200 each

18

Minnesota Construction Fees Indiana Approach

Base Fees

- Registration Fee – \$600
- General Permit – \$1,000
- Capped Permit – \$3,000
- New State Permit – \$9,000
- New Title V Permit – \$18,000
- Administrative Amendment – \$600
- Minor Amendment - \$1,500
- Moderate Amendment – \$5,000
- Major Amendment – \$7,000

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Minnesota Construction Fees Indiana Approach

Additional Fees

- Air Modeling Analysis – \$7,000
- BACT Analysis
 - 2-5 Analysis - \$5,000
 - 6-10 Analysis – \$8,000
 - More than 10 - \$13,000
- NESHAP Review – \$ 700

20

Minnesota Construction Fees Indiana Approach

Additional Fees Cont.

- NSPS Review – \$700
- Public Hearing – \$1,000
- Source Sampling Test - \$700 each
- CEM - \$200 each

21

Illinois Major Construction Permit Fees

Base Fees

- First Emission Unit New - \$4,000
- First Emission Unit Modified - \$2,000
- Each Additional Unit - \$1,000
- Maximum Total – \$10,000

22

Illinois Major Construction Permit Fees

Supplemental Fees

- New Major Source – \$5,000
- Local Siting Review - \$25,000
- Netting for a Pollutant - \$3,000
- New Source Subject to PSD - \$12,000
- Major Mod Subject to PSD - \$6,000

23

Illinois Major Construction Permit Fees

Supplemental Fees Cont.

- New Source Subject to NSR - \$20, 000
- Major Mod Subject to NSR - \$12,000
- MACT Analysis - \$5,000 per unit
- Public Hearing - \$10,000

24

Minnesota Construction Fees Illinois Approach

Application Fees

- Registration Fee – \$600
- General Permit – \$1,000
- Capped Permit – \$3,000
- New State Permit – \$4,000 + Unit & Additional Fees
- New Title V Permit – \$8,000 + Unit & Additional Fees
- Major Amendment – \$3,000 + Unit & Additional Fees
- Administrative Amendment – \$600
- Minor Amendment - \$3,000
- Moderate Amendment – \$6,000

25

Minnesota Construction Fees Illinois Approach

Unit Fees

- First Emission Unit New - \$4,000
- First Emission Unit Modified - \$2,000
- Each Additional Unit - \$2,000
- Maximum Total – \$20,000

26

Minnesota Construction Fees Illinois Approach

Supplemental Fees

- New Major Source – \$5,000
- Local Siting Review - \$25,000
- Netting for a Pollutant - \$3,000
- New Source Subject to PSD - \$12,000
- Major Mod Subject to PSD - \$6,000

27

Minnesota Construction Fees Illinois Approach

Supplemental Fees Cont.

- New Source Subject to NSR - \$20, 000
- Major Mod Subject to NSR - \$12,000
- MACT Analysis - \$5,000 per unit
- Public Hearing - \$10,000

28

Kansas Construction Application Fee

- .05% of Estimated Project Cost
 - Maximum - \$4,000
 - Minimum - \$100

29

New Mexico Application Fees

- Point Calculation
 - Technical Complexity
 - 1-5 Emission Units – 5 Pts
 - 6-15 Emission Units – 1 Pt per unit
 - > 15 Emission Units – 15 Pts
 - Fugitive Emissions – 5 Pts
 - Modeling Review – 15 Pts
 - Air Toxic Review – 8 Pts
 - BACT Analysis – 60 Pts

30

New Mexico Application Fees

- Point Calculation Cont.
 - Health Assessment – 100 Pts
 - NSPS (per each) – 5 Pts
 - NESHAP/MACT (per each) – 5 Pts
 - Case-by-Case MACT – 100 Pts
 - PSD netting only – 20 Pts
 - PSD review – 75 Pts
- Fee \$315 times Points

31

Minnesota Example of a Water Points System

Points would be multiplied by \$_____

Permit Action

- Minor Permit modification (name change) – 1 Pt
- General Permit – 2 Pts
- Major Permit Modification – 3 Pts
- New issuance – 5 Pts

EPA Ranking

- Minor facility – 1 Pt
- Major facility – 5 Pts

Type of Discharge

- Controlled (stabilization pond) – 1 Pt
- Land or ground water (LSTS, IBR) – 3 Pts
- Continuous (mechanical facility) – 5 Pts

