

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of the City of Hutchinson
(Hutchinson Utilities Commission) Request to
Extend the Time Line of the Stipulation
Agreement and an Escrow Agreement
Concerning a Decompaction Fund for
Agricultural Impact Mitigation

ISSUE DATE: April 19, 2006

DOCKET NO. G-252/M-06-220

ORDER GRANTING EXTENSION OF
STIPULATION AGREEMENT AND
ESCROW AGREEMENT

PROCEDURAL HISTORY

In December 2002, the Environmental Quality Board (EQB)¹ issued to the Hutchinson Utilities Commission (HUC) a pipeline routing permit under Minn. Stat. Chapter 116.C to construct a 90-mile natural gas pipeline from Trimont, Minnesota to Hutchinson, Minnesota. In March 2003, the EQB issued an amended permit which identified more specifically the route of the pipeline and which included an agricultural impact mitigation plan (AIMP) that HUC was required to follow in connection with its pipeline construction.

HUC constructed the pipeline in 2003. The construction and operation of the pipeline required HUC to take temporary construction easements and permanent easements for the operation and maintenance of the pipeline from affected property owners.

A dispute arose concerning whether HUC had adhered to the AIMP in the construction of the pipeline. HUC and the EQB reached a stipulated agreement² and escrow agreement³ in December 2004. The stipulation establishes a \$150,000 escrow account to be administered by the Commissioner of the Minnesota Department of Agriculture, to compensate those owners of property not settling with HUC, who experience problems due to compaction that appear to result from pipeline construction.

¹ On July 1, 2005, the authority for the routing of pipelines under Minn. Stat. Chapter 116.C was transferred from the EQB to the Commission.

² Attached hereto as Exhibit A.

³ Attached hereto as Exhibit B.

Under the terms of the original settlement documents, the escrow account terminates on December 31, 2006, and any funds remaining in the fund may be applied to a supplemental environmental project.

HUC originally sought an extension of one year for the agreements, as there are still numerous landowners who have not settled with it on condemnation claims arising from this dispute.

At the Commission meeting on March 7, 2006, HUC indicated it had amended that request to be an extension of two years. However, documentation of that amended request was not part of the Commission's record. HUC agreed to file its amended request and did so on March 10, 2006.

On March 30, 2006, this matter came before the Commission.

FINDINGS AND CONCLUSIONS

The sole purpose of the requested amendments to the 2004 Stipulation Agreement and Escrow Agreement is to extend the deadline for non-settling property owners to apply for reimbursement from the Decomaction Fund.

A. Amendments to the 2004 Stipulation Agreement

The amendments to the 2004 Stipulation Agreement are as follows:

Part 7.B.5 of the 2004 Stipulation Agreement states as follows:

5. Decomaction eligible for reimbursement may be conducted only one time per growing season for the two growing seasons included in this program, growing seasons 2005 and 2006.

Part 7.B.5 will be amended to state:

5. Decomaction eligible for reimbursement may be conducted only one time per growing season for the two growing seasons included in this program, growing seasons 2005 and 2006, 2007 and 2008.

Part 7.D. of the 2004 Stipulation Agreement states as follows:

- D. At the end of the growing season 2006, any portion of the \$150,000 initial deposit remaining may be applied to a supplemental environmental project reviewed and approved by the EQB Board, or as the law applicable to settlement of state litigation matters requires or allows.

Part 7.D. will be amended to state:

- D. At the end of the growing season 2008, any portion of the \$150,000 initial deposit remaining may be applied to a supplemental environmental project reviewed and approved by the EQB Board, or as the law applicable to settlement of state litigation matters requires or allows.

B. Amendments to the 2004 Escrow Agreement

Paragraph 2.c. of the Escrow Agreement states as follows:

- c. The amount of expenses allowed for decompaction for a Nonsettling Property Owner shall be reasonable. Decompaction may be allowed up to a maximum of two (2) times, i.e., once in 2005 and once in 2006.

Paragraph 2.c. of the Escrow Agreement will be amended to state:

- c. The amount of expenses allowed for decompaction for a Nonsettling Property Owner shall be reasonable. Decompaction may be allowed up to a maximum of two (2) times in separate years during the four calendar years (2005, 2006, 2007, and 2008) when the Escrow Checking Account is in effect.

Paragraph 4 of the 2004 Escrow Agreement states as follows:

- 4. The Escrow Checking Account shall remain in full force and effect for two calendar years, i.e. 2005 and 2006, and shall terminate as of December 31, 2006. If monies remain in the checking account as of December 31, 2006, those funds shall be subject to the terms and conditions of the Stipulation Agreement.

Paragraph 4 will be amended to state:

- 4. The Escrow Checking Account shall remain in full force and effect for two calendar years, i.e. 2005, 2006, 2007 and 2008, and shall terminate as of December 31, 2006. If monies remain in the checking account as of December 31, 2008, those funds shall be subject to the terms and conditions of the Stipulation Agreement.

C. Substitution of Minnesota Public Utilities Commission for EQB

Both the 2004 Stipulation Agreement and the 2004 Escrow Agreement are further amended to substitute and require that any ongoing duties owed by HUC to EQB will now be owed by HUC to the Commission. Any ongoing rights and responsibilities of EQB under the aforementioned agreements will be the rights and responsibilities of the Commission.

ORDER

1. The Commission approves Hutchinson Utilities Commission's request to extend the 2004 Stipulation Agreement and Escrow Agreement until December 31, 2008.
2. The Commission approves the proposed amendments to the 2004 Stipulation Agreement and Escrow Agreement as set forth herein.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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