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# Le Sueur County, MN

Tuesday, May 20, 2014

Board Meeting

## Item 6

**10:30am Darrell Pettis**

*County ditch spraying quote, 2013 Hwy Dept. Annual Report, Waterville Hwy Garage, Kilkenny Twp.  
Bridge bid, Klockmann vs. Le Sueur County*

Staff Contact:



Writer's direct dial  
(952) 229-8488

Writer's e-mail  
liz@hammarlaw.com

May 14, 2014

Le Sueur County Board of Commissioners  
88 South Park Avenue  
Le Center, MN 56057

RE: Michael and Kimberly Klockmann v. Le Sueur County Board of Commissioners

Ladies and Gentlemen:

Enclosed herewith and served upon you, please find the following with respect to the above matter:



1. Petition for Writ of Certiorari;
2. Writ of Certiorari;
3. Petitioners' Statement of the Case; and
4. Check in the amount of \$500.00, in lieu of cost bond.

If you have any questions, please feel free to contact me.

Very truly yours,

  
Elizabeth E. Rein

EER/lym  
Enclosures

<b>MICHAEL J. KLOCKMANN</b>		75 $\frac{1607}{919}$	<b>9763</b>
<b>KIMBERLY K. KLOCKMANN</b>			
28622 LEXINGTON RD. PH. 507-665-2391			
LE SUEUR, MN 56058		DATE <u>5-14-14</u>	
PAY TO THE ORDER OF <u>Le Sueur County</u>		\$ <u>500<sup>00</sup></u>	
<u>Five hundred and 00/100</u>		DOLLARS	
 <b>First Farmers &amp; Merchants</b> 112 S Main Street Le Sueur, MN 56058	<b>FIRST VALUE CHECKING</b>		
MEMO <u>appeal</u>	<u>Kimberly K. Klock</u>	MP	
⑆09191607⑆	142332⑆	9763	

**STATE OF MINNESOTA  
IN COURT OF APPEALS**

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Michael and Kimberly Klockmann,

Petitioners,

vs.

Le Sueur County Board of Commissioners,

Respondent.

**PETITION FOR WRIT OF  
CERTIORARI**

COURT OF APPEALS NO.: \_\_\_\_\_

(AGENCY OR BODY) No.: \_\_\_\_\_

DATE OF DECISION: April 15, 2014

DATE AND DESCRIPTION OF  
EVENT TRIGGERING APPEAL TIME:  
Unknown

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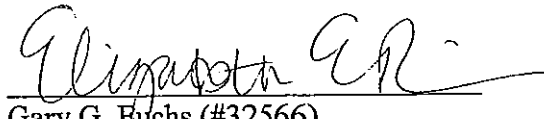
To: The Court of Appeals of the State of Minnesota

The above-named Petitioners hereby petition the Court of Appeals for a Writ of Certiorari to review a decision of the Le Sueur County Board of Commissioners (the "County") granting the application of Minnesota Municipal Power Agency (MMPA) and William and Lynette McCue for a Conditional Use Permit (the "CUP") issued on the date noted above, upon the grounds that:

1. Petitioners own property in Le Sueur County known as 28622 Lexington Road, Le Sueur, Minnesota, in the immediate vicinity of the property that is the subject of the CUP.
2. The County granted the CUP at its April 15, 2014 meeting. Attached as Exhibit A is a true and correct copy of the April 15, 2014 board meeting minutes.
4. The County's decision to approve the CUP application was arbitrary, capricious, oppressive, and/or unreasonable.
5. The County's decision to approve the CUP application was under an erroneous theory of law.
6. The County's decision to approve the CUP application was without any evidence to support it.
7. Petitioners therefore petition for certiorari review under Minn. Stat. § 606.01.

**HAMMARGREN & MEYER, P.A.**

Dated: May 14, 2014

A handwritten signature in cursive script, appearing to read "Elizabeth E. Rein", written over a horizontal line.

Gary G. Ruchs (#32566)

Elizabeth E. Rein (#34980X)

3500 American Blvd. West

Suite 450

Bloomington, MN 55431

(952) 844-9033

*Attorneys for Petitioners*

## Minutes of Le Sueur County Board of Commissioners Meeting April 15, 2014

The Le Sueur County Board of Commissioners met in regular session on Tuesday, April 15, 2014 at 9:00 a.m. in the Courthouse at Le Center, Minnesota. Those members present were: Steve Rohlfing, Lance Wetzel, Dave Gliszinski, John King and Joe Connolly. Also present were Darrell Pettis and Brent Christian.

