

MEMORANDUM

To: File
Fr: Jerry Lein
Da: September 28, 2018
Re: Update on Keith Kessler Complaint, Case Nos :PU-13-127 and I-15-0195

On January 31, 2018, after it became apparent that further settlement discussions were not likely to be productive, I sent a letter to MN Power emphasizing that reclamation was to be completed during spring of 2018 and requesting the filing of weekly progress reports beginning in April and continuing until completion.

On May 1, 2018 MN Power filed a weekly update explaining that Mr. Kesler had contacted them asking to present a counter offer on settlement during the week of May 7th and MN Power was delaying reclamation until then. The offer was presented on May 11, 2018 and MN Power responded May 29th. MN Power also reported that on June 1st Mr. Kessler indicated by phone he was open to further discussion.

On June 12, MN Power reported it had retained the engineering firm Wenck Associates, Inc., which performed an on-site review on June 6th.

On June 15, 2018, MN Power met with Mr. Kessler and he informed that no work will be allowed on his land during the growing season and no fencing allowed with cattle present.

On June 19, 2018, Wenck filed a technical report of its on-site review recommending only to stabilize and restore a washout forming along the T440 access road and to continue annual control of noxious weeds starting this year with a fall spraying. Wenck concluded in its report that "Additional reseeding would likely cause more harm than benefit in this case." and "The subtle soil ridges observed appear similar to other natural hummucks present in the surrounding native pasture land."

During late August Mr. Kessler called and said he had about a 30 day window to do the reclamation work before he moved cows back into the pasture. I informed MN Power and it made arrangements for contractors to perform the work.

On September 4, 2018, MN Power filed a weekly update stating that Mr. Kessler would not allow access to his land until MN Power agreed to pay him for access.

On September 5, 2018 I phoned Mr. Kessler and he verified that he would not allow MN Power on his property without an access easement with payment for access to the crane walk area and payment for crop damage resulting from driving on his pasture. He said he had an appointment next week to consult his lawyer and would contact me if he needed anything further.

JRL