

FILED
Court Administrator

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

JUL 14 2011

SECOND JUDICIAL DISTRICT

By  Deputy

Case Type: Civil

In re Government Shutdown

Court File N. 62-CV-11-5203

In re Temporary Funding of Core Functions of
the Executive Branch of the State of Minnesota

AFFIDAVIT OF ROBERT J. HENDRICKSON

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

I, Robert J. Hendrickson, being duly sworn on oath, state as follows:

1. I am the Plant Manager of a Georgia-Pacific Wood Products LLC (“Georgia-Pacific”) facility in Duluth, Minnesota.

2. Georgia-Pacific is a leading manufacturer and supplier of building products to lumber and building materials dealers and large do-it-yourself warehouse retailers.

3. Georgia-Pacific operates a manufacturing facility located at 1220 West Railroad Street in Duluth, Minnesota (“Facility”), which manufactures Superwood® hardboard for use by the automobile industry as door inserts, rear shelves, seat foundations, trunk trim, spare tire covers and headliners and for other purposes. The facility employs approximately 150 full time employees.

4. Georgia-Pacific received a Water Appropriation Permit Number 1987-2047 (“Permit”) from the Minnesota Department of Natural Resources (“DNR”) on December 15, 2008. A true and correct copy of the Permit is attached hereto as Exhibit 1.

5. The Permit allows Georgia-Pacific to appropriate water from Superior Bay on Lake Superior and use it in non-contact cooling in the manufacture of composite wood fiber panels (wet-process hardboard).

6. After use in cooling, the same water is then discharged back into Superior Bay via Duluth Harbor Basin as authorized under NPDES/SDS Permit No. MN 0046043.

7. Georgia-Pacific received a letter from the DNR dated June 30, 2011 (“Notification Letter”) purporting to suspend Georgia-Pacific’s water appropriation permit in the event of a State government shutdown. A true and correct copy of the Notification Letter is attached hereto as Exhibit 2.

8. Upon receipt of the letter, the Facility, in full compliance with the purported Order, ceased appropriating water pursuant to the Permit. At that time, the Facility modified its operations which enabled it to continue production temporarily.

9. Pursuant to the requirements of the Permit (Paragraph 3(b)), the Facility makes monthly recordings of the amount of water appropriated for use in the Facility during that month. On or before February 15 of each year, the Facility reports to the DNR Division of Waters the monthly and total amount of water appropriated during the preceding year. Such a report was filed in 2011 for 2010 water used and the next report to the DNR is not due until February 15, 2012.

10. To my knowledge, no DNR employee has ever conducted an on-site inspection, investigation, or other monitoring of the Facility related to the Permit.

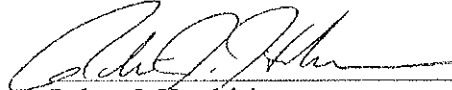
11. The use of water from Superior Bay is an integral part of maintaining safe and appropriate temperatures in our manufacturing process and in assuring the safety of our employees.

12. Without the ability to use Lake Superior water as allowed by the Permit, the Facility has been forced to close its operations effective as of Noon on July 13, 2011. The duration of this shutdown is unknown.

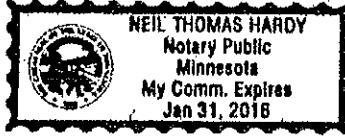
13. Because the Facility is not able to operate, Georgia-Pacific and its employees at the Facility are suffering severe and permanent financial damages.

[SIGNATURE PAGE TO FOLLOW]

FURTHER YOUR AFFIANT SAYETH NAUGHT.


Robert J. Hendrickson

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)



The foregoing instrument was acknowledged before me this 14th day of July, 2011, by Robert J. Hendrickson, the Plant Manager of Georgia-Pacific Wood Products LLC.



Notary Public

EXHIBIT 1

(Copy of Permit)



WATER APPROPRIATION PERMIT

AMENDED

| |
|-----------------------------------|
| PERMIT NUMBER 1987-2047 |
| COUNTY ST LOUIS (69) |

THIS PERMIT SUPERSEDES THE ORIGINAL PERMIT AND ALL PREVIOUS AMENDMENTS.
 IN THE MATTER OF THE APPLICATION FOR APPROPRIATION OF WATERS OF THE STATE, PERMISSION IS HEREBY GRANTED TO:

| | |
|---|---|
| PERMITTEE GEORGIA-PACIFIC WOOD PRODUCTS LLC | Authorized Agent and Facility Name Environmental Coordinator / Hardboard Plant |
| Mailing Address 1220 West Railroad Street, Duluth MN 55816 Phone (218) 720-8293 | |
| To appropriate from: SUPERIOR BAY (69-1291-01), Slip C in the Duluth/Superior Harbor by means of 1 main pump (Inst 1) and 1 stand-by pump (Inst 3) at a rate not to exceed 2500 gallons per minute. (See condition 11.) Point of Taking/Intake: NE¼ SW¼ SW¼ NW¼, Section 34, Township 50 North, Range 14 West. UTM Zone 15 Easting: 567985 UTM Zone 15 Northing: 5180249 | |
| Purpose: Once-through, non-contact cooling in the manufacture of composite wood fiber panels (wet process hardboard). Discharge to Superior Bay via Duluth Harbor Basin as authorized under NPDES/SDS Permit No. MN 0046043. Use Code (242) Pulp and Paper Processing Consumptive Use: 5-10% Non-consumptive Use: 90-95% | |
| Property owned (includes point of taking and project area): 1220 West Railroad Street, Duluth, MN in parts of the SE¼ SE¼ NE¼, Section 33 and SW¼ SW¼ NW¼, Section 34, Township 50 North, Range 14 West. PID#: 010-0210-01450 Lake Superior (South) Watershed (02) | |
| Authorized Signature Julie Ekman <i>Julie Ekman</i> | Title Supervisor Water Permit Programs |
| Date 12-15-2008 | |

This permit is granted subject to the following **CONDITIONS**:

1. QUANTITY:

The Permittee is authorized to appropriate water at a rate not to exceed 2500 gallons per minute.

The total amount of water appropriated shall not exceed xxx acre-feet or 1,000.0 million gallons per year.

⇒ 2,739,726
gals/day

2. LIMITATIONS:

(a) Any violation of the terms and provisions of this permit and any appropriation of the waters of the state in excess of that authorized hereon shall constitute a violation of Minnesota Statutes, Chapter 103G.

(b) This permit shall not be construed as establishing any priority of appropriation of waters of the state.

(c) This permit is permissive only. No liability shall be imposed upon or incurred by the State of Minnesota or any of its employees, on account of the granting hereof or on account of any damage to any person or property resulting from any act or omission of the Permittee relating to any matter hereunder. This permit shall not be construed as estopping or limiting any legal claims or right of action of any person other than the state against the Permittee, for any damage or injury resulting from any such act or omission, or as estopping or limiting any legal claim or right of action of the state against the Permittee, for violation of or failure to comply with the provisions of the permit or applicable provisions of law.

(d) In all cases where the doing by the Permittee of anything authorized by this permit shall involve the taking, using, or damaging of any property, rights or interests of any other person or persons, or of any publicly owned lands or improvements thereon or interests therein, the Permittee, before proceeding therewith, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all property, rights, and interests necessary therefore.

(e) This permit shall not release the Permittee from any other permit requirements or liability or obligation imposed by Minnesota Statutes, Federal Law, or local ordinances relating thereto and shall remain in force subject to all conditions and limitations now or hereafter imposed by law.

(f) Unless explicitly specified, this permit does not authorize any alterations of the beds or banks of any public (protected) waters or wetlands. A separate permit must be obtained from the Department of Natural Resources prior to any such alteration.

(over, please)

3. PERMITTEE'S RESPONSIBILITIES:**(a) FLOW METER.**

The Permittee shall equip each installation for appropriating or using water with a flow meter, unless another method of measuring the quantity of water appropriated to within ten (10) percent of actual amount withdrawn is approved by the Department.

(b) REPORTS.

Monthly records of the amount of water appropriated or used shall be recorded for each installation. Such readings and the total amount of water appropriated or used shall be reported annually to the Director of DNR Waters, on or before February 15 of the following year, upon forms supplied by the Division. Any processing fee required by law or rule shall be submitted with the records whether or not any water was appropriated during the year. Failure to report shall be sufficient cause for terminating the permit 30 days following written notice.

(c) TRANSFER OR ASSIGNMENT.

Any transfer or assignment of rights, or sale of property involved hereunder shall be reported within 90 days thereafter to the Director of DNR Waters. Such notice shall be made by the transferee (i.e., new owner) and shall state the intention to continue the appropriation as stated in the permit. This permit shall not be transferred or assigned except with the written consent of the Commissioner.

(d) MODIFICATION.

The Permittee must notify the Commissioner in writing of any proposed changes to the existing permit. This permit shall not be modified without first obtaining the written permission from the Commissioner.

