

(b) A mortgagee of real property where a facility is located or a holder of a security interest in facility assets or inventory is not an operator of the facility for the purpose of this section solely because the mortgagee or holder has a capacity to influence the operation of the facility to protect its security interest in the real property or assets.

Sec. 3. Minnesota Statutes 1990, section 115B.03, is amended by adding a subdivision to read:

Subd. 7. CONTRACT FOR DEED VENDORS. A contract for deed vendor who is otherwise not a responsible party for a release or a threatened release of a hazardous substance from a facility is not a responsible person under this section solely as a result of a termination of the contract for deed under section 559.21.

Presented to the governor May 24, 1991

Signed by the governor May 28, 1991, 10:25 a.m.

CHAPTER 224—H.F.No. 236

An act relating to eminent domain; allowing entry onto land for environmental testing before beginning eminent domain proceedings; providing for findings regarding the cost of removal and remedial actions relating to environmental contamination; amending Minnesota Statutes 1990, sections 117.041; and 117.085.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 117.041, is amended to read:

117.041 ENTRY FOR SURVEYS SURVEY OR ENVIRONMENTAL TESTING.

Subdivision 1. SURVEYS. For the purpose of making surveys and examinations relative to any proceedings under this chapter, it shall be lawful to enter upon any land, doing no unnecessary damage.

Subd. 2. ENVIRONMENTAL TESTING BEFORE EMINENT DOMAIN PROCEEDINGS. (a) A state agency by order of the commissioner or a political subdivision by resolution may enter property for purposes of investigation, monitoring, testing, surveying, boring, or other similar activities necessary or appropriate to identify the existence and extent of a release or threat of release of a hazardous substance, pollutant, or contaminant if:

(1) the state agency or political subdivision has reason to believe that acquisition of the property may be required pursuant to eminent domain proceedings;

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(2) the state agency or political subdivision has reason to believe that a hazardous substance, pollutant, or contaminant is present on the property or the release of a hazardous substance, pollutant, or contaminant may have occurred or is likely to occur on the property; and

(3) entry on the property for environmental testing is rationally related to health, safety, or welfare concerns of the state agency or political subdivision in connection with possible eminent domain proceedings.

(b) At least ten days before entering the property, the state agency or political subdivision must serve notice on the property owner requesting permission to enter the property, stating the approximate time and purpose of the entry, and giving the owner the option of refusing entry. The notice shall also give the owner the option of requesting an equal amount of any sample or portion taken from the property and a copy of any data obtained or report issued. If the property owner refuses to consent to the entry, the state agency or political subdivision must apply for a court order authorizing the entry and the removal of any sample or portion from the property, giving notice of the court order to the property owner. The court shall issue an order if the state agency or political subdivision meets the standards in paragraph (a). Notices under this paragraph must be served in the same manner as a summons in a civil action.

(c) The state agency or political subdivision must do no unnecessary damage to the property and shall restore the property to substantially the same condition in which it was found. If the state agency or political subdivision removes a sample or portion of the property for investigation, monitoring, or testing, or obtains any data or issues any report, it must give the property owner an equal amount of the sample or portion and a copy of any data or report, if requested by the property owner, and must permit the property owner to perform independent investigation, monitoring, or testing of the sample or portion.

(d) The results of testing performed under paragraph (a) must be included in any environmental assessment worksheet or environmental impact statement that the state agency or political subdivision is required to prepare under chapter 116D.

Sec. 2. Minnesota Statutes 1990, section 117.085, is amended to read:

117.085 COMMISSIONERS, POWERS, DUTIES.

The commissioners, having been duly sworn and qualified according to law, shall meet as directed by the order of appointment and hear the allegations and proofs of all persons interested touching the matters to them committed. They may adjourn from time to time and from place to place within the county, giving oral notice to those present of the time and place of their next meeting. All testimony taken by them shall be given publicly, under oath, and in their presence. They shall view the premises, and any of them may subpoena witnesses, which shall be served as subpoenas in civil actions are served, and at the cost of the parties applying therefor. If deemed necessary, they may require the peti-

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tioner or owner to furnish for their use maps, plats, and other information which the petitioner or owner may have showing the nature, character, and extent of the proposed undertaking and the situation of lands desired therefor. In proper cases they may reserve to the owner a right of way or other privilege in or over the land taken, or attach reasonable conditions to such taking in addition to the damages given or they may make an alternative award, conditioned upon the granting or withholding of the right specified. Without unreasonable delay they shall make a separate assessment and award of the damages which in their judgment will result to each of the owners of the land by reason of such taking and report the same to the court. The commissioners, in all such proceedings, may in their discretion allow and show separately in addition to the award of damages, reasonable appraisal fees not to exceed a total of \$500. Upon request of an owner the commissioners shall show in their report the amount of the award of damages which is to reimburse the owner and tenant or lessee for the value of the land taken, and the amount of the award of damages, if any, which is to reimburse the owner and tenant or lessee for damages to the remainder involved, whether or not described in the petition. The amounts awarded to each person shall also be shown separately. The commissioners shall, if requested by any party, make an express finding of the estimated cost of removal and remedial actions that will be necessary on the taken property because of existing environmental contamination.

Presented to the governor May 24, 1991

Signed by the governor May 28, 1991, 9:56 p.m.

CHAPTER 225—H.F.No. 633

An act relating to watercraft; regulating the use and operation of personal watercraft; amending Minnesota Statutes 1990, section 86B.005, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 86B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 86B.005, is amended by adding a subdivision to read:

Subd. 14a. PERSONAL WATERCRAFT. "Personal watercraft" means a motorboat that:

(1) is powered by an inboard motor powering a water jet pump or by an outboard or propeller-driven motor; and

(2) is designed to be operated by a person or persons sitting, standing, or kneeling on the craft, rather than in the conventional manner of sitting or standing inside a motorboat.

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