

## **Historical Timeline of Heartland Energy & Recycling Events:**

### **Year 2001**

March 22, 2001: Representative Bob Gunther (R) authors and introduces a bill in the House that would give tire-burning facilities that generate electricity numerous tax breaks.

March 26, 2001: Ann Curnow, Chief Environmental Engineer with consulting firm, Sebesta Blomberg Engineering, a firm hired by Robert and Elaine Maust, speaks before the House Tax Committee regarding the Heartland tire-burning plant.

April 9, 2001: Robert Maust goes before the Preston Planning & Zoning Commission and provides information regarding the Heartland Energy & Recycling tire burning facility. He indicates that his business would separate rubber from steel by burning it off, producing steam, which could be used by the ethanol plant and/or to generate electricity.

### **Year 2002**

January 3 & 10, 2002: The first Public Notice regarding Heartland was as follows: The Planning & Zoning Commission of the City of Preston will be holding a public hearing on Monday, January 14, 2002 at 5:00PM at the request of Robert and Elaine Maust, doing business as Heartland Energy and Recycling, LLC. They are applying for a height variance of 135 feet, which will include 15 feet for the proposed building and 135 feet for the proposed stack for a total of 210 feet. The property is located at 1440 Energy Drive N.W. The public hearing will be held in the City Council Chambers at City Hall. Signed by: Fred Nagle, Zoning Administrator

January 14, 2002: Public hearing is held and P&Z agrees to make recommendation to Preston City Council to approve variance....Written minutes do not indicate that tires will be burned.

January 22, 2002: Preston City Council approves height variance for Heartland smokestack.

Spring 2002: A bill sponsored by State Senator Kenric Scheevel is adopted by the Minnesota legislature which will give energy generating tire-burning plants sales and property tax relief.

May 13, 2002: Rep. Davids contacts the MPCA commissioner's office.

May 13, 2002: Planning and Zoning approve recommendation for a CUP (conditional use permit) for Heartland and will present recommendation to the Preston City Council. Tire shredding is addressed in the minutes of this meeting.

May 20, 2002: Preston City Council grants CUP to Heartland, with no conditions.

September 2, 2002: EAW (environmental assessment worksheet) from MPCA is open for public comment. Deadline for public comment is October 23, 2002.

September 17, 2002: MPCA official, Jenny Reinertsen is contacted regarding omission of public notice of the MPCA Draft Air Emissions, due out the week of Sept. 2<sup>nd</sup>. Ms. Reinertsen agrees to meet with "a few neighbors" in Preston. Public is informed of upcoming meeting.

September 30, 2002: MPCA staff meets with 55+ “neighbors” at the Fillmore County Office Building in Preston. Andrea Kiepe from Clean Water Action Alliance attends and asks technical questions. MPCA states that this is NOT an official public meeting.

October 2, 2002: A group of concerned citizens request to be put on the Preston City Council agenda for October 7, 2002. The group is notified on 10/7/02 that the Mayor does not wish to meet with the group on that day and suggests that they attend a meeting which will address only the Heartland tire-burning issue on 10/21/02.

October 21, 2002: A public meeting addressing the Heartland tire-burning plant is held at the F&M Community Bank in Preston. Questions are left unanswered and meeting. Concluded with several displeased people from Preston and surrounding cities.

November 2002: SEMEP (Southeastern Minnesotans for Environmental Protection), a citizens group supporting a full EIS (environmental impact study) of Heartland, is formed.

November 4, 2002: Preston City Council approves resolution asking that an EIS be conducted on Heartland. The resolution is not forwarded to the MPCA until weeks later & arrives at the MPCA on December 23, 2002.

November 5, 2002: Dave Pechulis is elected mayor of Preston and Mike McGarvey is elected city council member. Both were write-in candidates supporting the need for an EIS for Heartland.

December 30, 2002: Mike McGarvey attends Preston City Council meeting and asks the status of the EIS resolution and is assured it has been sent.

### **Year 2003**

January 6, 2003: New city council meets and debates whether or not to rescind Heartland’s CUP. Decision is tabled until legal counsel can be obtained.

February 18, 2003: Preston City Council rescinds Heartland CUP because the regulatory Agency (MPCA) has yet to act.

February 25, 2003: Heartland’s EAW is approved by the MPCA Citizens’ Board

April 14, 2003: Preston Planning & Zoning Commission recommends the city grant a conditional use permit (CUP) for Heartland.

April 21, 2003: The Preston City Council approves a CUP for Heartland on a 3-2 vote.

June 25, 2003: SEMEP files a suit against the MPCA regarding the EAW.

