

GREEN BAY METROPOLITAN SEWERAGE DISTRICT
PROCEEDINGS OF THE COMMISSION

Special meeting of the Commission held November 4, 2010.

PRESENT: Commissioners Alesch, Hasselblad, Mainz, and Zabel

EXCUSED: Commissioner Scheberle

ALSO PRESENT: T. Sigmund, P. McCarthy, P. Kaster, W. Oldenburg, B. Vander Loop, J. Van Sistine, J. Nicks & J. Heugel–Legal Counsel; B. Meeuwsen–Fourinox; N. Jameson–Department of Natural Resources; J. Gales–Bouressa & Gales Reporting

Commission President Alesch called the meeting to order at 8:36 a.m.

- 1) **Hearing on the appeal by Fourinox Inc. on the determination of significant noncompliance.**

The hearing closed at 10:00 a.m.

- 2) **Convene in closed session under State Statute 19.85 (1) (g) for the purpose of conferring with legal counsel for the Commission who is rendering oral or written advice concerning strategy to be adopted by the Commission with respect to litigation in which it is or is likely to become involved:**
 - a) **Discussion on appeal of significant noncompliance by Fourinox Inc.**

Motion #10-110

It was moved by Hasselblad, seconded by Mainz, and unanimously agreed to convene in closed session under State Statute 19.85 (1) (g) for the purpose of conferring with legal counsel for the Commission who is rendering oral or written advice concerning strategy to be adopted by the Commission with respect to litigation in which it is or is likely to become involved.

- 3) **Reconvene in open session.**

Motion #10-111

It was moved by Zabel, seconded by Hasselblad, and unanimously agreed to reconvene in open session.

- 4) **Decision on the appeal by Fourinox Inc. on the determination of significant noncompliance.**

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**11/04/10
Cont'd**

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Commissioner Alesch stated the Commission reviewed all of the material and was pleased with the thoroughness of the evidence presented.

Motion #10-112

It was moved by Hasselblad, seconded by Mainz, and unanimously agreed that the Commission finds as follows: That Fourinox intentionally violated the reporting requirement for filing a Renewal Application for its Wastewater Discharge Permit and did not have the discretion to ignore the deadline. However, there were extenuating circumstances which lessen the severity of the violation. As a result, the Commission finds that the violation was isolated and not significant. The Notice of Violation is amended to a Notice of Noncompliance. The Notice of Noncompliance will not be published. (See Commission File #10-007)

Commissioner Alesch stated that staff follows criteria approved by the Department of Natural Resources and he encourages staff to continue to apply the rules as written. He stated the Commission's primary concern is to make sure no damage is done to the receiving waters.

J. Nicks from Godfrey & Kahn stated that in closed session he provided the Commission with several options. He stated the Commission has included other consideration so he will revise one of the decisions to incorporate the Commission's comments and provide a formal written decision. None of the Commission except for the Commission President had the written options prior to closed session.

There being no further business to come before the Commission, the meeting adjourned at 10:40 a.m.

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Secretary