On motion by Connolly, seconded by Wetzel and unanimously approved, the Board approved the agenda for the business of the day.

On motion by King, seconded by Gliszinski and unanimously approved, the Board approved the consent agenda:

- Approved the April 1 2014 County Board Minutes and Summary Minutes.
- Approved the 3.2% On Sale Liquor License for St. Thomas Sportsman Club
- Approved the Repair Request for Ditch #JD1
- Approved March Transfers:
  - #1560 Transfer 1,667.76 from Human Services to Revenue
  - #1561 Transfer 2,492.00 from Agency to Revenue
  - #1562 Transfer 18,349.60 from Trust to Tax & Penalty
  - #1563 Transfer 106.43 from Human Services to Revenue
  - #1564 Transfer 19,585.02 from Human Services to Revenue

Sue Rynda, Human Services Director, appeared before the Board to give the monthly Human Services Report. This presentation covered Finance, Income Maintenance, Child Support, Family Services, and Mental Health.

On motion by Wetzel, seconded by Connolly and unanimously approved, the Board approved the following Proclamation:

### Child Abuse Prevention Month Proclamation

WHEREAS, child abuse prevention is a community problem and finding solutions depends on involvement among people throughout the community;

WHEREAS, the effects of child abuse are felt by whole communities and need to be addressed by the entire community;

WHEREAS, effective child abuse prevention succeeds because of partnerships created between parents, practitioners, schools, faith communities, health care organizations, law enforcement agencies, and the business community.

WHEREAS, family-serving youth focused prevention programs offer positive alternatives for people and encourage parents and youth to develop strong ties to their communities;



WHEREAS, all citizens need to be more aware of child abuse and neglect and its prevention within the community, and be involved in supporting parents to praise their children in a safe and nurturing society.

NOW THEREFORE, We, the Le Sueur County Board of Commissioners, hereby proclaim April as Child Abuse Prevention Month in Le Sueur County and call upon citizens, community agencies, religious organizations, medical facilities and businesses to increase their participation in efforts to prevent child abuse and neglect, thereby strengthening the communities in which we live.

On motion by King, seconded by Wetzel and unanimously approved, the following cases and claims were approved:

Soc Serv:	\$220,960.69
Financial:	\$ 35,408.20

Lauren Klement, Environmental Specialist came before the Board with three items for discussion and approval.

On motion by Gliszinski, seconded by Wetzel and unanimously approved, the Board approved and authorized the Chair to sign the Professional Services Subcontract with Wenck Inc. for eight Feasibility Assessments for the Jefferson German Septic Inventory Project.

On motion by Connolly, seconded by Gliszinski and unanimously approved, the Board directed the Administrator to prepare a letter of intent to participate in the One Watershed One Plan Pilot Project with the Cannon River Watershed Partnership.

On motion by King, seconded by Wetzel and unanimously approved, the Board authorized the purchase of a field monitor and supplies for the Low Minnesota SWAG in the amount of \$4,300.00

Jim Goltart Veterans Service Officer came before the Board with two items for the Board's discussion and consideration.

On motion by King, seconded by Connolly and unanimously approved, the Board accepted the donation of a 2014 Ford Van from the Le Sueur County Vets Council.

On motion by Gliszinski, seconded by Wetzel and unanimously approved, the Board authorized Out of State Travel for Jim Goltart to the National Conference in Grand Rapids Michigan from June 5 to June 14, 2014.

Jim McMillen Building and Grounds Director came before the Board with quotes for the retaining wall around the Courthouse and for the Tuck Pointing repairs.

The following quotes for the Retaining Wall project were received:

Landscape Concepts Inc.	\$39,976.68
Clayton Roemhildt and Sons Concrete	\$39,923.50

Castle Gardens Landscaping                      \$32,650.00

On motion by Connolly, seconded by Gliszinski and unanimously approved, the Board moved to table the motion.