July 2003: SEMEP has a booth at the Fillmore County Fair.

July 24, 2003: MPCA approves the Heartland Air Permit.

September 4, 2003: SEMEP files lawsuit against the MPCA in the Minnesota Court of Appeals challenging the issuance of the air permit to Heartland.

September 26, 2003: Robert and Elaine Maust submit an application for a building permit for Phase I of the Heartland tire burning project.

October 7, 2003: The Fillmore-Houston County Joint Board of Health calls for an EIS on Heartland.

October 12, 2003: SEMEP hosts a Kick-off Harvest fundraiser, at Eagle Bluff Environmental Learning Center, to help defray litigation fees.

October 28, 2003: The Preston City Council denies a building permit to the Mausts.

November 3, 2003: The Mausts file an application for a building permit for Heartland for Phase II of the project.

November 6, 2003: Robert and Elaine Maust file mandamus suit against the City of Preston, asking the court to order the city to issue a building permit for Phase I.

November 18, 2003: Preston City Council approves an Interim Ordinance placing a moratorium on industrial development until the impact of such development can be properly studied.

December 3, 2003: Judge James Fabian orders the city of Preston to issue a building permit to the Mausts for Phase I of the Heartland project.

December 5, 2003: The city of Preston issues a building permit to the Mausts for Phase I.

December 23, 2003: The Mausts file a mandamus suit against the city of Preston for not granting a second building permit for Phase II of the Heartland project.

## **Year 2004**

January 9, 2004: The second mandamus case is moved to Federal Court. A February, 2005 Court date is set.

January 21, 2004: Twin Cities 'City Pages' newspaper publishes article describing taped words of Greg Davids, indicating his feelings about SEMEP's questioning of the Heartland tire burning plant. Mr. Davids is recorded as saying, "I've got good attorneys. Junkyard-yard-dog-killing attorneys that will rip their eyes out and pee in their brains."

February 9, 2004: The Preston City Council rescinds the city's Interim Ordinance and issues a building permit to Heartland for Phase II of the project.

February 12, 2004: Rep. Greg Davids asks to meet, on this date, with the Sierra Club and other environmentalists from Southeastern Minnesota. The CAP group (Citizens Against Pollution) make an attempt to deliver 400 citizen letters to Governor Pawlenty. The letters indicate that the

people are requesting the Governor to mandate that an EIS be done regarding the Heartland tire burning plant, proposed for Preston, MN. The Governor would not meet with the people. Attendees waited Rep. Davids and chose to leave after waiting 35 minutes. Some chose to leave. The Sierra Club representative and one citizen remained for a brief visit with Rep. Davids.

February 17, 2004: Judge Joseph Wieners, in a suit brought by SEMEP vs. MPCA, orders the MPCA to reconsider and review its findings of facts regarding the MPCA approved EAW for Heartland.

March 12, 2004: DFL leadership in the Minn. House of Representatives announce that they will investigate allegation of intimidation by Rep. Greg Davids, the son-in-law of Robert Maust.

March 13, 2004: SEMEP hosts an Irish fundraiser, at Eagle Bluff Environmental Learning Center, to help defray litigation fees.

April 16, 2004: Judge Joseph Wieners issues an order granting SEMEP a motion for clarification on his February 17, 2004 ruling. Judge Wieners stays all construction until this case is resolved, which prevents Heartland from continuing with construction.

April 21, 2004: the Zumbro Valley Medical Society, a professional medical group serving Olmsted, Houston, Dodge, Fillmore and Winona counties, calls for an EIS on Heartland because of potential adverse health effects.

April 27, 2004: The Minnesota Court of Appeals stays the appeal of the issuance of the Air Emissions Permit for Heartland. The appeal is stayed until the above mentioned District Court proceedings are complete. The MPCA must file monthly status reports to keep the Appellate Court up to date on developments at the District level.

May 1, 2004: The Citizens Against Pollution (CAP), made up of residents from the region, host a march and rally in Preston, protesting the proposed Heartland plant. CAP begins circulating a petition requesting that the MPCA have an EIS completed regarding the Heartland project.

May 6, 2004: A three state media campaign begins to broaden public awareness about the Heartland tire burning plant proposed for Minnesota. The focal point of the media campaign is a 30-second commercial produced by No Harm Film & SEMEP.

May 2004: A lawsuit is filed by area residents, in District Court accusing the Preston City Council of violation of the open meeting law.