32

Minnesota Example of a Water Points System

Municipal Design Flow

- < 0.200 MGD – 1 Pt
- > 0.2 to <1 MGD – 3 Pts
- >1 MGD – 5 Pts

Industrial

- Non-contact cooling water – 1 Pt
- Flow/Load (formula based) – 3 Pts
- Categorical limits – 5 Pts

Action

- Maintenance/Replacement – 1 Pt
- Upgrade – 3 Pts
- Expansion – 5 Pts

Variance – 5 Pts

EAW – 3 Pts

Significant Noncompliance – 3 Pts

33

Maricopa Co. Arizona Construction Fees

Application Fee

- New or Major Mod - \$7,000
- Other Significant Revision - \$1,000
- Minor Revision - \$150

Plus Hourly Fee - \$115.70/hour

34

Alaska – New Source Construction Permit Fees

- Passive Treatment
 - One or Two Treatments: \$440
 - Each Additional Treatment: \$90
- Complex Treatment
 - One or Two Treatments: \$940
 - Each Additional Treatment: \$190

35

Arizona – New Source Construction Permit Fees

- Hourly fees of \$49 are assessed for any water quality protection services
- Maximum fees for new industrial facilities and major modifications: \$16,000

36

Colorado – New Source Construction Permit Fees

- Discharge Limitations Fees
 - <100,000 gpd: \$2,100
 - 100,000 - 999,999 gpd: \$4,200
 - 1,000,000 - 9,999,999 gpd: \$6,300
 - 10,000,000+ gpd: \$8,400
- Plus fees for app. and design review (new/expansion):
 - <100,000 gpd: \$12,638/\$10,091
 - 100,000 - 999,999 gpd: \$25,377/\$20,281
 - 1,000,000 - 9,999,999 gpd: \$38,015/\$30,372
 - 10,000,000+ gpd: \$50,653/\$40,563

37

Illinois Sewer Extension Fees

- Based on population:
 - 1 person: \$100
 - 2 – 20 people: \$400
 - 21 – 100 people: \$800
 - 101 – 499 people: \$1200
 - >500 people = \$2400

38

Other States' Sewer Extension Fees

- Rhode Island: Based on gallons per day
 - New flows < 250,000 gpd = \$300
 - New flows > 250,000 gpd = \$1000
- Oklahoma: Based on length
 - \$10 per 100 feet
 - \$100 Minimum and \$2000 Maximum

39

Sewer Extensions Minnesota Flow Approach

- 0 to 0.01 (571) - \$500
- >0.01 to 0.10 (325) - \$1,200
- >0.10 to 0.250 (13) - \$2,000
- >0.250 to 1 (4) - \$3,000
- >1 (2) - \$5,000

Generate ~ \$535,000 new funds annually.

40

Comments -

Please send comments to:

richard.sandberg@pca.state.mn.us

EXHIBIT # 4



January 4, 2008

Dear Richard Sandberg,

On behalf of the Minnesota Pork Producers Association we are expressing our strong opposition to the draft proposal on generating fee income for water and air permits. We appreciate being involved in the stakeholder process several weeks ago but we are disappointed in the draft outcome compared to our understanding of the possible solutions at that meeting.

As we understand the draft there will now be a fee attached to EAW's which did not exist in the past and an altered fee structure for feedlots based on a points system. Even though you stated in the report that one of the criteria identified by stakeholders was to not burden small business, feedlots and units of government, we believe that the draft fails in respect to feedlots.

Currently the state fees for a feedlot over the threshold for an EAW and NPDES permit is \$350 for an application and a yearly fee of \$345. The 5 year cost is \$2,075. The draft proposal would move this five year cost to \$15,400. This is an increase of 7.4 times the existing fee schedule. To put it simply, this is the equivalent of taking a 4% cut in net pay on a typical contract finishing swine farm each year. We fail to see another sector which will have increases of 7.4 times the present level.

	Present Fees	Draft Proposed Fees	Increase
1 st Year Cost	\$350	\$13,200	\$12,850
5 Year Cost	\$2,075	\$15,400	\$13,325

As we look at recommendations to change the draft that was presented, we refer you to the legislation that passed in 2007.

"By January 15, 2008, the commissioner shall amend agency rules and, where legislative action is necessary, provide recommendations to the house of representatives and senate divisions on environmental finance on water and air fee changes that will result in revenue to the environmental fund to pay

Minnesota Pork Producers Association

151 Saint Andrews Court, Suite 810, Mankato, MN 56001
Phone: (507) 345-8814 | Fax: (507) 345-8681 | E-mail: mnpork@mnpork.com

for regulatory services to the ethanol, mining, and other developing economic sectors."