The following bids to repair, seal and tuck point the Courthouse and Jail were received:

Mid-Continental, Parkston SD	\$167,798.00
A.J. Spanjers, Brooklyn Park, MN	\$220,000.00

On motion by Wetzel, seconded by King and unanimously approved, the Board accepted the bid of Mid-Continental in the amount of \$167,798.00 .

Cindy Westerhouse Human Resource Director came before the Board with several items for approval.

On motion by Connolly, seconded by Wetzel and unanimously approved, the Board accepted the resignation of Richard Akerlund, part time Jailer/Dispatcher in the Sheriff's Office, effective April 13, 2014.

On motion by King, seconded by Gliszinski and unanimously approved, the Board approved the recommendation to hire a part time Jailer/Dispatcher, in the Sheriff's Office, as a Grade 6, Step 1 at \$16.57 per hour.

On motion by Wetzel, seconded by Connolly and unanimously approved, the Board hired Robert Petrsek as a part time Jailer/Dispatcher, in the Sheriff's Office, as Grade 6, Step 1 at \$16.57 per hour, effective April 21, 2014.

On motion by King, seconded by Gliszinski and unanimously approved, the Board approved Becky Factor's request to participate in the PERA Phased Retirement Option Program and the Initial Agreement effective May 1, 2014

On motion by Wetzel, seconded by Gliszinski and unanimously approved, the Board granted regular status to Jay Sowieja, full time Senior Appraiser in the Assessor's Office effective April 15, 2014. Jay has completed the six-month probationary period.

At 10:15 a.m. Wetzel moved, seconded by Connolly and unanimously approved, the Public Hearing concerning the MMPA Conditional Use Permit was called to order.

Kathy Brockway, Planning and Zoning Administrator presented the Staff Report for the Minnesota Municipal Power Agency (MMPA) (APPLICANT), William and Lynette McCue (OWNER).

Tim Kelly, Applicant's Attorney and Derick Dahlen, Avant Energy CEO briefly reviewed their application for Conditional Use Permit and the agreed upon Conditions for the CUP. Changes from the initial application include:

- A paved driveway approach to the county road.

- The addition of a well on the property to provide water to clean the site.
- Toilet facilities.
- MPCA permits and reports will be provided to the County.

County Administrator Pettis commented on the process, meetings and the additional information that was provided by the applicant.

Commissioner King had two questions. Are there open tile intakes on the property? Is only sweet corn silage going to be stored? Response, no direct connection to County Ditch, all tile intakes on the property would be closed, any existing tile lines found during construction would be rerouted to continue the drainage. Only sweet corn silage to be stored on site.

Commissioner Connolly, concerned about the number of trucks needed to haul the 75,000 tons of silage. This is about 6,000 trips per year. One to two trucks per hour during the fall. Have turn lanes been proposed?

At 10:32 a.m. Commissioner Rohlfing opened the floor for public comments.

Eleven individuals provided comments on the application before the Board. Their comments are as follows:

- Concerns about the smell from the project, what can be done?
- Drainage from the site, will the tile intakes be closed?
- What process will the County use to approve or deny the proposal?
- What are the exact conditions that are being considered?
- Give the public a chance to review and comment on the conditions, please continue this public hearing to a later date.
- Request an EAW be prepared for the site.
- Tile inlets on adjacent property have not been addressed.
- The entire watershed has not been considered, look at the whole picture.
- What is a public nuisance?
- How does the 1,000' set back impact the adjacent landowner? Does it restrict the ability to build on their property?
- Truck traffic and driveways on the hill to the west.
- What impact will this have on adjacent property values?
- This project will remove productive farm land.
- Concern for the future, will be traffic accidents due to truck traffic.
- Ground water will be contaminated.
- How will the odor be controlled?
- Drainage issues.
- Storm water will be contaminated from run off.
- This is a low wet area, a lot of tile around the property.
- How will leachate be handled?
- Who will repair the bridges and private ditch crossings when they are damaged from high water?
- Varmint control, turkey barns in the area.



- Drainage system is already overtaxed, cannot handle additional runoff.
- Only 7 feet between the low land and the bunker slab.
- This proposal will decrease the value of property around it.
- The smell will be continuous.
- Too much light will be produced.
- Trucks will generate noise when dumping and loading.
- What is the 100 year rainfall event? How many inches?
- City of Le Sueur has the development.
- What does the nuisance ordinance say about odor?
- Why didn't the MPCA permit address tile lines?
- Light from the project may impact adjacent turkey barns.

