

Environmental Review Streamlining

A summary of past efforts, current ideas, and stakeholder input



Legislative Charge

Sec. 65. **ENVIRONMENTAL REVIEW STREAMLINING REPORT.** By February 15, 2010, the commissioner of the Pollution Control Agency, in consultation with staff from the Environmental Quality Board, shall submit a report to the environment and natural resources policy and finance committees of the house and senate on options to streamline the environmental review process under Minnesota Statutes, chapter 116D. In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process. The report shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards.

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Attachments

Attachment 1: Technical Representatives' Report to the Environmental Quality Board on Environmental Review, April 11, 2007

Attachment 2: EQB Monitor public notice of the public information meeting held on September 29, 2009

Attachment 3: List of stakeholders that were sent email notification of the September 29, 2009 public information meeting

Attachment 4: Slide presentation handouts from the September 29, 2009 public information meeting

Attachment 5: Streamlining suggestion form handed out at the September 29, 2009 public information meeting

Attachment 6: Executive Summary from *Benchmarking Minnesota's Environmental Review and Permitting Process for Forestry and Mining Industries: A Comparative Assessment*, R. Aylesworth, D. Becker, and M. Kilgore, June 20, 2008, Department of Forest Resources, College of Food, Agriculture, and Natural Resource Sciences, University of Minnesota.

Attachment 7: E-mail addresses from interested stakeholders in the environmental review process

Attachment 8: Suggestions and comments received from stakeholders

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Executive Summary

The 2009 Minnesota Legislature required the Minnesota Pollution Control Agency (MPCA) to prepare an Environmental Review Streamlining Report.¹ The Legislature asked for options to streamline the environmental review process. According to the legislation, streamlining means to make the process faster and less expensive. These streamlining options must not only provide potential cost and time savings, but also maintain or improve air, land, and water quality standards.

Identifying options that could reduce the cost and time of environmental review while maintaining or improving the environment has proven to be a difficult task. The MPCA held a public information meeting and asked stakeholders to submit their ideas for streamlining the environmental review process while maintaining or improving the environment. The Agency received 13 letters that included ideas for changing the process, but did not address how these ideas would maintain or improve the environment. The MPCA also received 31 comment letters expressly opposed to streamlining. These commenters expressed concern that streamlining translates to “weakening” and would erode citizen participation in the process.

The MPCA has attached copies of all written comments regarding this effort and has summarized and grouped the streamlining ideas into 14 categories. As is evident in the comment letters, there is substantial debate on whether any of the ideas could be implemented while also “maintaining or improving air, land, and water quality standards.” The MPCA has attempted in this report to reference the specific comment letters related to each particular idea to demonstrate specific comments both for and against any streamlining idea.

The Environmental Quality Board (EQB) has implemented rule amendments, policy changes, and additional guidance over the last 32 years that have sought to make the environmental review process more efficient and easier to follow. Responsible Governmental Units (RGUs), the government entities responsible for carrying out and conducting environmental reviews, have also accomplished greater efficiency in their own internal processes. However, a number of previous efforts to make fundamental changes to Minnesota’s environmental review program have found streamlining to be an elusive goal. Historically, the sides in the debate have become polarized and common ground has been difficult to find. This is illustrated by the comment letters attached to this report (Attachment 8).

In the last two fiscal years (FY08-09), 99 different RGUs prepared Environmental Assessment Worksheets (EAWs) for the review of 208 different projects. Local governments such as cities and counties were the RGUs for about 64% of these projects while the MPCA accounted for about 23%. The median time it took to complete² the EAW process by state agencies was 228 days, or about 7-½ months. The MPCA’s median time was 180 days, or 6 months.

The time to complete the environmental review process can be highly variable depending on the type of project, its location, expertise of the proposer and RGU, and degree and nature of citizen involvement. In developing this report, the MPCA was unable to identify a “one size fits all” solution to making environmental review faster and less expensive while maintaining or improving the environment.

If the Minnesota Legislature pursues opening the Minnesota Environmental Policy Act (MEPA) as part of a streamlining strategy, there are many stakeholders who would be interested in attending any associated hearings. A list of their email addresses can be found in Attachment 7.

¹ It should be noted that the Environmental Quality Board (EQB) is the state agency that administers Minnesota’s Environmental Review Program. The MPCA, MDNR, and MnDOT along with numerous local governments implement the program. Any attempt or effort to make program changes to statutes, rules, format and policy would have to be worked through the EQB.

² “Complete” is typically from the time a proposer submits the initial data portions of the EAW to the date an EIS need decision was made.

Purpose and objective of environmental review

To provide context for this report, it is important to review the purpose and objectives of the environmental review program. The purpose of the program is to provide information to units of government on the environmental impacts of a project before approvals or necessary permits are issued. It is an information-gathering process designed to inform decision makers and the public. The environmental review program does not approve or disapprove a project.

The basic environmental review documents are the Environmental Assessment Worksheet (EAW) and Environmental Impact Statement (EIS). An EAW is prepared if a project is over the mandatory threshold in rule or if the RGU grants a petition asking for an EAW to be prepared. An EIS is prepared when the RGU, after completing an EAW, finds that the project has potential for significant environmental effect or if the project triggers the mandatory thresholds in the rules. The EIS is a thorough study of the project's environmental impacts and a comparative analysis of its economic and sociological effects. It considers reasonable alternatives, including a "no-build" alternative. The much more common level of review is the EAW.

The objectives of the environmental review program are laid out in Minn. Rules 4410.0300, subp. 4.

Subpart 4. Objectives

The process created by parts 4410.0200 to 4410.6500 is designed to:

- a. provide usable information to the project proposer, governmental decision makers and the public concerning the primary environmental effects of a proposed project;
- b. provide the public with systematic access to decision makers, which will help to maintain public awareness of environmental concerns and encourage accountability in public and private decision making;
- c. delegate authority and responsibility for environmental review to the governmental unit most closely involved in the project;
- d. reduce delay and uncertainty in the environmental review process; and
- e. eliminate duplication.

