



# CITY OF OAK PARK HEIGHTS

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April 12, 2010

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

**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:

Since my request for a contested case hearing, Federal District Judge Davis has placed an injunction on the National Park Service from working with any party to build the MNDOT 2005 proposed new St. Croix River Bridge. Since this decision was ordered, I note that within a letter dated April 2, 2010, The National Park Service has withdrawn National Park Service, Section 7 support for the test foundation permit granted by U.S. Army Corp of Engineers. In a recent conversation with Mr. Dan Seemon, I was informed that the U.S. Army Corp of Engineers will soon be sending a letter to MNDOT confirming the withdrawal of Permit GP-001 MN, granted on September 28, 2009.

The Minnesota Supreme Court decided in the Hubbard vs. DNR (a 2010 ruling,) that the Minnesota Department of Natural Resources needs to comply with Minnesota Statute 15:99. Similar issues are presented here.

In regard to both matters noted above, I recommend postponing the hearing until the issues rising from the Federal District Court injunction on the National Park Service are resolved, or perhaps the Minnesota Department of Transportation would like to withdraw their test foundation permit request to the Department of Natural Resources and submit an application at a later date following a new ruling from the Federal Courts based on what I will presume would be a new application relative to this project. Absent that, the recent Minnesota Supreme Court Hubbard decision makes this matter ripe for a summary ruling in my opinion.

David Beaudet  
Mayor  
City of Oak Park Heights

cc: See attached mailing list  
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