At 11:25 a.m. Gliszinski moved, seconded by Wetzel and unanimously approved, the Board closed the Public Hearing on the MMPA Conditional Use Permit.

On motion by Gliszinski, seconded by Wetzel and approved via roll call vote 3-2 with Commissioners King and Connolly voting no, the Board approved the April 15, 2014 Findings of Fact listed below for the MINNESOTA MUNICIPAL POWER AGENCY (MMPA), MINNEAPOLIS, MN, (APPLICANT); WILLIAM & LYNETTE MCCUE, BELLE PLAINE, MN, (OWNER) allow the applicant to establish a silage stock-piling site for use in public utilities to meet the renewable energy mandates in an Agricultural "A" District. Property is located in the W 1/2 NE 1/4 SW 1/4 Section 4, Sharon Township.

#### FINDINGS OF FACT APRIL 15, 2014

WHEREAS, the Minnesota Municipal Power Agency (MMPA), applicant, and William and Lynette McCue, landowners, applied for a Conditional Use Permit to establish a silage stockpile site to provide an energy source to meet the renewable energy mandates at a property located in the W1/2, NE1/4, SW1/4, Section 4, Sharon Township; and

WHEREAS, the Le Sueur County Planning and Zoning Commission held a public hearing on August 8, 2013, in order to hear public testimony from the applicants as well as interested parties pertaining to and as provided by the Zoning Ordinance of Le Sueur County; and

WHEREAS, on September 10, 2013, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners denied the Conditional Use Permit application as requested by the MMPA as the applicant and William and Lynette McCue as the owners of the property; and

WHEREAS, on March 25, 2014, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners rescinded its denial of the Conditional Use Permit requested by MMPA as the applicant and William and Lynette McCue as the owners of the property; and

WHEREAS, on April 15, 2014, the matter came before the Le Sueur County Board of Commissioners for decision and information related to drainage, facility screening, lighting, and site improvements was received by the Commissioners and comments were received from both the applicant and the public; and

WHEREAS, issues related to traffic safety, drainage, surface water issues, and other concerns were satisfactorily addressed;

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following Findings of Fact were adopted at the regularly scheduled meeting of the Le Sueur County Board on April 15, 2014:

1. With the imposition of appropriate conditions, as stated on the attached list of conditions, the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.
2. With the imposition of appropriate conditions, as stated on the attached list of conditions, the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. With the imposition of appropriate conditions, as stated on the attached list of conditions adequate utilities, access roads, drainage, and other facilities have been or are being provided.
4. With the imposition of appropriate conditions, as stated on the attached list of conditions, adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
5. With the imposition of appropriate conditions, as stated on the attached list of conditions, adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
6. With the imposition of appropriate conditions, as stated on the attached list of conditions, the use conforms to the County's Land Use Plan.
7. With the imposition of appropriate conditions, as stated on the attached list of conditions, the use will not degrade the water quality of the County.
8. With the imposition of appropriate conditions, as stated on the attached list of conditions, the soil conditions are adequate to accommodate the proposed use.
9. The imposition of the attached conditions are required for protection of the public's health, safety, and general welfare.

On motion by Gliszinski, seconded by Wetzel and approved via roll call vote 3-2 with Commissioners King and Connolly voting no, the Board approved the Conditional Use Permit for MINNESOTA MUNICIPAL POWER AGENCY (MMPA), MINNEAPOLIS, MN, (APPLICANT); WILLIAM & LYNETTE MCCUE, BELLE PLAINE, MN, (OWNER) allow the applicant to establish a silage stock-piling site for use in public utilities to meet the renewable energy mandates in an Agricultural "A" District. Property is located in the W 1/2 NE 1/4 SW 1/4 Section 4, Sharon Township. The Conditional Use Permit is approved with the following list of Conditions for CUP:

#### CONDITIONS FOR CUP

The following conditions are hereby recommended on the conditional use permit for the Minnesota Municipal Power Agency (MMPA) in order to protect the public health, safety, and welfare of the citizens of Le Sueur County.