Past efforts and challenges in examining the environmental review process

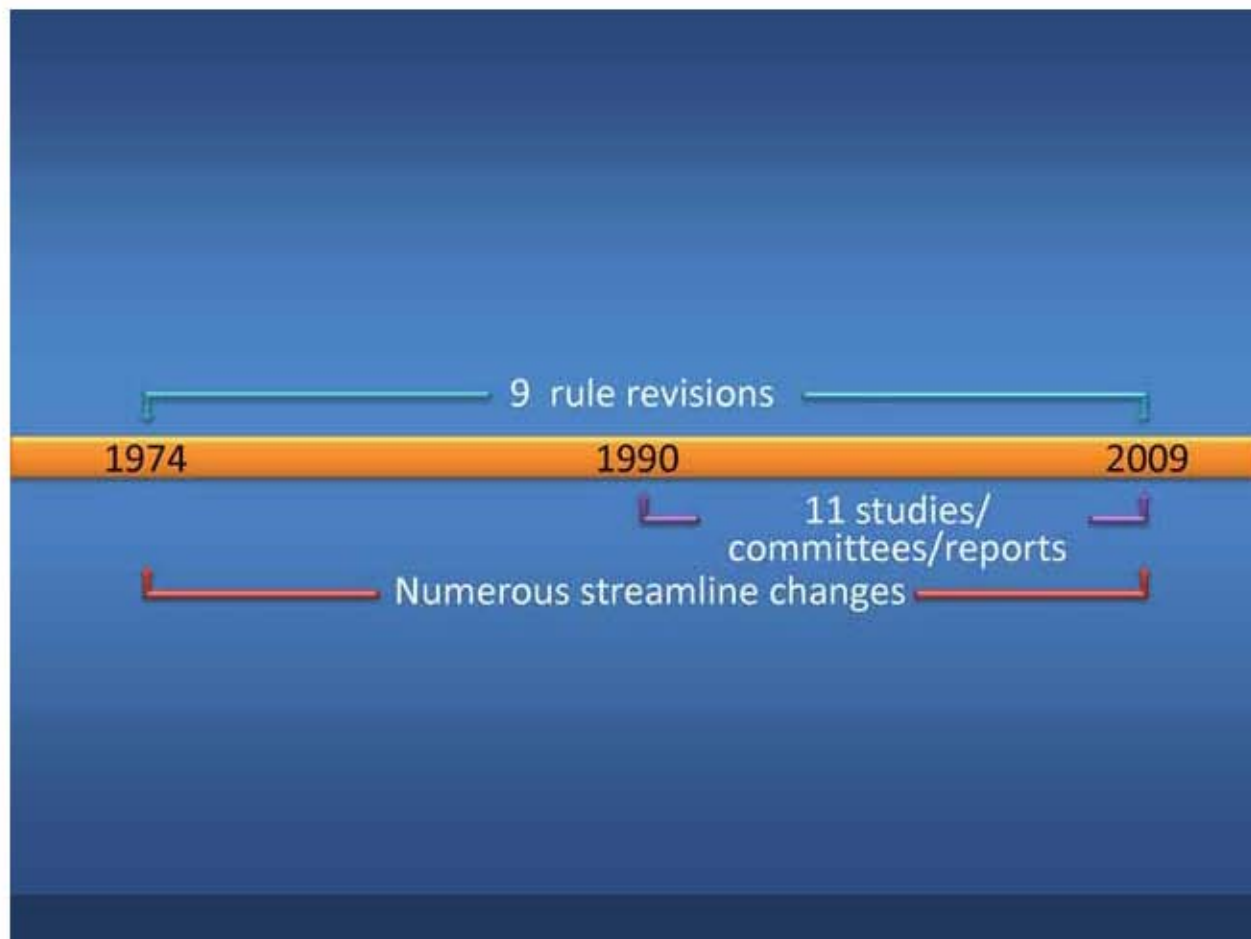
The Minnesota Legislature created the Environmental Quality Board in 1973 in conjunction with MEPA. In 1974, the environmental review rules became effective and implemented the provisions of MEPA. The rules were first revised in 1977. The rules have since been revised nine times to address stakeholder concerns, clarify parts of the rules, and change category thresholds for mandatory review. (For a brief history of environmental review rulemaking and reform, see Attachment 1, Appendix A.). A summary is provided in Figure 1 (page 3).

Since its inception, several initiatives have attempted to examine the environmental review process for potential reform. Various stakeholders have had complaints and concerns about the process. Some of these concerns have been addressed by rule changes, the publication of guidance documents, and internal process changes by RGUs. However, there continues to be passionate debate about the amount of time, cost, public participation, and degree of environmental protection achieved. Since 1990, more than 10 different organizations have prepared reports on how to make the environmental review program more effective from their point of view. There have been at least three major stakeholder efforts undertaken to study the environmental review program. No changes to MEPA statutes have occurred because of these reports and efforts.

One of these efforts was conducted in 2002. A diverse, multi-stakeholder special advisory committee was convened to tackle environmental review reform. After 13 meetings over seven months, consensus could not be reached. The committee's conclusions were:

“The current Minnesota environmental review program is not perfect, but as a group the committee was not able to come to agreement on a better system,” and “The current system balances competing interests.”

Figure 1: Summary of studies and revisions to the environmental review process



Further, in January 2007, EQB Board Members asked the EQB Technical Representatives³ to explore whether it might be time again to investigate MEPA reform. In response, the Technical Representatives reviewed past studies and attempts at MEPA reform. In April 2007, they issued a report (Attachment 1) which, in part, addresses why these past attempts have failed. The report states:

This is because major Environmental Review reform is controversial; factions become polarized and entrenched. Experience has shown that each side tends to see room for improvement, yet fears that change may lead to reversals of progress from their points of view. Consensus or “win-win” solutions have proven to be elusive.

The MPCA included this history to provide a picture of previous attempts and the challenges that may ensue with any future effort.

³ Each of the nine EQB Commissioners appoints a staff person from their state agency to serve as the main liaison between EQB staff and their agency. These staff are called the Technical Representatives.

Challenges faced with this report

This current effort to gather ideas for making the environmental review process faster and less expensive while maintaining and improving air, land, and water quality standards has produced similar results to previous efforts. The MPCA consulted with other state agencies and various stakeholders for their input. An opportunity was offered for any interested parties to submit suggestions and ideas. The MPCA received a number of streamlining ideas, but many failed to address how the ideas would maintain or improve air, land, and water quality standards. Conversely, many comment letters expressed opposition to any streamlining, voicing concerns that it would only weaken environmental review and citizen participation in the process.

Process used to prepare this report

To fulfill the Legislature's directive, the MPCA focused on seven areas:

1. Understanding streamlining procedures already implemented
2. Gathering data from recent environmental reviews by RGUs
3. Compiling a list of perceived delays in the process
4. Reviewing past studies and reform efforts for previously considered streamlining ideas
5. Consulting with stakeholders as outlined in the legislation
6. Gathering written stakeholder ideas
7. Writing the report from all compiled information.

Each of these areas is discussed in more detail below.

Streamlining procedures already implemented

Even though changing MEPA has proven elusive due to diverse stakeholder interests, there have been revisions to the rules and other processes that have had streamlining components. These revisions are briefly discussed below. There has been no determination as to whether these past streamlining efforts maintained or improved air, land, and water quality standards.

1977: Prior to this rule change, EQB staff wrote all environmental review documents and the final decision on whether to order an EIS came before the EQB Board. The workload became overwhelming. This rule change established state and local RGUs that were assigned to specific project categories.

1982: This rulemaking established mandatory EIS categories and thresholds, taking away the uncertainty of whether an EIS would be needed for some larger projects. It streamlined the EAW petition process by requiring only 25 signatures instead of 500 and transferring decisions on petitions to RGUs instead of EQB. This rulemaking also removed EQB as the appeal body for EIS need decisions.

1988: EQB added the Alternative Urban Areawide Review (AUAR) process. This alternative process allows a unit of government to look at potential development in a wider geographic area, thereby eliminating the need for project-specific environmental review at a later time.

1997: This rulemaking increased some of the mandatory thresholds, thereby eliminating the need for mandatory environmental review for projects that fall below the new thresholds.

1999: The mandatory threshold for animal feedlots was decreased to 1,000 animal units from 2,000 animal units, and the requirement to look at feedlot projects for connected actions was eliminated. These rulemaking changes resulted from legislation that required the EQB to fix connected actions for feedlots.

2003: The Legislature limited most discretionary review of feedlots under 1,000 animal units.

2004: The EIS mandatory threshold for fuel conversion facilities (mainly for ethanol plants) was increased by legislation from 50 million gallons per year to 125 million gallons per year for projects outside the seven-county metro area.

2006: This rulemaking increased mandatory thresholds in some other categories, thereby eliminating the need for mandatory environmental review for projects that fall below the new thresholds. These changes affected the categories of Air Pollution, Wastewater Systems, and Historic Places.

2009: This rulemaking overhauled confusing rule language about cumulative potential effects throughout the rules to prevent delays due to confusion over how to address these effects in review.