May 27, 2004: The mediation between the city of Preston and Heartland is held with Sandy Keith presiding as mediator. A Settlement Agreement is made in which the city of Preston agrees to pay Heartland \$325,000 by October 1, 2004, if Heartland is (for any reason) not accepted in the JOBZ zone project by September 1, 2004

June 19, 2004: SEMEP hosts a public educational event featuring national speaker, Lois Gibbs.

Founder of the Love Canal Homeowners' Association in 1978, Lois Gibbs is the Executive Director of the Center for Health, Environment and Justice and the author of "Dying from Dioxins," and is a past Nobel Peace Prize nominee.

June 28, 2004: Preston City Council holds a Public Hearing regarding Modification of an Existing JOBZ zone. Zones to be swapped would be the presently designated JOBZ zone at the Preston Iron Works to the Heartland tire burning site. It should be noted that one of the owner/operators of the Preston Iron Works is the nephew of Elaine Maust. The modification/swap will allow Heartland the opportunity to be accepted into the JOBZ program, which includes a 10 year tax exemption. Approval of this request means the City of Preston will not receive tax monies from the Heartland project for ten (10) years. The City of Preston approves a resolution for the proposed modification with a tally of 4 votes. CAP members show their disapproval by protesting outside of the city chambers. Michelle Rosier for the Northstar Sierra Club addressed the city council and encouraged them not to approve the requested resolution.

July 20, 2004: Heartland approaches the Fillmore Central School Board, at a public hearing held by the school board, and requests a resolution approving the above stated modification request. The modification/swap will allow Heartland the opportunity to be accepted into the JOBZ program, which includes a 10 year tax exemption. Approval of this request means that Fillmore Central School will not receive tax money from the Heartland project for ten (10) years. The Fillmore Central School Board approves a resolution for the proposed modification in a 4-2 vote.

July 27, 2004: Heartland approaches the Fillmore County Commissioners at their regularly scheduled meeting, and requests a resolution approving the above stated modification request. The modification/swap will allow Heartland the opportunity to be accepted into the JOBZ program, which includes a 10 year tax exemption. Approval of this request means that Fillmore County will not receive tax monies from the Heartland project for ten (10) years. The Fillmore Co. Commissioners state that Heartland must follow the county process of completing a business subsidy application, which will be reviewed by the Fillmore County EDA (Economic Development Authority.) After review by the EDA, it will be presented to the Fill. Co. Commissioners with recommendations to approve or deny the application. Heartland's attorney, Mike Drysdale, approached the Board of Commissioners and requested that the process be "streamlined." The commissioners state that the process must be followed.

August 16, 2004: Preston City Council votes to accept and sign an amendment to the mediation Settlement Agreement between the City of Preston and Heartland. The amendment will extend the deadline date, in which Heartland must be accepted into the JOBZ program by September 1, 2004. The amendment extends the deadline date for acceptance to September 30, 2004.

August 20 & 25, 2004: Clean Water Action Alliance has a film crew in the region, filming a documentary about the Heartland tire burning issue.

August 25, 2004. Heartland submits an incomplete business subsidy application to the Fillmore County EDA.

August 27, 2004: The Fillmore Co. Coordinator and the EDA director are contacted and asked for a copy of the application, by several citizens. The citizens are told that the Fillmore County

attorney is reviewing the application to ensure that no data that is classified private will be given to the public.

August 31 & September 1, 2004: CAP and SEMEP are invited to supervise the Sierra Club booth at the State Fair. Numerous petition signatures are obtained.

September 8, 2004: Citizens are given copies of Heartland's incomplete application, that include Attachments A, B, C & D. However, the Attachments do not contain any information, because the County attorney is still reviewing the material.

September 16, 2004: Copies of the completed business subsidy application Attachments are given to interested citizens. The Business Subsidy Application is still not but complete, but the public is informed that the application is a pre-application and will be reviewed by an EDA sub-committee before it is presented to be reviewed by the full EDA board. After review by the full EDA board, it will be presented to the Fillmore County Commissioners with a recommendation to approve or deny the request for resolution approving the modification/swap proposal as stated above.

September 18, 2004: CAP hosts an "Up in Smoke" fundraiser in Houston, Minnesota to help defray operating expenses.

September 21, 2004: Sierra Club, CAP, SEMEP & other interested area citizens meet at the Creamery Café in Rushford to discuss possible actions to be taken, once the SEAW is received. Clean Water Action Alliance was to attend this meeting, but had to cancel at the last minute.

September 24, 2004: CWAA documentary crew meets with members of the SEMEP Board to review the documentary draft.