It is clear that especially ethanol and mining have demanded increased services. We simply ask that if the legislature is not going to fund it that those industries must. The increased work load should not be paid for by other sectors. Both ethanol and mining are heavily subsidized by various state programs and the costs and revenues of engaging in those businesses far exceed those of feedlots.

Swine feedlots do not have subsidy programs, mandates for use (ethanol), jobz zones or tax increment financing available to them. We also can't directly levy our increased costs onto tax payer like municipalities can and do.

It is disappointing to see fee increases that will result in clearly higher costs than our neighboring states and we ask that the draft be re-evaluated. Subsidies to other businesses need to be reallocated to pay for permitting or the elimination of some processes need to be examined before we will support increases, especially to the extent proposed.

We were relatively silent after the stakeholder meeting because we were left with the impression that relatively small increases would be proposed for feedlots. We feel that silence was taken advantage of in the draft.

Sincerely,



Brandon Schafer
Minnesota Pork Producers Association
President
651-923-5078



David Preisler
Minnesota Pork Producers Association
Executive Director
507-345-8814

Cc: Wayne Anderson
Gene Hugoson



Permitting Comparison 3500 head swine farm

	Minnesota		Iowa	South Dakota	Wisconsin	North Dakota
	Today	Proposed				
EAW Fee	0	\$11,000	0	0	0	0
Application Fees	\$350	\$2,200	\$800	0	\$1,000	0
Yearly Fee	\$345	\$345	\$525	\$175	\$250	0
Local Fee	Vary	vary	0	vary	vary	One county has a fee

Notes: NPDES Permits are not required in any of the states except for open feedlots in Iowa. EAW's are not required in any other states than Minnesota. There is no local permitting cost in Iowa. Local fees vary but we are the highest in Minnesota. Costs to prepare an EAW that are paid to consultants vary from \$7,000-\$25,000.

Provided by David Preisler, Executive Director, Minnesota Pork Producers Association.



Minnesota Farm Bureau Federation®

January 8, 2008

Richard Sandberg
Minnesota Pollution Control Agency

Dear Mr. Sandberg,

On behalf of the Minnesota Farm Bureau Federation, we are expressing our strong opposition to the proposed increase in water permit fees associated with livestock feedlots and the proposed fee increase associated with an Environmental Assessment Worksheet (EAW). As we understand the proposal, the suggested new water permit fee associated with a livestock feedlot is over a **700 % increase**.

Farmers are facing skyrocketing increases in input costs and land prices. Fuel, fertilizer and feed prices have increased significantly and profit margins are being squeezed tighter and tighter. At the same time, in many areas of the state, agriculture, with animal agriculture being a major player, is one of the prime sources of economic activity. Another significant contributor to economic activity in rural Minnesota is our growing ethanol and biodiesel production.

We believe animal agriculture and renewable fuel production go hand in hand and each must have a business climate to operate in that allows them to remain competitive with farmers throughout the nation and world. Minnesota's business climate must offer owners and investors in animal agriculture and renewable fuel production the opportunity for a reasonable return on their investment. A return that will be invested in their businesses, farms, families and communities.

The proposed increase in water permit fees associated with livestock feedlots will result in a major hit to the bottom line for many farmers. More importantly, it sends a message to Minnesota farmers that it may be time to look at surrounding states when they are considering additional investment in their farming operations. Livestock feedlot permit fees in neighboring state are no where near the level they are in Minnesota, especially, with the proposed increases. In addition, neighboring states do not require additional environmental review such as the completion of an EAW. This puts Minnesota livestock farmers at a competitive disadvantage.

We understand there are pressures from certain sectors that are driving increased costs for the permitting activities of the Agency. These pressures existed in the past and will exist in the future with the source of the pressure changing over time. Any proposed increase in fees must be spread as broadly as possible over the permitted community. Today, according to Agency information, ethanol, mining and urbanization are creating pressure on the permitting process. Tomorrow it may well be a different sector creating similar pressure.

We respectfully request that your Agency revisit the above mentioned proposal and significantly reduce or eliminate the suggested fee increase for water permit fees associated with livestock feedlots and EAWs. This reduction is necessary to lessen the negative impact on Minnesota farmers. The State of Minnesota can do little to impact prices farmers receive. The State can develop a business climate in Minnesota that allows Minnesota farmers to remain competitive and profitable.