Changing the rules is not the only approach that the EQB and RGUs have used over the years to streamline the environmental review process. Other implemented measures include:

- Conducting joint state and federal environmental review;
- Public-noticing required permits at the same time as the EAW (which is now formally recognized in Minn. Rule 4410.3100, subp. 2a; this has been mandatory for feedlot projects through 116.07, subd. 7a.).
- Meetings between state and local governments in charge of permitting and environmental review and project proposers early in the process to facilitate complete data submittals;
- Encouraging project proposers to meet with interested citizens early and often to provide information about the project;
- Posting guidance documents on the EQB Web page;
- Providing technical assistance from EQB staff in applying the rules to projects in order to avoid errors and delays;
- Creating a separate EAW worksheet for the feedlot sector;
- Formal coordination between state (and often federal) agencies on specific projects; and
- Creating sectors within agencies that have developed expertise on specific industries and issues (e.g., ethanol and mining).

Gathering data: Who conducts environmental review

The MPCA collected data for this report regarding the timelines for EAW preparation. While some data does exist for EISs, there have been too few projects to make any conclusions. In addition, environmental review rules require a public scoping period for each individual EIS. The time it takes to complete an EIS is dependent on the issues covered in the scope developed for that specific project.

The data presented in this report includes available information from all state or local RGUs that conduct environmental review. The MPCA, Department of Transportation (MnDOT), and Department of Natural Resources (DNR) are the three state agencies that prepare environmental review documents under section 116D⁴. Other environmental reviews under section 116D are conducted by local governments which could include any of the 87 counties or 850 cities and, occasionally, townships, watershed districts, and special-purpose units of government in Minnesota. The RGU is specified in rule and depends on the type of project and its location (see Table 1 on page 7).

In preparing this report, the MPCA worked with EQB staff to develop a list of EAW projects that were put on public notice in the EQB Monitor in fiscal years 2008 and 2009 (July 2007 through June 2009). During this time, 99 different RGUs prepared EAWs for 208 different projects.

Figure 2 illustrates that in this time period cities and counties accounted for 54% of environmental review, state agencies conducted 35% (with MPCA doing the most with 23%) and other local governmental units completing the remaining 10%.

⁴ EQB would conduct environmental review for genetically engineered organisms not agriculturally related, but has never done any to date. MDH is assigned expansion of low-level nuclear waste disposal sites, but has not done any to date. The Power Plant Siting Act is administered by the Department of Commerce. Those environmental review documents are not prepared under 116D.

Figure 2: Percent of EAWs public-noticed in FY08-09 categorized by RGU

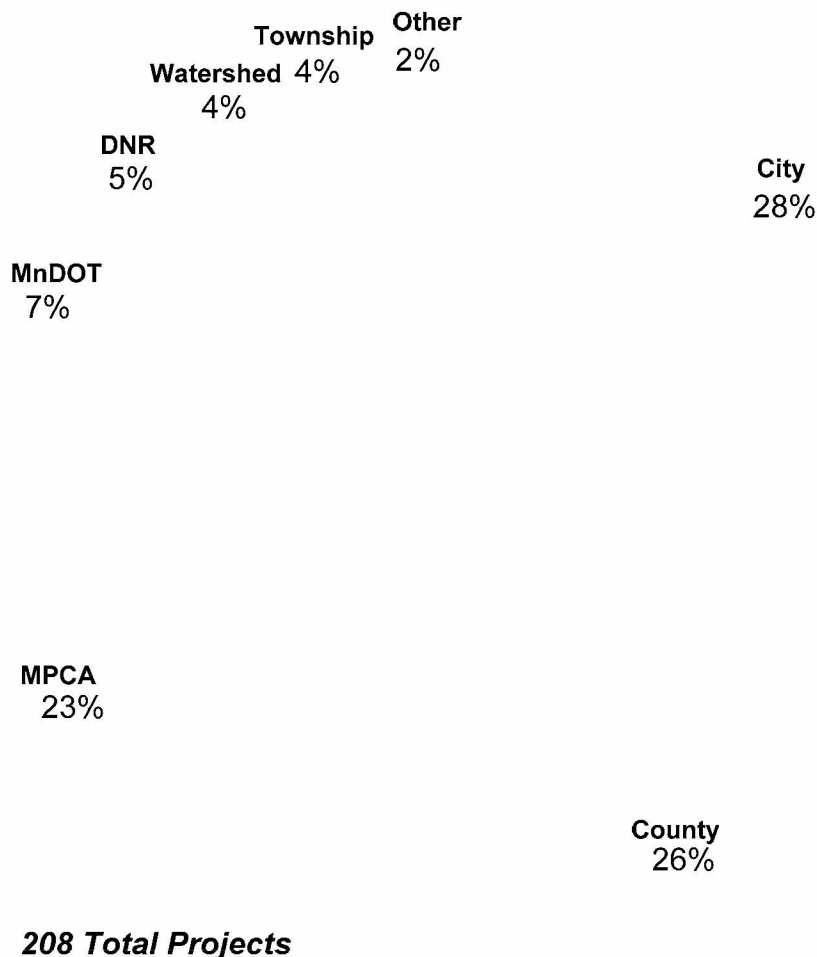


Figure 3 (page 7) shows this same information in a different way. The bar graph emphasizes the number of different governmental units involved in environmental review.

Minn. R. 4300.4300 describes the 35 mandatory EAW categories. An EAW must be prepared for projects that meet or exceed the thresholds specified in each subpart. For example, under subpart 20, for campgrounds and RV parks, the threshold is 50 or more sites. This means that if a proposed new or expanding campground or RV park is going to be less than 50 sites, that project does not have to go through mandatory environmental review. Each EAW category has its own threshold number as well as an assigned RGU. The mandatory categories and their assigned RGUs are listed in Table 1 (page 7).⁵

⁵ Subparts 2, 3, 6 and 7 of 4410.4300 are reviewed through special procedures assigned to the Department of Commerce and the Public Utilities Commission and not the EQB (Minn. Laws 2005, chapter 97, article 3). They are not considered for environmental review under Minn. Stat. 116D.

Figure 3: Number of EAW projects public-noticed in FY08-09 categorized by RGU and number of different RGUs involved in environmental review