September 24, 2004: The public is notified by Kevin Kain (MPCA) that the SEAW (supplemental environmental assessment worksheet) is complete and will be mailed out directly. It will be put on the website as soon as possible. Public comment period will run from Sept. 27<sup>th</sup>, 2004 to October 27<sup>th</sup>, 2004.

September 24, 2004: Notification is released that the Fillmore Co. sub-committee of the EDA will not be meeting to review the Heartland Business Subsidy Application, as scheduled on 9/28/04. Approval of the application allows the Heartland tire burning plant the opportunity to submit a formal application to be considered as a recipient of the JOBZ zone program. No alternate day was scheduled.

September 29, 2004: SEMEP attorneys request a 60 day extension to the SEAW Public Comment Period.

October 4, 2004: SEMEP receives a reply to the 60 day extension request. MPCA grants SEMEP an additional two (2) days to the SEAW Public Comment Period.

October 7, 2004: Former EPA Director of the Office of Regulatory Enforcement, Eric Schaeffer speaks at Quarry Hill in Rochester, MN. Schaeffer tells why he resigned in 2002, after 12 years of service, saying he no longer could pretend that the White House and Dept. of Energy were not

undermining the law and his department's ability to enforce it. Speaking engagement was sponsored by Sierra Club – Macalester College & Inver Hills Community College.

October 15, 2004: Fillmore Co. EDA (sub-committee) meets to review Heartland's partial Business Subsidy Application. The sub-committee votes to recommend that the full EDA require a complete application and review it, to determine if Heartland should be considered for the JOBZ Program.

October 18, 2004: CAP, the Sierra Club (North Star Chapter), Clean Water Action Alliance and SEMEP visit the State Capitol and the MPCA to deliver CAP's petition requesting an EIS on the Heartland project. The Governor is not available, Attorney General Mike Hatch does meet with the group and MPCA staff (Kevin Kain, Sheryl Corrigan and Kristen Applegate) are not available, although they are in the building. CAP decides to make arrangements to set up a firm appointment with one of them, to deliver the signed petitions. Date to be announced.

October 20, 2004: SEMEP public informational meeting, held at F&M Community Bank in Preston, Minnesota.

October 21, 2004: Senator Dayton requests to meet with CAP, SEMEP people on this date. Several members of SEMEP and CAP attend this meeting. Sen. Dayton declares that he will be writing a letter to the MPCA during the comment period and requesting that an EIS be conducted on the Heartland tire burner.

October 21, 2004: Members of CAP and SEMEP visit the MPCA offices and deliver CAP's petition requesting an EIS on the Heartland tire burner. Beth Lockwood, of the MPCA accepts the petitions and signs an agreement confirming delivery.

October 27, 2004: The Fillmore Co. full EDA (Economical Development Authority) meets to consider the recommendation from the EDA sub-committee regarding the Heartland Business Subsidy Application. The full EDA agrees that there are several components missing from the application and will make a recommendation to the Fillmore County Commissioners to request a complete application from the proposer of Heartland. The Fillmore County Commissioners next meeting will be November 2, 2004 at 9 am.

October 29, 2004: The Heartland SEAW (supplement environmental assessment worksheet) Comment period deadline with the MPCA goes into effect at 4:30pm. The MPCA was contacted (at a later date) and reported that 787 comment letters were received and the total number of petition signatures requesting an EIS (environmental impact study) had not been calculated. That info will be included after it is received. It should be noted that out of the 787 letters.....ALL were IN FAVOR OF AN EIS, with the exception of two. One letter in favor of the operation of the tire burning plant, as planned, was from a Preston resident & Preston City Council member and the 2<sup>nd</sup> letter in favor of the tire burning plant was from a resident in the metro area.

November 1, 2004: A press release is issued regarding Senator Mark Dayton's submission of a request for an EIS on the Heartland tire burner, to the MPCA.

November 2, 2004: The Fillmore Co. Commissioners meet and address the Heartland application regarding the JOBZ program. The Commissioners vote unanimously to recommend that DEED (Minnesota Department of Employment & Economic Development) deny a request from Heartland for a JOBZ land swap. The Commissioners cite incompatibility with the county's comprehensive plan, a potential conflict with the growing tourist industry and the belief that the company did not need the subsidy in order to operate (as stated in a letter from Heartland's financial investment broker.) The Commissioners also discussed the fact that the tire burning plant was the source of litigation between SEMEP and the MPCA regarding requests for an EIS (environmental impact study) and litigation at the Minnesota Court of Appeals regarding the validity of the tire burner's air permit. A resolution regarding the decision was presented and will be signed and filed.