Respectfully,

Kevin Paap
President

From: Heupel, Erin [Erin.Heupel@poetenergy.com]
Sent: Tuesday, January 08, 2008 4:36 PM
To: Sandberg, Richard
Cc: Skjonsberg, Rob
Subject: MPCA Draft Air and Water Fees Changes Legislative Report
 Rich,

POET has reviewed the draft Air and Water Fees Changes Legislative Report. We agree that it can be mutually beneficial to have additional personnel available for permit reviews, but how will the MPCA document efficiencies gained in the review process. Are they willing to commit to a fixed review cycle once an application is deemed complete?

Initial review of the point system gives cause to concern that the points have not been allocated appropriately. As an example, its common practice for a new source to take a production limit or throughput limit to maintain a synthetic minor status. A permit fee based on the assignment of 50 points should include a minimum number of allowed limits (3-5) without additional fees. The setting of limits does not automatically increase the complexity of the permitting process and it is unfair to assume it does. The same is true with NSPS applicability. Typically the NSPS standards are used in many permits for a given industry. The base 50 points for a new source should take this into account without an automatic adder of 10 points (\$2300) for each standard for a permit writer to include boiler plate language.

We recognize the benefits to both industry and the state of additional staff. The proposed increases, however, should be assessed equally across all sectors and not just aimed at one. It is our opinion that a more appropriate use of funds to support the MPCA's core regulatory activities would be for application fees to support permitting staff and annual fees to support compliance staff. The current proposed regulation puts the burden of financial support for the entire MPCA on the applicants not the current operational sources of pollution. Fees garnered from applications should directly support the permit review staff and not supplement other departments of the MPCA. Furthermore, the proposed application fees are not inline with other states in the region. We request that the use of the application fees be assigned appropriately and the dollar amount per application adjusted accordingly to meet the needs of the permit staff alone. If other sectors of MPCA require additional funds, then re-evaluation of sector specific fees may be warranted.

Thank you for a chance to comment on the draft report.

Erin B. Heupel, P.E.
 Lead Environmental Engineer
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Minnesota Turkey Growers Association
Broiler & Egg Association of Minnesota

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info@minnesotaturkey.com
www.minnesotaturkey.com

VIA email

January 11, 2008

Mr. Richard Sandberg
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155

Dear Mr. Sandberg,

This letter is submitted on behalf of Minnesota's poultry producers and processors by the Minnesota Turkey Growers Association (MTGA) and Broiler and Egg Association of Minnesota (BEAM). We are very alarmed by the water and air permit fees proposed in your "Report to the House and Senate Division on Environmental Finance – Air and Water Fee Changes". While we appreciate the opportunity that you gave us to participate in the stakeholder discussion in mid-November, we are shocked by the direction presented in the report.

Minnesota is a national leader in poultry production and processing. We are home to a number of 2nd, 3rd, and 4th generation poultry producers; as well as several leading poultry processing companies. Our producers and processors provide food for consumers nationally and internationally. We compete with food producers across the US and in other countries. Our producers embrace environmental resource protection and are national leaders in innovation to protect the environment. We support the need for reasonable environmental standards and regulation of those standards. That being said we oppose the exorbitant fees proposed in your report. Those fee levels will prevent growth of the poultry industry in Minnesota, while that may be the goal of some groups, it will be to the detriment of the state as a whole.

MPCA's need for fee increases is driven by the cost of permit administration and enforcement. There are two ways to approach this situation – raise revenue or reduce costs. Recent court decisions have held that NPDES permits are not necessary for livestock farms. Given that Minnesota already has strong environmental standards, MPCA should reduce costs by eliminating the NPDES permit. Because of the strong standards that Minnesota has in place, the NPDES permit is overkill and duplication of regulations. Elimination of the permit reduces the number of staff needed.

The second approach is to increase revenue for MPCA. The options available are to increase the fees paid by the permit applicant; or for the legislature to appropriate funds to cover the state's cost of the permit process. MPCA and the state's goal is to protect our natural resources. That is also the goal of Minnesota's livestock farmers.