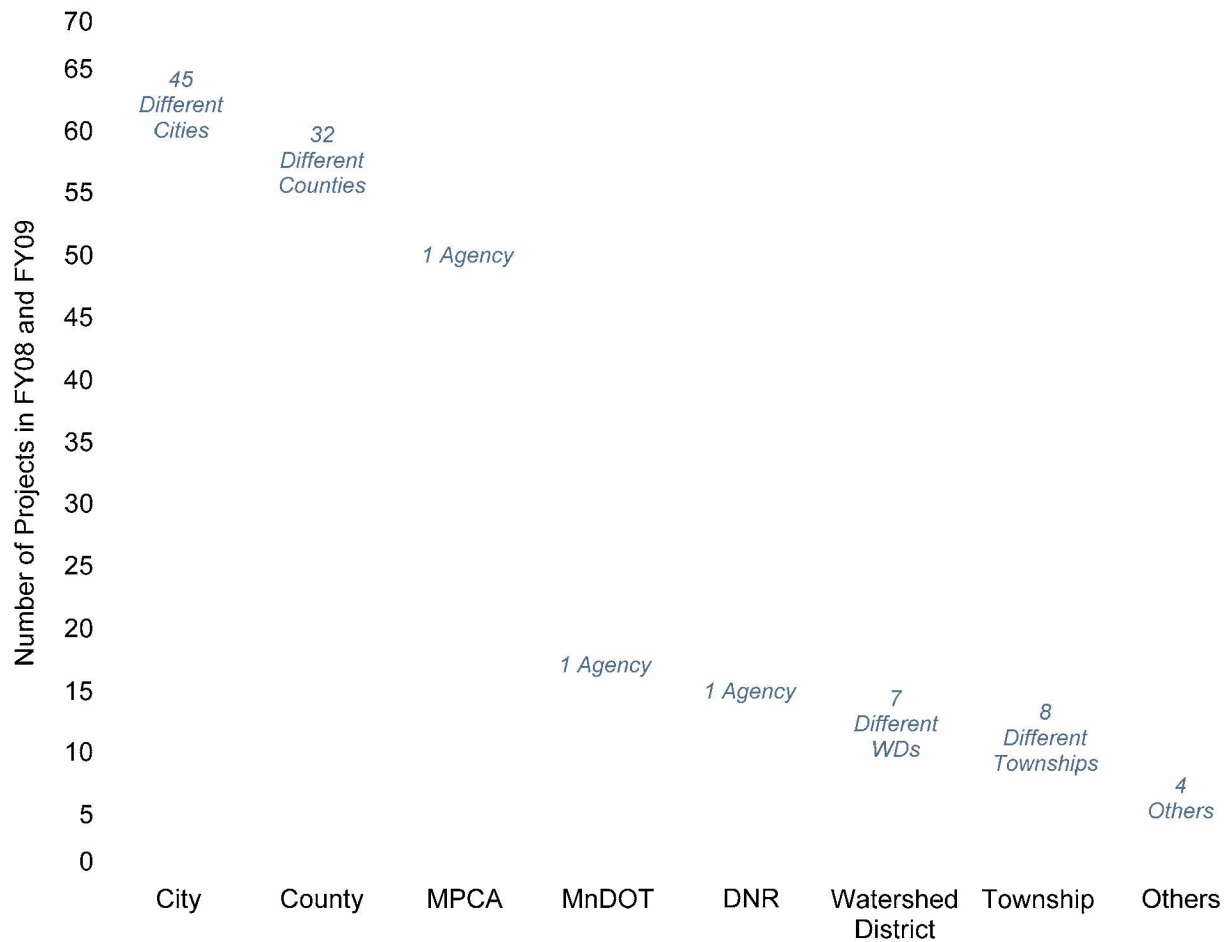


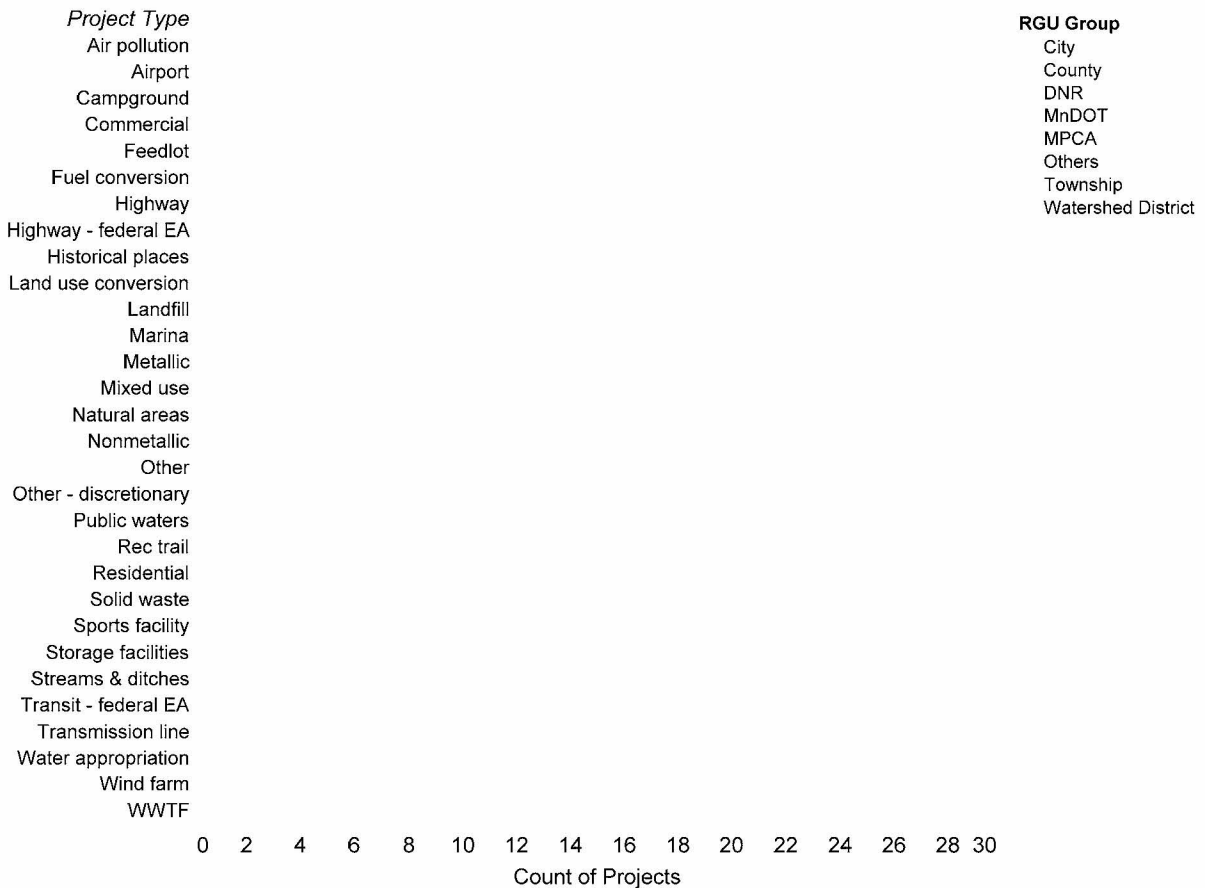
Table 1: Mandatory EAW Categories and Assigned RGUs

EAW Mandatory Category	RGU Assigned
Petroleum Refineries	MPCA
Fuel Conversion Facilities	MPCA
Transfer Facilities	MPCA
Underground Storage	DNR
Storage Facilities	MPCA
Metallic Mining and Processing	DNR
Nonmetallic Mineral Mining	DNR or Local Government
Paper or Pulp Processing Mills	MPCA
Industrial, Commercial, and Institutional Facilities	Local Government
Air Pollution	MPCA
Hazardous Waste	MPCA
Solid Waste	MPCA
Wastewater Systems	MPCA
Residential Development	Local Government
Campgrounds and RV Parks	Local Government
Airport Projects	Local Government, MnDOT, or Metropolitan Airports Commissions
Highways Projects	MnDOT or Local Government

Barge Fleeting	MnDOT or Port Authority
Water Appropriation and Impoundments	DNR
Marinas	Local Government
Stream Diversion	Local Government
Wetlands and Protected Waters	Local Government
Forestry	DNR
Animal Feedlots	MPCA or County (Local) Government
Natural Areas	DNR or Local Government
Historic Places	Local Government
Mixed and Industrial Commercial	Local Government
Communications Towers	Local Government
Sports or Entertainment Facilities	Local Government
Release of Genetically Engineered Organisms	EQB
Land Use Conversion, including Golf Courses	Local Government

Figure 4 illustrates the mandatory categories and number of EAWs in each category that were subject to environmental review in FY08-09. It also shows which RGU conducted the reviews.

Figure 4: EAW Projects Public-Noticed in FY08-09 by Category and RGU Conducting the Environmental Review



Gathering data: The time it takes to complete environmental review

In order to determine the length of time it typically takes to complete the EAW process, data was gathered from the EQB Monitor on when EAWs began the required 30-day public notice period and when a final EIS need decision was made. The MPCA also worked with DNR and MnDOT to obtain starting dates for each project for which they were the RGU. The “start date” is not defined in the Environmental Review Rules and each RGU may have a different interpretation of when to start the clock on a project. For the purpose of this report, start date is generally defined as the date that the proposer first submits the data portions of the EAW (see agency cycle time below).

