



NORTHERN METALS SETTLEMENT: WHAT HAPPENED AND WHAT NOW?

PART 1: WHAT HAPPENED?

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Lowry Avenue (909)

Bottineau/Marshall Terrace (1909)

Pacific Street (910)

Google earth

1991

Imagery Date: 4/5/2017 lat 45.010739° lon -93.272485° elev 833 ft eye alt 6083 ft



STATE EMPLOYEES DOING THEIR JOB. . .

What was going on:

- ▶ Legislative \$\$\$ to MPCA to monitor “ambient air”. . .what we breathe!
- ▶ **January 2013** – The MPCA begins air monitoring for fine particles (PM2.5) at Lowry Avenue (909)
- ▶ **October 2014** – The MPCA adds TSP (TOTAL SUSPENDED PARTICULATE) and air toxics monitoring to Lowry Avenue (909). **In the first month of operation, the monitor violates the daily TSP standard.**
- ▶ **June 2015** – Monitoring for TSP, PM10, and metals begins at Pacific Street (910). . .**MORE VIOLATIONS!**
- ▶ **January 2017** – Monitoring for TSP, PM2.5, metals, VOCs, and carbonyls begins at Bottineau/Marshall Terrace (1909)

AMBIENT AIR STANDARDS: HARD TO ENFORCE (GROUP CONTRIBUTIONS)

- ▶ 7009.0020 PROHIBITED EMISSIONS.
- ▶ No person shall emit any pollutant in such an amount or in such a manner as to **cause or contribute to a violation** of any Minnesota ambient air quality standard under part [7009.0080](#) beyond the person's property line, provided however, that in the event the general public has access to the person's property or portion thereof, the ambient air quality standards apply in those locations. The general public does not include employees or other categories of people who have been directly authorized by the property owner to enter or remain on the property for a limited period of time and for a specific purpose.

WHAT NOT TO DO WHEN SOMETHING BAD IS HAPPENING IN YOUR VICINITY

- ▶ FAIL TO TELL THE TRUTH WHEN THE REGULATORY AGENCY ASKS YOU IF ANYTHING HAS CHANGED
- ▶ REFUSE TO COOPERATE
- ▶ SUE THE REGULATORY AGENCY TO STOP IT FROM DOING ITS JOB, I.E., MONITORING THE AMBIENT AIR
- ▶ DOUBLE DOWN ON POSITIONS YOU CAN'T JUSTIFY IN YOUR LEGAL DOCUMENTS

NORTHERN METAL LAWSUIT

- ▶ NORTHERN METALS SUES THE AGENCY CLAIMING THE MPCA'S AMBIENT AIR MONITORING VIOLATES FEDERAL LAW
- ▶ **MPCA COUNTERCLAIMS:** NORTHERN METALS IS NOT IN COMPLIANCE WITH ITS PERMIT
- ▶ **MPCA ORDERS:** NORTHERN METAL MUST TEST ITS STACK
- ▶ **MPCA ORDERS:** REVOCATION OF NORTHERN METALS' PERMIT BECAUSE NORTHERN METALS HAD EXPANDED ITS FACILITY (METALS RECOVERY FROM SHREDDER RESIDUE) AND WAS NOT MAINTAINING A "TOTAL ENCLOSURE" ON ITS SHREDDER

We had great public support!



THE SETTLEMENT

- ▶ NORTHERN METALS PARENT CORPORATION BECAME AWARE OF ITS REGULATORY PREDICAMENT AND PULLED IN A NEW LEGAL AND TECHNICAL TEAM
- ▶ MPCA WANTED TO MAKE SURE THAT NORTHERN METALS
 - ▶ PAID A SUBSTANTIAL PENALTY
 - ▶ COMPENSATED THE STATE FOR ITS COSTS
 - ▶ COMPENSATED THE PUBLIC FOR CREATING EXCESS HEALTH RISKS

LEGAL IMPEDIMENT: 16A.151 PROCEEDS OF LITIGATION OR SETTLEMENT

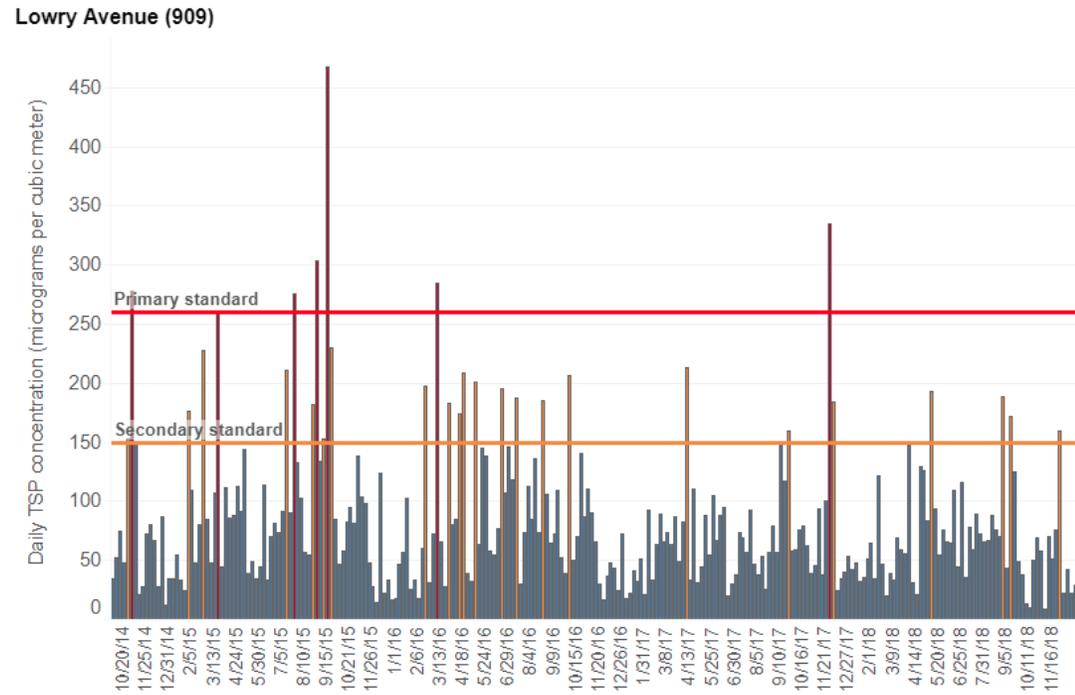
- ▶ A **state official** may not commence, pursue, or settle litigation, or settle a matter that could have resulted in litigation, in a manner that would result in money being distributed to a person or entity other than the state.
- ▶ Money recovered by a **state official** in litigation or in settlement of a matter that could have resulted in litigation is state money and must be deposited in the general fund

LEGAL SOLUTION: FIND A LOCAL PARTNER. . .MINNEAPOLIS!

- ▶ Minneapolis joined the settlement
- ▶ Under the settlement, Northern Metals Recycling will move the shredder to a new, non-metro location by August 2019 and pay \$2.5 million in costs and penalties, including:
 - ▶ a \$1 million civil penalty;
 - ▶ payment for three years of continued air monitoring near the facility;
 - ▶ reimbursement to the state for past monitoring costs, court costs, and legal fees; and,
 - ▶ \$600,000 to the city of Minneapolis for community health projects to benefit nearby communities.

MPCA MAKES AIR MONITORING INFORMATION AVAILABLE ON ITS WEBSITE. . .SOME IN “REAL TIME”

- ▶ <https://www.pca.state.mn.us/air/north-minneapolis-air-monitoring-results>



Comparison to daily TSP standards

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