November 15, 2004: The Preston City Council meets and votes, unanimously, to settle up with a mediated Settlement Agreement between the City of Preston and Heartland. They agreed to the final payment to Heartland, as per the agreement, and authorization to send \$175,000 to Heartland....bringing the total settlement that Heartland receives to \$325,000. The Preston City Council also decided no to submit an application, on behalf of Heartland, to DEED for the JOBZ land swap/modification process.

January 5, 2005: The MPCA releases the Response to Comments and sets the MPCA Citizens Board Meeting for 1/25/05. The MPCA states in the Issue Statement that 495 comment letters were received.....all but one of the comment letter requested the MPCA order an EIS. The MPCA stated that a petition was received with 4,368 names on it. Questions regarding the discrepancy of numbers have been asked and left unanswered. It seems rather disturbing that 37% of the letters were not recorded as received and that 38% of the petition signatures were not counted. An email requesting clarification of the criteria for qualifications of comment letters was sent, but such an explanation, from the MCPA has occurred.

## **Year 2005**

January 14, 2005: SEMEP joins the Sierra Club- North Star Chapter in filing a petition with the EPA to make a decision how to classify dedicated tires-to-waste energy facilities.

January 25, 2005: The MPCA Citizens Board meeting is held in St. Paul to decide whether an EIS on the Heartland tire-burner is necessary. The MPCA staff has recommended to the members of the Citizens Board that an EIS is not necessary. All information shared at the meeting will be included in the Heartland Administrative Record for Judge Wieners to review. A court date before Judge Wieners has not been declared, yet. Judge Wieners reserved his right to make a final decision on this issue, after the Citizens Board meeting.

January 25, 2005: After a 7 hour hearing in front of the MPCA, testimony from 50 opponents of the Heartland tire burner and an attendance of 110+ people....the MPCA Citizens Board decides not to follow the recommendation of the MCPA staff and declares, via a resolution, that an EIS is needed on the Heartland Refuse Tire Incinerator!! The vote was 6-1, with only the MPCA Commissioner, Sheryl Corrigan voting against the resolution.

February 3, 2005: Associated Press reports in Rochester Post-Bulletin that "the MPCA deemed Twin Cities air 'unhealthy to all' after recording some of its worst air-quality reading the state since modern testing began.

February 7, 2005: The Preston City Council considers participating in the EIS scoping process that the MPCA will conduct on the Heartland tire-burning project. Participation will allow the City to address issues that will have an impact on Preston's economy; infrastructure; traffic rates; potential liabilities and more. No decision is made at this meeting.

February 13, 2005: Members of SMAC (Southern Minnesotans Action Committee) host a pot-luck dinner at Houston & invite the public to celebrate the order for an EIS (environmental impact study) on the Heartland tire-burning project. More than 125 people attend from the Twin Cities area, southeastern Minnesota, northern Iowa and western Wisconsin.

February 26, 2005: Senator Mark Dayton meets with people from Fillmore and Houston counties and congratulates them on the victory at the MPCA. Dayton stresses that it will be necessary to "make sure those who are running it (the EIS study) are on notice they're being watched very closely." He lauds the project opponents for getting the MPCA's Citizens Board to reverse the MPCA staff initial recommendation not to do an EIS on the tire-burning project. Dayton stated that what the plan opponents had achieved was an "almost unprecedented" feat.

March 7, 2005: Robert Maust delivers a letter to the Preston City Council, prior to their scheduled meeting, that states that the Heartland project, as it has been presented, will not be moving forward in Preston, Minnesota. Council member Sauer motions that the Council consider passing a resolution stating they would participate in an EIS (if Maust changes his mind and decides to move forward with the Heartland tire-burning project) but, the motion is tabled.

March 14, 2005: Public notice from the MPCA indicates that the Heartland tire-burning project has been aborted and that permits will be revoked or voided. Commissioner Sheryl Corrigan states that Heartland's withdrawal "brought all of the agency's work on Heartland to an end."

March 17, 2005: SEMEP receives written notice from the MPCA that the Heartland tire-burning project will not proceed and that "the MPCA staff will cease working on all matters related to the proposed Preston facility, including the scoping document for the EIS ordered by the MPCA Citizens' Board in January.

March 23, 2005: Judge Natalie E. Hudson of the State of Minnesota Court of Appeals signs the document dismissing the appeal regarding the validity of Heartland's Air Emissions Permit, that had been filed by SEMEP.

April 7, 2005: Judge Joseph F. Wieners of the Third Judicial District Court, signs the document dismissing the suit filed by SEMEP against the MPCA.