- A. MMPA shall be required to construct, operate, and report the facility's monitoring parameters per the approved State Disposal Permit (SDS) to the MPCA.
- B. SCREENING:
1. MMPA will install and maintain screening in accordance with the attached screening plan.
- C. HAULING:
1. Trucks and equipment used in hauling silage from the site shall be loaded in such a manner as to minimize spillage onto the public highways.
  2. MMPA will take reasonable steps to prevent spillage of silage.
  3. All vehicles shall be tarped during transporting of silage to and from the storage facility.
  4. Adequate measures shall be taken to adhere to road weight limits when the product is transported to and from the facility.
- D. SIGNAGE: MMPA will pay the reasonable costs for the County to install the following signage:
1. Signage for public safety, such as "Trucks Hauling" signs shall be placed at locations to be determined by the Road Authority.
  2. During the peak hauling season adequate signage shall be posted alerting traffic and motorcycles to use extreme caution.
- E. DRAINAGE:
1. MMPA will manage drainage on the site in accordance with the attached drainage plan.
- F. ACCESS: MMPA will construct the access drive in the location set forth in Access Driveway/Entrance Permit No. 2013-06.
1. The access shall have a one-hundred foot paved entrance from the road right of way.
- G. LIGHTING:
1. MMPA will install and maintain lighting on the site in accordance with the attached lighting plan.
- H. SANITARY FACILITIES/WATER SUPPLY:
1. A well shall be located for on-site water supply.
  2. Portable toilet facility shall be placed and maintained on-site.
- I. NUISANCE CONTROL: To ensure the control of nuisances which may affect the public health, safety and general welfare of the residents of Le Sueur County and further preserve the aesthetic values of the County and individual neighborhoods therefore the applicants shall comply with Section 19, Subdivision 9 of the Le Sueur County Zoning Ordinance.
- J. REPORTING REQUIREMENTS:
1. Le Sueur County Environmental Services Department shall be notified when the MMPA requests modifications to its permit to the MPCA to review for compliance with the County's conditional use permit.
  2. Le Sueur County Environmental Services Department shall receive copies of all MMPA's final SDS Permits for the life of the facility.
  3. Le Sueur County Environmental Services Department shall receive copies of all annual report (s) submitted to the MPCA for the life of the facility.

K. GENERAL REQUIREMENTS: All land uses and development shall follow all other applicable regulations of the County Zoning Ordinance as well as meet all other applicable state and federal requirements.

BE IT FURTHER RESOLVED, by the Le Sueur County Board of Commissioners that based on the above listed Findings of Fact and the above listed Conditions for CUP, a Conditional Use Permit to establish a silage stockpile site to provide an energy source to meet the renewable energy mandates proposed by the MMPA is hereby granted.

Darrell Pettis Administrator/Engineer came before the Board with two items for discussion and approval.

Second Neighborhood Meeting Fifth Street (CSAH 3) Area Street and Utility Improvement Project has been scheduled for Tuesday, April 22nd at 7:00 pm.

The April 8, 2014 Public Hearing for the Lake Washington Outlet Structure was discussed. The Board directed the Administrator to prepare the required Maintenance and Operation Plan for the MnDNR.

On motion by Gliszinski, seconded by King and unanimously approved, the Board authorized the purchase of a John Deere 1445 Series II mover, deck and broom from Ag Power Enterprises in the amount of \$27,637.46 less \$ 1,800 for the trade in of the 1993 JD F925.

Dave Tietz, Sheriff came before the Board with two items for their approval.

On motion by King, seconded by Connolly and unanimously approved, the Board authorized the Sheriff to obtain quotes for two vehicles, and 2014 or 2015 Ford F-150 Pick Up Truck and a 2014 or 2015 Ford Explorer for a transport.

On motion by Wetzel, seconded by Gliszinski and unanimously approved, the Board approved the following purchase for the Sheriff's Office from IdentiSys:

Two Datascan CD800 Dual Sided Printers	\$4,190.00
ID Centre Lite Software	\$ 195.00
4 Datascan CD800 YMCKT Ribbon	<u>\$ 130.00</u>
	\$4,905.00

On motion by Connolly, seconded by Gliszinski and unanimously approved, the following claims were approved for payment:

Warrant #	Vendor Name	Amount
31228	A'Viands	\$ 7,791.29
31229	American Engineering Testing Inc.	\$ 9,016.30
31230	American Solutions for Business	\$ 2,540.61
31231	B & T Automotive	\$ 2,562.11
31245	Brock White Co. LLC	\$ 11,500.50