Figure 5 illustrates the cycle time, in FY08-09, to complete the EAW process on projects, meaning the time it takes from start to decision on a project. The median is the halfway mark, which means half the projects were completed quicker than the median and half the projects took longer.

Between three state agencies, the shortest project took 44 days and the longest took 1,825 days; the former was a sewer-system expansion in the metro area and the latter was a MnDOT highway project that required state and federal review. Cycle time is also dependent on the variability of the environmental review process as a whole (see discussion on page 10).

Figure 5: Cycle time and median for MPCA, MDNR, and MnDOT for EAWs in FY08-09



MPCA cycle time

During the two-year reporting period of FY08-09, the start date for MPCA projects requiring an EAW is the date that a draft EAW was submitted by the project proposer. At that time, a project team is formed to ensure coordination of environmental review and permit-development activities. Ideally, the initial draft EAW

submittal is accompanied by complete permit applications, including supporting material; however, in most cases additional time is needed to obtain all the information needed to finalize the EAW for public notice. The end date is the date on which a final EIS need decision is made by either the MPCA Commissioner or Citizens' Board (if applicable).

DNR cycle time

The majority of EAW preparation for the DNR is associated with projects where the DNR is also the project proposer. Minn. Rules 4410.0500, subp. 1 identify that if a state agency is going to carry out a project, that agency shall be the RGU. DNR has a special environmental review unit that acts as the RGU. This unit works with the specific DNR program or division that is acting as project proposer (e.g., habitat enhancement or restoration projects are proposed by the Division of Fisheries). The start time in Figures 5 and 6 was the date of the first data submittal by the proposing program or division to the environmental review unit. In many cases, both with internal and external project proposers, the first data submittal is rarely determined complete, and additional time is spent by both the RGU and project proposer in completing and refining the data submittal so that a complete and accurate EAW can be prepared. The end date is the date when a final EIS need decision is made the DNR Commissioner.

MnDOT cycle time

For MnDOT, as shown in Figures 5 and 6, the data collection can occur two or more years before the EAW Notice of Availability is published in the EQB Monitor. The start date, for project record-keeping, is the date when the project manager sends an early coordination memorandum to the various functional groups at MnDOT (including environmental staff) and to the DNR to initiate data collection and identification of potential environmental or design issues and constraints. This coordination happens very early in the design process, so that the information can be used in the development of design concepts to avoid or minimize impacts.

For MnDOT projects that have combined state and federal review, the decision publication date takes longer than the time required for state-only EAWs, since MnDOT does not publish the state notice until the federal EIS need determination notice is received from the Federal Highway Administration (FHA). The MnDOT (federal) graph in Figures 5 and 6 illustrates this longer duration. The end date for state-funded MnDOT projects is when the EIS need decision is made by MnDOT; the end date for joint state/federal projects is the date when the EIS need decision has been made by both MnDOT and the FHA.

Figure 6 (page 11) illustrates the time it takes from start to decision on a project and additionally shows the number of EAWs this figure represents. Information on the start date for local RGUs was not readily available.

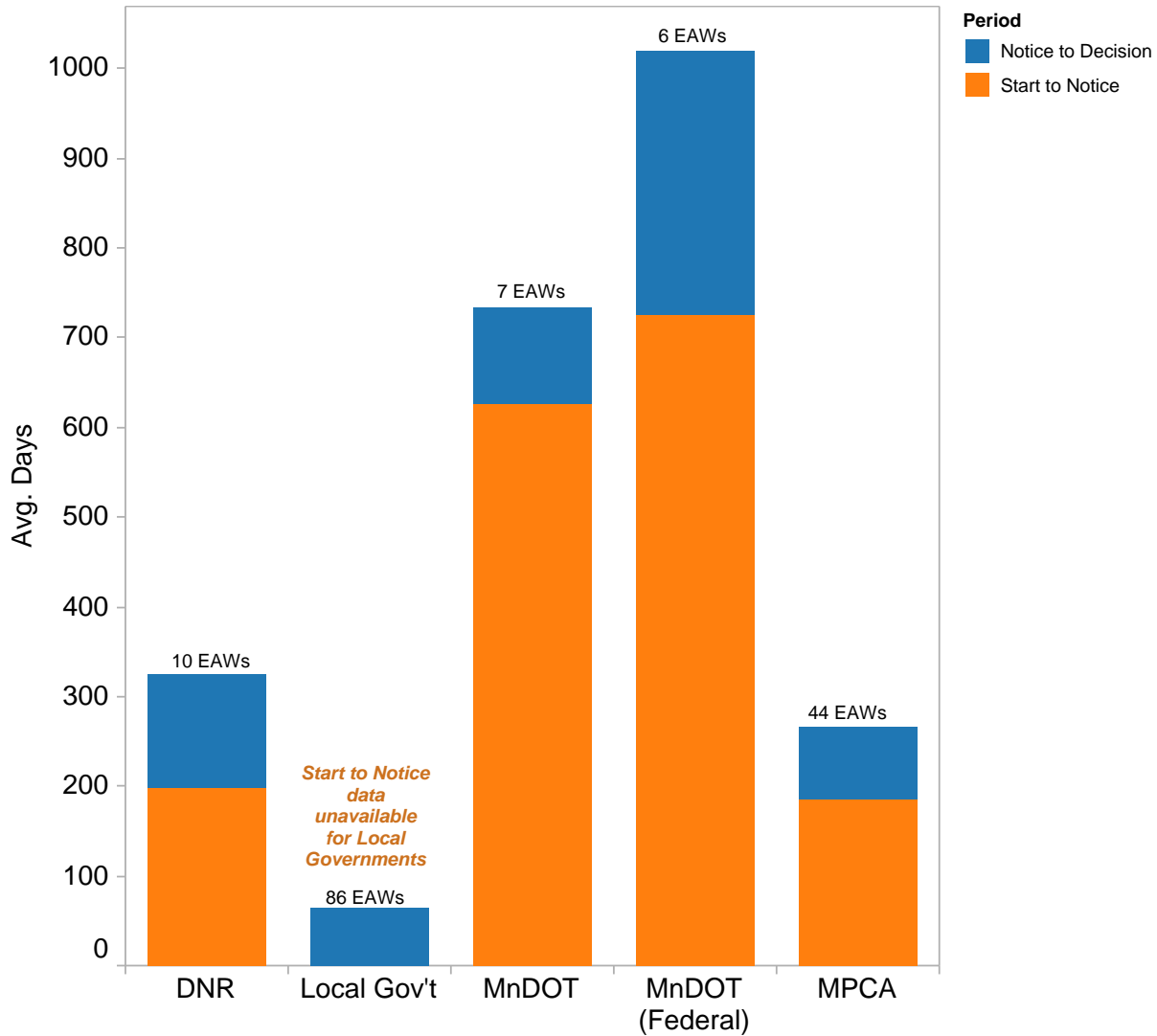
Variability in the environmental review process time

The amount of time it takes to complete environmental review depends on a number of factors. Each project is unique because of its location, public interest, chosen technology, and proposer and RGU expertise. In trying to identify environmental review streamlining opportunities, the MPCA met with EQB, DNR, and MnDOT to compile a list of circumstances that can make the process longer. There are various reasons why the EAW (and EIS) process can seem to move slowly or even be delayed. The list of variables below is based on EQB, MPCA, DNR, and MnDOT staff experience and input frequently heard from other stakeholders.

