



# Request for City Council Committee Action from the Department of Regulatory Services and the Department of Community Planning and Economic Development

**Date:** January 25, 2005  
**To:** Honorable Scott Benson,  
Chair Intergovernmental Relations Committee  
**Referral to:** City Council  
**Subject:** City Comments to Minnesota Department of Natural Resources,  
Section Waters Regarding American Iron Permit Application  
#86-6226

**Recommendation:**

- 1.) Approve comments submitted by Department of Regulatory Services, Environmental Services Division in coordination with Community Planning and Economic Development Department, Planning and Zoning Division regarding the permit request #86-6226 by American Iron to the Minnesota Department of Natural Resources, Section Waters.

**Previous Directives**

None

Prepared by: Guy Fischer, Minneapolis Environmental Services 612.673.5863

Approved by: \_\_\_\_\_

Henry Reimer, Inspections Director, CIS

\_\_\_\_\_

Barbara Sporlein, Planning Director, CPED

[Permanent Review Committee](#) Approval \_\_\_\_ Not Applicable \_\_X\_\_

**Policy Review Group (PRG)** Approval \_\_\_\_ Date of Approval \_\_\_\_ Not Applicable \_\_X\_\_

Presenters in Committee: Peter Ginder, City Attorneys Office  
Steve Poor, Planning and Zoning  
Laura Huseby, Environmental Services  
Guy Fischer, Environmental Services

**Financial Impact (Check those that apply)**

No financial impact - or - Action is within current department budget.

(If checked, go directly to Background/Supporting Information)

Action requires an appropriation increase to the Capital Budget

Action requires an appropriation increase to the Operating Budget

Action provides increased revenue for appropriation increase

Action requires use of contingency or reserves

Other financial impact (Explain):

Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact (use any categories that apply)**

Neighborhood Notification

City Goals

Comprehensive Plan

Zoning Code

Other

**Background/Supporting Information Attached**

The attached comments provided for you review and approval are a response to the Minnesota Department of Natural Resources, Section Waters request for Review and Comment regarding American Iron permit #86-6226.

American Iron requests they be allowed to reinforce two barges using sheet pylons around the perimeter of the barges and backfill the pylon-rimmed barges with dredged material from the Mississippi River.

Henry Reimer will be the contact person and for these official comments pursuant to the action of the City Council on January 28, 2005 and action of the Mayor on February 3, 2005. Guy Fischer with Environmental Management will also be a point of contact on this matter.

Additionally, Planning and Zoning have reviewed the proposal submitted to the Minnesota Department of Natural Resources, Section Waters, permit #86-6226 by American Iron. Steve Poor is the contact for the Planning and Zoning portion of the comments.

# MINNESOTA DEPARTMENT OF NATURAL RESOURCES

## Section Waters

American Iron

Permit #86-6226

### COMMENTS OF THE CITY OF MINNEAPOLIS

*1/25/2005*

**Adopted by the**

**Minneapolis Intergovernmental Relations Committee  
Council,**

**25 January, 2005**

The City of Minneapolis seeks to file its Comments per the Minnesota Department of Natural Resources' (MNDNR) Request for Review and Comments regarding Minnesota DNR permit application number 86-6226 amendment, regarding a request by American Iron, 2800 Pacific Street, Minneapolis, to reinforce two barges using sheet pylons around the perimeter of the barges and backfilling the pylon-reinforced barges with dredged material from the Mississippi River.

### **THE CITY'S POSITION AND CONCERNS**

The City concurs with the initial DNR position regarding the ongoing maintenance proposed by American Iron of reinforcing its existing barges by placing sheet pylons around the perimeter of the barges. In reviewing its historical record DNR notes per its October 27, 2004 correspondence with American Iron that,

“..it appears that there has been some discussion about the removal of these barges over time, rather than allowing repairs that would prolong the life of this type of loading facility. This is not the type of facility that we could generally

authorize under the DNR Public Waters Permit Regulations. These structures were originally placed without DNR authorization, but were eventually permitted after-the-fact in 1989, but without a maintenance provision. The rationale for no maintenance was that the barges would eventually deteriorate and be removed and replaced with an alternative docking facility.