4. COMMISSIONER'S AUTHORITY:

(a) The Commissioner may inspect any installation utilized for the appropriation or use of water. The Permittee shall grant access to the site at all reasonable times and shall supply such information concerning such installation as the Commissioner may require.

(b) The Commissioner may, as he/she deems necessary, require the Permittee to install gages and/or observation wells to monitor the impact of the Permittee's appropriation on the water resource and require the Permittee to pay necessary costs of installation and maintenance.

(c) The Commissioner may restrict, suspend, amend, or cancel this permit in accordance with applicable laws and rules for any cause for the protection of public interests, or for violation of the provisions of this permit.

5. PUBLIC RECORD:

All data, facts, plans, maps, applications, annual water use reports, and any additional information submitted as part of this permit, and this permit itself are part of the public record and are available for public inspection at the offices of DNR Waters. The information contained therein may be used by the Division as it deems necessary. The submission of false data, statements, reports, or any such additional information, at any time shall be deemed as just grounds for revocation of this permit.

6. WETLAND CONSERVATION ACT:

Where the work authorized by this permit involves the draining or filling of wetlands not subject to DNR regulations, the permittee shall not initiate any appropriation under this permit until the permittee has obtained official approval from the responsible governmental unit as required by the Minnesota Wetland Conservation Act.

7. INTAKE:

All pump intakes must be screened to prevent fish from being drawn into the system.

8. CURTAILMENT:

The Department may require the curtailment of consumptive appropriations during periods of low water in order to maintain minimum water levels within the basin/watercourse/watershed.

9. CONSERVATION:

All practical and feasible water conservation methods and practices must be employed to promote sound water management and use the least amount of water necessary, such as reuse and recycling water, saving devices, and water storage.

10. DISCHARGE AUTHORIZATION:

This permit is valid only in conjunction with all required discharge authorizations.

11. PUMPING RATE GREATER THAN 1500 GPM:

Because the appropriation herein authorized exceeds 1500 gallons per minute, the permittee shall equip each pump for appropriating water with a flow meter, unless the permittee can show justification why flow meters cannot practically be used or are not necessary. Such justification must be supported by facts that indicate the technical difficulties which would be encountered if flow meters were installed.

ec: Mike Peloquin, Regional Manager
 Patricia Fowler, Area Hydrologist
 South St. Louis County SWCD
 MN Pollution Control, Northeast District
 c: Central Office SWUDS

PERMIT NO. 1987-2047

APPROPRIATION AND USE OF WATER

**SUPERIOR
BRARY**

WORK IN THE BEDS OF PUBLIC WATERS

HAS BEEN ISSUED TO

GEORGIA - PACIFIC WOOD

PRODUCERS BY THE COMMISSIONER **LLC**
MINNESOTA DEPARTMENT OF NATURAL RESOURCES

1220 W. RAILROAD ST

EXPIRATION DATE

DULUTH MN

POST CONSPICUOUSLY AT PROJECT SITE

Copy of permit. Original is posted in
pump building.

EXHIBIT 2

(Notification Letter)

Minnesota Department of Natural Resources
500 Lafayette Road • St. Paul, MN • 55155-40



June 30, 2011

GEORGIA-PACIFIC WOOD PRODUCTS LLC
ENVIRONMENTAL COORDINATOR
1220 W RAILROAD ST
DULUTH, MN 55816

Dear Water Appropriation Permit Holder:

Re: Potential State Office Shutdown and Water Appropriation under Permit 1987-2047

In the event of a state government office shutdown and pending any other direction from the court, your permit authorizing water withdrawal of surface water (lakes, wetlands, rivers, streams) will be temporarily suspended from July 1, 2011, until state offices re-open for business.

All surface water appropriation permits are subject to suspension due to low flow conditions. If a state shutdown occurs there will be no Minnesota Department of Natural Resources (DNR) staff available to monitor stream gages or determine whether water use must be suspended to protect natural resources and higher priority water users. Therefore, lower priority Water Appropriation permits using surface water will be suspended in the event of a state government shutdown and will remain suspended until state offices re-open for business.

DNR Conservation Officers will continue working during a shutdown and will enforce this suspension.

When the media announces that state offices have re-opened for business, you must contact your local DNR Office to verify the status of low flow conditions in your watershed before resuming water appropriation.

Thank you for your cooperation with this matter.

Sincerely,

A handwritten signature in black ink that reads "Steve A. Hirsch".

Steve Hirsch, Director
Division of Ecological and Water Resources

c: Conservation Officers