1. **Multiple RGUs:** Between FY2008 and FY2009 there were 99 different RGUs that processed one or more EAWs. While some routinely process EAWs, many do less than one per year or assign new staff working on their first review. Inherently this can lead to a slower process as less-experienced RGUs navigate their way through the EAW process.
2. **Competing priorities:** There are competing priorities at a state or local government agency. Local RGUs may not have staff dedicated to conducting environmental review. For example, in a local government the person responsible for environmental review might also be the solid waste officer or zoning official. Local government employees can wear many hats and manage more than one program. Environmental review might not be at the top of program priorities. At the state level, staff time on EAW and permitting projects must be prioritized and there will always be some projects that

get prioritized higher. Competing internal priorities can often be seen as RGU unresponsiveness from the proposer's point of view.

Figure 6: Average number of days from project start to public notice date and public notice date to decision date for each RGU in FY08-09



3. **Interpretation of rules and standards:** RGUs and proposers can disagree on interpretation of rules, standards, or the level of information that needs to be included in the EAW. This disagreement can suspend the process until an agreed-upon solution is reached.
4. **Limited project details:** Sometimes proposers have not thoroughly researched or defined their projects. For example, proposers may be new to the environmental review process and may submit data portions of the environmental assessment worksheet before they have even made decisions on which technologies their new facilities will use. Or, in the case of development projects such as roads, the project concept may not be well-defined. Until a project is defined, environmental effects cannot be assessed. Another example is when a proposer chooses a project location based on business needs, such as rail access and proximity to customers, but neglects to thoroughly research site-specific environmental conditions, such as water availability.
5. **Proposer responsiveness:** Down time due to unresponsiveness from the proposer is another variable in the time it takes to complete environmental review. Lack of project funding or other economic factors can delay a proposer in providing information needed for environmental review. For a project

to keep moving, both the RGU and proposer must ensure that they are responsive to questions and data needs. Multiple starts and stops can add weeks or months as proposers collect data, decide on options, or redesign the project entirely. RGUs do not “stop the review clock” when these delays occur. Therefore, it may look like the environmental review took longer than the actual time spent on it.

6. **Public engagement:** Project proposers’ engagement with an interested public is another variable. All projects are subject to a predetermined public input process; however, the level of public interest and participation varies greatly from project to project. Proposers that engage the public early and are transparent with information may experience a quicker overall environmental review time frame. Large numbers of comments submitted during the public comment period for an EAW results in increased time and effort for the RGU and project proposer to review, understand, and respond to comments.

A recent look at variability in the environmental review process

In 2005, the Minnesota Legislature required the MPCA to prepare a benchmarking report on environmental review and permitting processes for the mining and forestry sector. This requirement was fulfilled by a contract with the University of Minnesota and the report was published in June 2008.⁶ The Executive Summary is Attachment 6 to this report. The report addressed variability in the environmental review process in the section titled, “Project Timelines and Delays” in the Executive Summary. The main points identified in the report are:

1. Delays are a result of several factors often outside of the administering agency (RGU) such as:
 - a. Inadequate information about the project submitted to the RGU;
 - b. Failure of proposer to provide adequate information in a timely manner;
 - c. Failure of sister agencies to provide information in a timely manner;
 - d. Lack of financing for the proposed project;
 - e. Lack of information for the EIS process.
2. When extensive public involvement is required, the process takes longer. The public’s involvement is fundamental and efforts to speed up timelines should not be at the expense of the public’s right to participate in the process.
3. Assessment of cumulative impacts in EISs, required in Minnesota, made the process longer. Other states may or may not have this requirement.
4. Efforts to reduce overall project review time could potentially have negative consequences. Agencies must weigh the consequences of reducing review time against other costs.
5. Environmental review and permitting should be as predictable as possible. This helps project proposers anticipate and plan for the process. However, projects are very diverse and a prescriptive process can limit staff and proposer flexibility.

Reviewing past studies, reports and recent ideas

In preparing this report, the MPCA reviewed past studies and reports to compile previous streamlining suggestions.⁷ In reviewing these efforts, staff wanted to understand the types of suggestions that have previously been discussed but were never implemented.⁸ MPCA staff also noted more recent ideas heard from stakeholders such as “green off-ramps” for existing facilities. Staff presented these suggestions at the public information meeting (see “Consulting with Stakeholders” on page 13)⁹ with the intent of using these previous ideas to serve as a starting point to get people thinking about submitting their own streamlining ideas.

⁶ Benchmarking Minnesota’s Environmental Review and Permitting Process for Forestry and Mining Industries: A Comparative Assessment, R. Aylesworth, D. Becker, and M. Kilgore, June 20, 2008, Department of Forest Resources, College of Food, Agriculture, and Natural Resource Sciences, University of Minnesota.

⁷ A list of these past studies and reports is contained in Attachment 1, page 2.

⁸ Some suggested that these old ideas were not implemented because they were bad ideas in the first place.

⁹ See presentation handout, Attachment 4.

Unfortunately, many attendees at the meetings, as well as later commenters, misunderstood the intention and thought the MPCA was recommending or endorsing these ideas.

Many commenters appropriately pointed out, when referring to the past ideas presented at the public information meeting, that the MPCA did not identify how these examples would maintain or improve air, land and water quality standards. As stated previously in this report, this has proven to be a difficult task. To demonstrate, consider the idea of sector-specific EAW forms. Sector-specific forms could pinpoint and provide more relevant details in the areas where environmental impacts are most likely to occur. The EAW could then do a better job at addressing these areas that need the most attention. By concentrating on the main impacts, this could result in better understanding of the impacts and measures to mitigate them, thereby providing even greater environmental protection. However, in using a sector-specific EAW form, an RGU could miss vital impacts of a project that are specific to its location because they are not listed on the sector-specific form. This could then result in possible harm to the environment.

Consulting with stakeholders

The 2009 session law called for the MPCA to consult with a variety of stakeholders. In addition to meeting with EQB, MnDOT, and DNR (other state agencies with RGU responsibilities), the MPCA, with assistance from EQB, held a public information meeting on September 29, 2009. Since the report was due seven months from the end of the 2009 legislative session, the MPCA thought that a public information meeting would be the most effective way to engage interested parties in a short period of time. The MPCA published the public information meeting notice in the EQB Monitor on September 7, 2009 (Attachment 2). The EQB Monitor is a biweekly email publication that contains any notices that affect the environmental review program, including environmental review documents for public comment, rule revisions, and public meetings. Staff also sent email notification of the meeting to a cross-section of stakeholders (Attachment 3). The notice also informed stakeholders of the opportunity to provide written ideas and suggestions. Approximately 40 people attended the meeting. They were given some background information to help them form their own ideas for streamlining environmental review while maintaining or improving air, land, and water quality standards. An open discussion segment was preceded by presentations of:

- Numerical data collected from MnDOT, DNR, MPCA, and local RGUs;
- Historical attempts to address concerns about the environmental review program;
- Streamlining procedures already implemented;
- Some streamlining ideas from past stakeholder input efforts; and
- Identified delays in the environmental review process from all sides of the issue.

All of these presentations are included as Attachment 4. After the formal presentation by MPCA and EQB staff, the participants were provided with the opportunity to share their own suggestions for streamlining the environmental review process that would also maintain or improve air, land, and water quality standards. The meeting was not recorded in order to encourage openness among the participants. The MPCA asked stakeholders to submit their ideas in writing in order to be able to attach their full ideas to this report and provided a comment sheet as a guide (Attachment 5). All ideas and other comments submitted are included in Attachment 8. The MPCA requested that suggestions be submitted by October 14, 2009. On October 13 and 14, the MPCA received a number of emails from citizens and citizen groups expressing anger that they had just heard from other sources about the public information meeting and the opportunity to submit ideas. Many requested additional time to submit comments, and the MPCA extended the time until the end of October. All submitted comments received were reviewed for this report.