31252	Christian, Keogh, Moran & King	\$ 2,715.06
31274	Genesis	\$ 36,562.27
31276	Govconnection Inc.	\$ 4,429.54
31298	Kris Engineering Inc.	\$ 27,270.56
31302	Richard Lea	\$ 3,315.00
31304	Legacy Kitchen & Bath LLC	\$ 9,815.00
31312	Minn St Admin ITG Telecom	\$ 2,840.00
31313	MN Counties Computers Coop	\$ 22,437.58
31322	Anthony Nerud	\$ 6,119.75
31334	Paragon Printing & Mailing Inc.	\$ 11,608.15
31339	RDO Equipment Co.	\$ 11,879.75
31350	Sibley Co. Treasurer	\$ 2,734.22
31357	Streicher's Inc.	\$ 2,344.95
31359	Superior Home Health Care Inc.	\$ 2,325.00
31366	Trimin Systems Inc.	\$ 2,363.40
31379	Ziegler Inc.	\$ 2,834.01
<b>131</b>	<b>Claims paid less than \$2,000.00:</b>	<b>\$ 43,320.91</b>
<b>21</b>	<b>Claims paid more than \$2,000.00:</b>	<b>\$185,005.05</b>
<b>152</b>	<b>Total all claims paid:</b>	<b>\$228,325.96</b>

On motion by Connolly, seconded by King and unanimously approved, the Board adjourned until Tuesday April 22, 2014 at 9:00 am.

**ATTEST:**

\_\_\_\_\_  
Le Sueur County Administrator

\_\_\_\_\_  
Le Sueur County Chairman

STATE OF MINNESOTA  
IN COURT OF APPEALS

OFFICE OF  
APPELLATE COURTS

MAY 14 2014

FILED

Michael and Kimberly Klockmann,

WRIT OF CERTIORARI

Petitioners,

COURT OF APPEALS NO.: \_\_\_\_\_

vs.

(AGENCY OR BODY) No.: \_\_\_\_\_

Le Sueur County Board of Commissioners,

DATE OF DECISION: April 15, 2014

Respondent.

DATE AND DESCRIPTION OF  
EVENT TRIGGERING APPEAL TIME:  
Unknown

To: Le Sueur County Board of Commissioners

You are hereby ordered to return to the Court of Appeals and serve on all parties in accordance with Rule 115.04, subdivision 3, within 30 days after service of the petition or 14 days after delivery of a transcript, whichever is later, an itemized statement of the record, exhibits and proceedings in the above-entitled matter so that this court may review the decision of the Le Sueur County Board of Commissioners issued on the date noted above.

You are further directed to retain the actual record, exhibits, and transcripts of proceedings (if any) until requested by the Clerk of Appellate Courts to deliver them in accordance with Rule 115.04, subdivision 5.

Copies of the writ and accompanying petition shall be served forthwith either personally or by mail upon the Respondent Le Sueur County Board of Commissioners or its attorney at:

88 South Park Avenue  
Le Center, MN 56057

Proof of service of the writ and of the itemized list shall be filed with the Clerk of  
Appellate Courts.

Dated: May 14, 2014

CLERK OF APPELLATE COURTS

By: Rob Soderstrom  
Assistant Clerk

**STATE OF MINNESOTA  
IN COURT OF APPEALS**

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Michael and Kimberly Klockmann,

Petitioners,

vs.

Le Sueur County Board of Commissioners,

Respondent.

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**PETITIONERS' STATEMENT OF  
THE CASE**

COURT OF APPEALS NO.: \_\_\_\_\_

(AGENCY OR BODY) No.: \_\_\_\_\_

DATE OF DECISION: April 15, 2014

DATE AND DESCRIPTION OF  
EVENT TRIGGERING APPEAL TIME:  
Unknown

1. Court or agency of case origination and name of presiding judge or hearing officer.

This matter originates from the Le Sueur County Board of Commissioners' grant of the application of Minnesota Municipal Power Agency (MMPA) and William and Lynette McCue for a Conditional Use Permit (the "CUP").

2. Jurisdictional statement.

(A) Appeal from District Court.

Not Applicable.

(B) Certiorari appeal.

- (1) Statute, rule or other authority authorizing appeal:

Minn. R. Civ. App. P. 115 and Minn Stat. § 606.01.