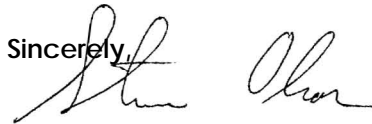
Increasing the permit fees, combined with Minnesota's current disjointed and multi-layered government process is a disincentive for cities and businesses – including livestock farmers, to invest in Minnesota through new farms and expansion of existing farms. Minnesota's egg laying farms raise about 10.5 millions egg laying hens annually. Minnesota is also home to three major U. S. egg producing companies. Over the past 10-15 years those companies have chosen to expand in neighboring states because of

Minnesota's unpredictable and convoluted permitting process. Their expansion outside of Minnesota would have nearly doubled our production. Instead Minnesota lost the investment and long-term economic and social benefit from those jobs associated with construction, on-farm, processing, and crop farming, as well as related tax dollars. Again Minnesota's poultry industry embraces reasonable environmental standards and permit processes but given the current challenges and those further proposed through dramatic permit fee increases, we oppose the recommendations included in the report. The economic activity and positive impact that livestock farm and processing families have on the viability of rural communities is a benefit to all Minnesotans, therefore all should share in the cost to protect the environment.

Finally, Minnesota's water permit system is unique for feedlots compared with other states. Our process includes not only state issued permits but in many cases also county and township permits. As such counties also charge fees for permits, as high as \$1,000 in some counties. A livestock farm considering an expansion could pay over \$2,000 for a five year permit, \$1,000 county permit, \$13,200 for an EAW plus the cost for the consultant. This is not good policy. Despite all of those fees a township board could decide to prevent the farm from building for no reason.

We would be happy to discuss the implications of the proposed fee structure in further detail. Please contact us at 763.682.2171 or steve@minnesotaturkey.com.

Sincerely,



Steve Olson
Executive Director

Cc
Governor Pawlenty
Commissioner Gene Hugoson

MINNESOTA CHAMBER of COMMERCE

January 14, 2008

Mr. Paul Eger
Assistant Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

Dear Paul:

Re: Review of draft Report to the Legislature on Air and Water Fee Changes

Thank you for providing the Minnesota Chamber Environment and Natural Resources Committee the opportunity to review the draft Report to the Legislature on Air and Water Fee Changes.

Because we received the draft just before the holidays, members did not have a chance to discuss it until our committee meeting on January 8th. We would like to schedule another meeting with you and Rich Sandberg. Members have many questions on the details of the proposal. It would be helpful if we could meet to ask questions and share views.

In anticipation of further discussion, here is an overview of initial reactions:

- Although we don't necessarily disagree with the approach of weighting various permitting actions with higher or lower points, there are questions about how you determined the weighting and why some are higher or lower than others. As members try to assess impact in real situations, it would be helpful to see the examples that were used to evaluate the impact.
- The draft proposes a fee for an Environmental Assessment Worksheet (EAW) of \$11,500. This needs more discussion. It seems high and appears to be doubled if the EAW involves both air and water permits.
- The draft proposes a 10% fee penalty for an "incomplete" application. Unless there is much more detail on what "incomplete" means, this will be controversial. We have discussed examples in the past where "completeness" was often disputed because of the lack of clarity in instructions or the subjective nature of the information requested.
- The proposed penalty for incompleteness begs the question of whether a similar performance penalty should apply to PCA if the permit is not issued within a certain period of time.

We appreciate your interest in our views on these issues and look forward to further discussions.

Sincerely,



Mike Robertson
Environment & Natural Resources Policy Committee

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JAN 14 2008

January 10, 2008

Mr. Richard Sandberg
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-1494

Dear Mr. Sandberg:

This letter is in response to the proposed increase in air and water permit fees recently drafted by the MPCA. On behalf of our farmer and cooperative members, the Minnesota Association of Cooperatives strongly opposes the significant increase in water permit fees that are contained in the report to the legislature.

The current application fee for an NPDES permit is \$350 and the yearly fee is \$345. As we understand the proposal, the application fee would increase to \$2,075 and there would be a new Environmental Assessment Worksheet (EAW) fee of approximately \$11,000. This results in a 740% increase in fees for some of our members.

Such a large increase sends the wrong message to livestock farmers and passage of this proposal would put Minnesota's business climate way out of step with our surrounding states. A successful animal agriculture industry goes hand-in-hand with a successful renewable fuels industry and we feel the state government should enact policies to encourage the growth in both sectors of agriculture. Therefore, we encourage the MPCA to reconsider the proposed fees as they relate to the livestock industry.

While we recognize that the MPCA was required to prepare the report pursuant to legislation passed during the 2007 legislative session, we nevertheless want to go on record opposing such a significant increase in costs to our members.

Very truly yours,

A handwritten signature in black ink, reading "William J. Oemichen". The signature is fluid and cursive, with the first name "William" being the most prominent part.

William Oemichen
President & CEO