

Minnesota Department of Natural Resources

500 Lafayette Road · Saint Paul, Minnesota · 55155-4037

Office of the Commissioner

651-259-5555



March 3, 2010

Elizabeth H. Schmiesing
Faegre & Benson
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901

Re: In the Matter of the Appeal of Public Waters Permit No. 2110-0117, Permit Authorizing Load Testing, St. Croix River Crossing, City of Oak Park Heights, Washington County

Dear Ms. Schmiesing:

The Minnesota Department of Natural Resources ("DNR") acknowledges receipt of your document entitled *Intervention by Sierra Club Northstar Chapter Under the Minnesota Environmental Rights Act*. This is regarding a contested case hearing demanded by the mayor of the City of Oak Park Heights in the matter of DNR permit No. 2010-0117, issued to the Minnesota Department of Transportation for structural load tests proposed to take place in the lower St. Croix River.

Pursuant to Minn. Stat. § 14.57(a) (2008), "[u]nless otherwise provided by law, an agency shall decide a contested case only in accordance with the contested case procedures of the [APA]." Consequently, rather than serving a petition on the DNR or other parties to this appeal to initiate its intervention, the appropriate procedure for the Sierra Club to follow is to bring a motion before the administrative law judge pursuant to Minn. R. 1400.6200, subd. 1 (2007) (intervention in contested case to be made by submission of a "timely written petition to intervene to the judge"). The Sierra Club may then present the administrative law judge with the "petitioner's statutory right to intervene if one should exist." Minn. R. 1400.6200, subd. 1 (2007).

In light of the foregoing, the intervention request by the Sierra Club Northstar Chapter is denied. Thank you for your interest in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark H. Holsten'.

Mark Holsten
Commissioner

Copies: Mayor David Beaudet, City of Oak Park Heights
Jyneen Thatcher, Washington Conservation District
Amy Carolan, Middle St. Croix WMO
Patrick Whiting, MN Attorney General's Office
David P. Iverson, MN Attorney General's Office
Kent Lokkesmoe, Director, MDNR Division of Waters
Patrick Whiting, MN AGO