- (2) Authority fixing time limit for obtaining certiorari review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice:

Minn. Stat. § 606.01 provides that "[n]o writ of certiorari shall be issued, to correct any proceedings, unless such writ shall be issued within 60 days after the party applying for such writ shall have received due notice of the proceeding sought to be reviewed."



The meeting at which the CUP was granted occurred on April 15, 2014. It is unknown whether the Le Sueur County Board of Commissioners mailed written notice of the decision to Petitioners.

(C) Other appellate proceedings.

*Minnesota Municipal Power Agency, a Minnesota municipal corporation, William M. McCue and Lynette M. McCue v. County of Le Sueur, Court File No. A13-2121.*

(D) Finality of order or judgment.

- (1) Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorney fees?

Yes.

3. State type of litigation and designate any statutes at issue.

Petitioners appeal the Le Sueur County Board of Commissioners' grant of the application of Minnesota Municipal Power Agency (MMPA) and William and Lynette McCue for a CUP.

4. Brief description of claims, defenses, issues litigated and result below.

MMPCA and William and Lynette McCue applied for a CUP. The application was initially denied, the denial was subsequently rescinded, and the CUP was granted on April 15, 2014.

5. List specific issues proposed to be raised on appeal.

- (1) Whether the County's decision to grant the CUP was arbitrary, capricious, oppressive, and/or unreasonable?
- (2) Whether the County's decision to grant the CUP was under an erroneous theory of law?
- (3) Whether the County's decision to grant the CUP was without any evidence to support it?

6. Related appeals.

*Minnesota Municipal Power Agency, a Minnesota municipal corporation, William M. McCue and Lynette M. McCue v. County of Le Sueur, Court File No. A13-2121.*

7. Contents of record.

- (1) Is a transcript necessary to review the issues on appeal?

Yes, to the extent transcripts are available from the hearings on the CUP application.

- (2) Has the transcript already been delivered to the parties and filed with the trial court administrator?

Not applicable.

- (3) If no, has it been ordered from the court reporter?

Not applicable.

- (4) If a transcript is unavailable is a statement of the proceeding under Rule 110.03 necessary?

Yes, if a transcript is unavailable.

8. Is oral argument requested?

Yes.

- (1) If so, is argument requested at a location other than provided in Rule 134.09, subd. 2?

No.

9. Identify the type of brief to be filed.

Formal brief under Rule 128.02.

10. Name, Address, Zip Code and Telephone Number of Respondents:


Le Sueur County Board of Commissioners  
88 South Park Avenue  
Le Center, MN 56057  
(507) 357-2251

Attorneys for Petitioners:

Gary G. Fuchs (#32566)  
Elizabeth E. Rein (#34980X)  
HAMMARGREN & MEYER, P.A.  
3500 American Blvd. West  
Suite 450  
Bloomington, MN 55431  
(952) 844-903

**HAMMARGREN & MEYER, P.A.**

Dated: May 14, 2014

  
\_\_\_\_\_  
Gary G. Fuchs (#32566)  
Elizabeth E. Rein (#34980X)  
3500 American Blvd. West  
Suite 450  
Bloomington, MN 55431  
(952) 844-9033  
*Attorneys for Petitioners*

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF HENNEPIN    )

**AFFIDAVIT OF SERVICE**

Melanie Davis, of the City of Edina, County of Hennepin, State of Minnesota, being duly sworn, says that on the 14th day of May, 2014, I served a true and correct copy of the following:

1. Petition for Writ of Certiorari;
2. Writ of Certiorari; and
3. Petitioners' Statement of the Case

via United States Mail, postage prepaid, upon the following:

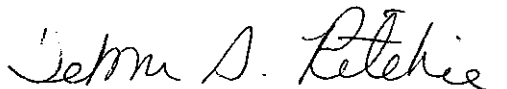
Le Sueur County Board of Commissioners  
88 South Park Avenue  
Le Center, MN 56057

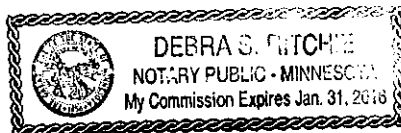
Minnesota Municipal Power Agency  
220 South Sixth Street  
Suite 1300  
Minneapolis, MN 55402

William and Lynette McCue  
11900 W. 240th Street  
Belle Plaine, MN 56011

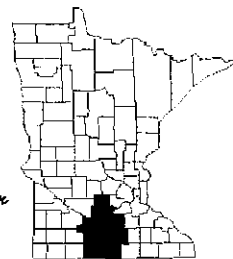
  
Melanie Davis

Subscribed and sworn to before me this  
14th day of May, 2014.