On October 21, 2009, MPCA staff posted all comments submitted to date on its Web site. Also posted were the EQB Monitor Notice, public meeting materials, and the extension to receive ideas by the end of October. Any comments received after October 21, 2009 were also posted.

Suggestions and comments received

The MPCA received 70 letters or emails in response to its request for streamlining ideas from stakeholders (Attachment 8). Each comment letter has been assigned a number. These numbers are cited along with the corresponding idea or comment throughout this section.

The MPCA received many comment letters from individuals, citizen groups, and environmental organizations that opposed any further streamlining to the environmental review process.

[1,3,4,8,10,11,13,16,18,19,22,23,24,25,26,27,29,30,31,32,34,35,37,38,39,42,43,62,64,65,67] In addition, many of these letters specifically opposed one or more of the five streamlining ideas discussed by the MPCA at the public information meeting.

[1,2,5,6,9,10,11,13,14,17,18,22,24,25,26,28,31,33,36,38,39,40,48,49,50,52,57,60,61,62,66,70]

The comment letters expressed divergent points of view in many cases. For example, a number of stakeholders expressed frustration at the time it takes to complete environmental review. Some stated that delay is caused by project opponents which in turn drives up costs and stifles innovation.

[46,47,48,49,50,51,54]

However, other comments stated that speeding up the process often results in impacts to the environment [5,11,13], and that it is not project opponents, but the proposers themselves, that delay the process by not submitting quality data in a timely manner.

[2,3,9,10,11,13,14,15,16,18,22,31,40,41,60]

Many commenters expressed their opinions on the five ideas the MPCA presented from previous stakeholder input efforts. These ideas were presented to stimulate discussion and suggestions among meeting participants, but as mentioned above, a number of participants believed the MPCA was endorsing these ideas. The MPCA has attempted to summarize and group all of the streamlining ideas that were submitted into the 14 categories below. Since the MPCA received a number of comments on the ideas presented at the meeting, they are the first five ideas listed. Ideas 6 through 14 are additional ideas provided by stakeholders in comment letters and emails. Please refer to Attachment 8 for the full context of comments.

The MPCA does not specifically endorse any of the following ideas, but rather presents them as a summary of the information generated in this process.

Each idea has its own merit and drawbacks, depending on the implementation details as well as a person or group's individual perspective. This can also be said of whether a particular idea is perceived to have a positive or negative environmental benefit. For these reasons, the report attempts to define each idea as neutrally as possible, link any specific comment letters that identified or referred to it, and specify if implementing the idea would require statute, rule, and/or policy change.

1. Sector-specific EAWs/customized forms

This idea involves creating additional customized, sector-specific forms. All projects currently going through the environmental review process, with the exception of feedlots, use the same EAW form. This common EAW form attempts to cover all possible environmental scenarios. The customized form could be designed to ask sector-specific questions that focus on the key environmental issues for that sector. The feedlot sector-specific form is currently in place for feedlot EAWs and asks tailored questions such as the number of animals, neighboring land use, soil conditions, potential odor/air emission impacts, and manure management techniques. Other possible sectors that may benefit from this approach could include municipal wastewater treatment facilities, residential development, and sand and gravel operations.

Comments included:

- Solid waste disposal or waste-to-energy facilities may benefit from this approach.^[55]
- Develop boilerplate templates so that basic background (for example, a discussion of the appropriate regulatory structure) is always the same.^[54]
- Focused attention on key issues and information for a sector this is a logical way to reduce time and expense and could re-establish a true “worksheet level” EAW process.^[48,14 51,52]
- Using the common form, versus a sector-specific form, assures the public that nothing is being left out and any attempt to omit information could be viewed with concern by the public, leading to delays throughout the process.^[6,31]

This idea requires approval by the EQB chair and could be implemented without legislation or rule amendment.

2. Duplication between environmental review and permitting

Currently there are a number of areas in the environmental review process where the information required to be provided in the EAW may overlap with information required in the permitting process. This may be true in areas such as air risk assessment, wastewater discharge limits, and stormwater management. One streamlining idea is to maintain many of the mandatory environmental review categories, but focus the EAW review only on items not already addressed in a state permit. Three possible implementation methods that could be considered:

- a. Specific EAW projects could be pre-screened to identify which issues are addressed by the state permitting process. If it is determined the issues are addressed in a permit, then these issues would not be included in an EAW. Under this scenario, project review and decisions on the need for an EIS would be limited to those items not covered in a permit. A process to insure the public has all the information, if not in the EAW, would need to be implemented.
- b. The EAW narrative sections could instead contain links to draft permit documents that contain the information on that particular issue. This idea would not require new language in the existing EAW worksheet, saving time in the drafting phase by simply referencing other existing documents. The items subject to a decision on significant environmental effect would remain the same. As mentioned above, providing public access to all of the information is a key element to the success of this idea.
- c. No decisions for significant environmental effects could be made on items covered in a permit. This third approach is similar to b) in that it could replace narratives with links to permits, but any items covered by a state permit would not be subject to a decision on potential for significant environmental effects. The information would be included in the existing EAW worksheet, but the decision point would not. This approach would limit the scope of the decisions and possibly result in fewer opportunities for public input on permit related issues. Permitting rules and regulations have been strengthened since MEPA was enacted; however, so has the complexity of environmental issues covered by the environmental review document.

Comments included:

- Reduction/elimination of duplication between the environmental review and permit processes seemed logical^[48,49,50] and is done at the federal level under the National Environmental Policy Act (NEPA) and case law.^[54]
- Do not require any environmental review of a project if the project meets state and/or federal standards.^[47,50,51,52,53,55,59]
- Only through environmental review can the public see the big picture, including cumulative impacts.^[5,39]
- Permitting and environmental review are distinct processes that have different but complementary functions.^[11] This idea could result in a lowering of permit standards.^[6]
- This idea is unacceptable as it would defeat the purpose of environmental review, to inform the permitting process.^[2,16,31]

Ideas a. and b. above would require statutory amendment. Idea c. would not require a statutory amendment, but may require guidance and/or rule updates.

3. Green off-ramps for existing facilities

Over the past few years, the ideas of a green economy and green jobs have gained momentum. While the environmental review rules exempt some facilities or activities from completing an EAW, there is no specific exemption for green improvement to existing facilities. The idea of green streamlining might be implemented through the following methods:

- a. Language could be added to the rule to provide an incentive for existing facilities to design projects that further environmental improvement goals without triggering environmental review. For example, an existing facility could be allowed to expand beyond current environmental review thresholds without conducting environmental review if the facility's owners/managers agree to accept specific limits or make other changes that are environmentally beneficial.
- b. Rather than an exemption, criteria could be developed at a state level to determine which types of projects hold the greatest potential for environmental improvement and thus deserve a prioritized and streamlined environmental review process. For example, criteria could be written to ensure that an expansion project is reducing overall environmental impact compared to current conditions at a facility. While these projects would undergo some environmental review, the review would only be designed for key issues that could result in an increase in pollution or are not already covered by permitting. This approach could require the proposer to accept limits to ensure all other environmental impacts remained the same or were reduced from the current levels.

Comments included:

- This idea could be a slippery slope.^[2]
- No definition has been established for a "green project."^[5]
- These projects can still pollute.^[6,11,31]

As stated here, these ideas would require a rule amendment.