There are other types of loading facilities (wharves) that may have less environmental impacts than a filled barge that usurps riverbed. In your application received September 24, 2004, the only alternatives you state were "Do Nothing" and "Close Docks". There was no discussion of replacement or alternative loading facility.

Final action cannot be taken on your permit request until additional detailed information is provided."

The City is not aware that American Iron has complied with the initial DNR request for providing additional detailed information about other types of loading facilities and believes this to be an important step. This is particularly true if the alternatives better mitigate environmental impacts to the Mississippi River.

The City has concerns regarding the "Do Nothing" scenario, in that the continued deterioration of these barges need to be addressed expeditiously by American Iron to prevent further degradation of the Mississippi River. If the "Do Nothing" scenario becomes the de facto strategy, what timeline would the DNR give American Iron for the removal of the barges from the River?

On January 4, 2005, American Iron informed the Minneapolis Planning and Zoning Office in writing, that the proposed changes were being withdrawn at this time. The withdrawn proposal appears to be the same proposal that is reflected in the Minnesota Department of Natural Resources comments request. Minneapolis Planning and Zoning finds that based on the proposal as described, under Chapter 525.360 (b), the City would require that the proposed changes be approved as an amendment to American Iron's existing conditional use permit.

In accord with DNR correspondence with American Iron dated November 10, 2004, the City has concerns relative to the dredging of sediment from the Mississippi Riverbed, the placement of this sediment in a designated floodway area and the potential for a stage increase in the River. DNR proposes in the November 10, 2004 letter that, "If you can prove to the city that your proposal will have no impact on the 100-year flood elevation, it could be approved by the city, and we could continue processing your permit amendment request." Furthermore the DNR suggests that American Iron would need to prove to the City "(via a computer model) that your project causes no stage increase" and that "If your project causes a stage increase, you will have to apply to the city and FEMA for an amendment to the floodway boundary." While the City can agree about the approval process DNR suggests to American Iron that for reinforcing its existing barge, it does not agree with the departure the DNR has taken from its previously stated position outlined in its October 27<sup>th</sup>, 2004 letter to American Iron and which the City has quoted extensively from on page two. In addition, under Chapter 551.620 (5), the City would require a new conditional use permit to allow additional dredged fill to be placed on the site.

Second, American Iron states in the Minnesota Local/State/Federal Application Form for Water/Wetland Projects, on the attached sheet 1, further explaining Item 5: Project Description Sheet, subparagraph beginning with:

Repairs would consist of (see scaled drawing included)

3. Dredging the area around the docks and to the navigational channel
4. Placement of the dredged material to fill in between the pylons and existing docks and onto the top of the docks to regrade them so as to redirect stormwater to the yard and not the river.

The placement of dredged material is an activity requiring a permit from the Minnesota Pollution Control Agency (MPCA). American Iron is required to apply for a National Pollution Discharge Elimination System (NPDES) permit and submit plans regarding the disposition of the dredged material. The MPCA and City also recommend that sediment core samples be taken prior to the dredging operation as a standard practice, particularly in waterways. With Lake Pepin designated as the receiving water body for the Mississippi River and its designation as being impaired for a number of known pollutants, including mercury and total suspended solids (TSS) or turbidity,

the impacts of this proposal should be mitigated to the fullest extent possible to preserve the water quality of the river and the natural populations of wildlife in and around the Mississippi River and its receiving waters. Any proposal to treat the dredged material onsite should be evaluated by Minneapolis Public Works, Plan Review; the MPCA NPDES permit reviewers, the Minnesota Department of Natural Resources, and the Corps of Engineers. If the dredged material is going to a landfill, American Iron should obtain the necessary permits and receipts for that process as verification.

In addition to the permit, the City would also request Clean Water Act, Section 401 Certification from the MPCA on this federally permitted project to ensure state water quality standards are met for the scope of the project. This certification must be requested for a project, and is not an automatic review. Monitoring expense for this project for intervals prior to project commencement, during construction and following construction should be borne by American Iron. Intervals could be determined by the MPCA, the Mississippi Watershed Management Organization (MWMO) and the City in conditions for the NPDES permit. Should the MPCA waive the 401 Certification, then American Iron is responsible for determining compliance with state water quality standards for the project. In the event of this scenario, the City requests copies of all monitoring data, substantiating evidence and conclusions submitted to MPCA that support the argument that the proposed project complies with state water quality standards.