  
Notary Public



*Association of Minnesota Counties*  
**DISTRICT 7**  
*Blue Earth Brown Faribault Le Sueur Martin McLeod Nicollet Sibley Waseca Watonwan*



**Wednesday, May 28, 2014**

**8:00 a.m. – 12:00 p.m.**

**Fairway Bar & Grill at SouthFork Creek Golf Course  
77818 Highway 60 East, St. James MN**

**Meeting Fee: \$25**

***Tentative Agenda***

**8:00 A.M. REGISTRATION – Rolls & Beverages Served**

**8:15 A.M. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

**District Director:** Tom Warmka, Faribault County

**Alternate District Director:** Vance Stuehrenberg, Blue Earth County

**INTRODUCTIONS**

**ANNOUNCED CANDIDATES FOR AMC OFFICE**

**AMC 2<sup>nd</sup> Vice President:**

- Commissioner Gary Hendrickx, Swift County
- Commissioner Vance Stuehrenberg, Blue Earth County

**AMC Secretary/Treasurer:**

- Commissioner Linda Higgins, Hennepin County

**COUNTY REPORTS: CONCERNS, PRIORITIES AND ACCOMPLISHMENTS**

Each county should come prepared to share items of interest and issues of concern.

**BREAK**

**AMC EXECUTIVE DIRECTOR REPORT – Julie Ring**

**HUMAN SERVICES PERFORMANCE STEERING COMMITTEE UPDATE – Toni Carter, AMC President**

**HEALTH INSURANCE/SELF-INSURANCE – Lon Walling, Redwood County Commissioner**

**MN EXTENSION – LuAnn Hiniker, Regional Director**

**2014 LEGISLATIVE SESSION SUMMARY**

**MCIT UPDATE – Robyn Sykes, Executive Director**

**MEMBER SERVICES REPORT**

**AMC MEETINGS & EVENTS**

- **NACo Annual Conference:** July 11–14, 2014 –New Orleans LA
- **AMC Policy Committee Meetings:** September 3-4, 2014 @ Arrowwood, Alexandria MN
- **AMC Annual Conference:** December 8-9 , 2014 - St. Cloud Civic Center
- **Newly Elected Officials Conference:** January 28-29, 2015 @ MCIT

**FALL DISTRICT 7 MEETING – WEDNESDAY, NOVEMBER 5, 2014 – WATONWAN COUNTY**

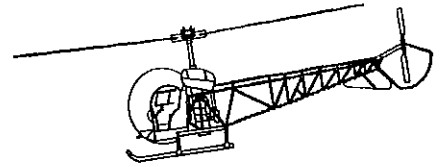
**OTHER/CONCLUDING REMARKS**

**12:00 P.M. LUNCH/ADJOURN**



125 Charles Avenue, St. Paul, MN 55103-2108 | Main Line: 651-224-3344, Fax: 651-6540 | [www.mncounties.org](http://www.mncounties.org)

**Scott's Helicopter Services**  
FAA Approved Repair Station  
C.R.S. # CUHR 150S



May 9, 2014

Sue Prchal  
Le Sueur County Soil and Water  
Conservation District  
181 W. Minnesota St.  
Le Center, Mn 56057

Dear Sue,

Please find my price list below for the Le Sueur County Ditch spraying contract for 2014.

\$17.50 per acre application  
\$12.50 per acre chemical-24D, Weedar, or Equivalent  
\$.0098 per acre sales tax

-----  
\$30.98 per acre

If you have any questions, please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Churchill".

Scott Churchill  
Scott's Helicopter Services, Inc.

780 S. Elmwood Avenue \* P.O. Box 92, Le Sueur, MN 56058  
Phone: 507-665-4064 \* Fax: 507-665-3680  
[www.scottshelicopter.com](http://www.scottshelicopter.com) \* [office@scottshelicopter.com](mailto:office@scottshelicopter.com)