



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

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April 16, 2010

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The Honorable Barbara L. Neilson
Administrative Law Judge
Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

**Re: *In the Matter of the Appeal of Public Waters Permit No. 2010-0117
Issued to MNDOT for Structural Load Testimony
OAH Docket No. 11-2000-21160-2***

Dear Judge Neilson:

I received David Beaudet's April 12, 2010 letter recommending that you postpone the above-referenced contested case hearing. The Minnesota Department of Transportation (MnDOT) urges that this recommendation not be heeded, and reiterates that it is not withdrawing its load testing permit application.

First, Mr. Beaudet suggests that the Army Corps of Engineers (ACOE) may soon pull its permit for the load testing project. Because of this, Mr. Beaudet suggests this hearing be postponed. The process to obtain a MnDNR permit is completely distinct from the process to obtain an ACOE permit. This contested case hearing is solely about the MnDNR permit, and MnDNR is capable of issuing it regardless of the ACOE permit's status. As such, the status of the ACOE permit has no bearing on this matter.

Additionally, Mr. Beaudet asserts that the Minnesota Supreme Court's *Hubbard* decision "makes this matter ripe for a summary ruling in [his] opinion." Should Mr. Beaudet bring a motion for summary disposition, MnDOT will certainly address this issue at that time. Until then, however, such a statement warrants no further address.

Finally, to the extent that his letter is a request for a continuance pursuant to Minn. R. 1500.7500, Mr. Beaudet has not demonstrated sufficient good cause to continue this hearing. As



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such, we look forward to meeting with you at Tuesday's prehearing conference and proceeding with a contested case hearing in an expeditious manner.

Sincerely,



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cc: Jill Schlick Nguyen - Minn. Attorney General's Office (MnDNR)
David Iverson - Minn. Attorney General's Office (MnDNR)
Molly O'Rourke - Washington County Auditor
Jyneen Thatcher - Washington Conservation District
Amy Carolan - Middle St. Croix WMO
David Beaudet - Mayor, City of Oak Park Heights