4. Unlinking EAWs and EISs

This idea focuses on the EAW as an informational tool that provides consolidated information to the public and informs the permitting process. In this idea, an EAW would investigate the potential impacts, regulatory framework, and possible mitigation; however, no determination would be made on whether there is a potential for significant environmental effect. Similar to an EIS, the only decision would be whether the EAW is adequate. Under this idea, an EAW could no longer lead to an EIS. An EIS would only be triggered by the mandatory thresholds. Public comments on the EAW could lead to collection of more information for the permitting process, but not to the preparation of an EIS. Implementation of this idea would require a reassessment of current EIS thresholds to capture all projects needing environmental review.

Comments included:

- This linkage has been used in the past to stall projects.^[29]
- This idea is unacceptable and would foster numerous appeals and prompt blanket EIS demands from the outset, rather than basing such requests on EAW analysis.^[1,2,4,5,6, 9,17,26,31,60]
- EAWs should lead to EISs when public review shows a need.^[11,24,28,31]
- Public review has often led to better projects, and that relying solely on categories such as EIS thresholds cuts this function out of the discussion.^[10,13,14,15,18,22,39,40,57]

Implementing this idea would require statutory amendments.

5. Early public engagement

One idea to streamline the process as a whole could be to spend more time on early public engagement. In the MPCA's experience, projects that receive the most public support ultimately have a more streamlined environmental review process. In some cases, the public may feel there has not been adequate information available for a long enough time, leading to additional time in the final stages of a project. Early public engagement could be implemented by requiring the RGU or the project proposer to hold early public meetings to provide information and answer questions about the project. It could also be accomplished by requiring the proposer to develop a public outreach plan as part of the project submittal. This idea could add time and resources to the process's front end, but could alleviate concerns and facilitate understanding early in the process. Concerns raised early in the process could lead to proposers adapting and modifying their projects early to meet citizens' needs.

Comments included:

- This is a good idea, but only if it was not a public relations campaign, and included full disclosure and opportunity for substantive public engagement.^[2,5,11,16,39]
- This is a short-circuiting of the public comment process, which should be based on prior public review of a project and its anticipated consequences.^[6,31]
- This will make proposers an easy target so suggest informal neighborhood meetings instead.^[48,49,50,52]

Implementation of this idea would require a statutory amendment.

6. Alternatives analysis in an EAW

Environmental review does not currently require a formal alternatives analysis in the EAW portion of the process. Alternatives to project siting, sizing, capacity, etc. are only formally considered for projects being reviewed in an EIS. While a project proposer most likely has considered multiple alternatives before proposing a project, the EAW only reviews the project as proposed.

Comments included:

- Incorporate consideration of alternatives in the EAW, allowing for the lowest-impact alternative to be reviewed early in the process.^[2,31]

This idea would require a statutory amendment.

7. Tiering of environmental review system

Expanding the concept of “tiered” review as a means of streamlining some reviews was another idea suggested during the comment period. The rules currently authorize only a sequence of tiered EISs.

Comments included:

- Tiering between EISs and EAWs, a sequence of EAWs and Generic EISs and EAWs, should be allowed as well. Federal NEPA review allows at least some of these other forms of tiered reviews.^[21]

Some tiering ideas would require rule amendments, but others would require a statutory amendment.

8. Different forms of environmental review

Using EAWs and EISs differently to streamline the process was another idea presented to the MPCA during this process.

Comments included:

- Implement a method of having different classes of EAWs; for example, minor projects that could be processed quickly and those that would need extensive input and review.^[60]
- Three levels of review may be appropriate, for example a basic EAW, a detailed EAW with cumulative impacts analysis, and an EIS.^[47]
- The EAW could truly be used as a screening worksheet and more EISs could be prepared.^[1,5,9,13,47,57]

The first two ideas would require statutory amendments. The third idea would not require statute or rule amendments.

9. Deadlines for project proposers

There are time limits in the rules for RGUs to complete certain tasks in the environmental review process. There are no such time limits for project proposers.

Comments included:

- Establish deadlines for project proposers to timely submit information to help project proposers push their consultants to gather information quicker, thus reducing the time it takes to complete an EAW.^[13]

This option could be implemented by a statutory or rule amendment.

10. Expand the application of Alternative Urban Areawide Review (AUAR) to local comprehensive plans

This streamlining idea focuses on closer integration of environmental review with local comprehensive planning through expanded use of the AUAR process to cover future development across the entire community. AUARs are approved alternative reviews for certain residential, commercial, or light industrial projects that otherwise require the preparation of an EAW or a full EIS. This tool is well suited for the development of large geographic areas that are going to develop over an extended period of time and the RGU does not know exactly the form the project will take, or the specific timing of the development of areas within the project boundaries. Instead, the AUAR allows the RGU to identify and analyze scenarios, which is similar to the land-use alternatives analysis routinely conducted to prepare local comprehensive plans. The AUAR requires the preparation and adoption of a Mitigation Plan tied to every relevant aspect of each of the scenarios that are analyzed. This Mitigation Plan must be formally adopted and it then has the same level of authority as a local ordinance. Future projects must be consistent with the AUAR assumptions and the Mitigation Plan. If the project is consistent, then no further environmental review is required. If the project is not consistent, then a separate environmental review must be conducted for the individual project.

Comments included:

- AUARs have been successfully prepared for very large portions of several communities. However, only one has attempted to cover future growth over an entire community. Communities frequently prepare and adopt a comprehensive plan and then adopt official controls (zoning, subdivision regulations, building codes, etc.) to implement the plan. This process is mandatory within the seven-county Twin Cities metropolitan area under the Metropolitan Land Planning Act. Many of these comprehensive plans contain information, goals and policies related to desired environmental outcomes. Many also evaluate alternatives and contain environmental protection elements that tie to various environmental ordinances. The process and documents produced by communities through the standard comprehensive planning and AUAR process could be enhanced to achieve better environmental outcomes and satisfy the AUAR requirements for the entire corporate limits. This could be achieved by enhancing the data collection, alternatives analysis, and implementation plans contained in comprehensive plans.^[45,46]
- One initiative has already begun to promote this concept. The Regional Council of Mayors Environment Committee, a committee of the Minnesota Chapter of the Urban Land Institute, intends to identify one or two communities and assist them in preparing and implementing an AUAR for their entire corporate limits. As part of this effort the intention is to create model AUAR Mitigation Plans that apply to both urban/suburban areas and remaining rural/agricultural areas within or surrounding developing communities.^[45,46]

No statutory or rule amendments would be necessary to implement this idea. Units of government already have the authority to prepare an AUAR for their entire corporate boundary.

11. Consolidation of agency efforts and data

Another streamlining idea is the consolidation of the environmental review process by designating one entity to establish environmental review policy across the different regulatory agencies and varied RGUs. The original environmental review program did have one entity, the EQB, responsible for all environmental review, but that method soon proved overwhelming and decentralization was seen as more efficient.

Comments included:

- Have one entity responsible for all environmental review in the state; also support review of all energy projects by one entity to provide consistency in analysis.^[47]
- Develop and maintain a common database for use by all agencies, which could allow for better transfer of data and result in more efficient communication between the EQB and other agencies involved in various aspects of environmental compliance.^[49]

Consolidation of agency efforts would require statutory amendment to designate a single state agency for environmental review. Development of a central database would not require any state rule or statute changes; however it would likely require funding through legislation.

12. Financial/legal ideas

The public meeting and comment process also resulted in streamlining ideas focused on financial or legal changes.

The financial-related comments included:

- Requiring that anyone petitioning for environmental review be required to bear the increased project costs.^[48,50,51,52]
- Require anyone appealing a decision to post a bond unless they can show that the claim has sufficient possibility of success on the merits to sustain the burden required for issuance of a temporary restraining order.^[54, 59]
- Change the EAW petition requirement to limit the signatures to those within a specified geographical boundary, as compared to the current requirement allowing signatures from anywhere.^[50,51]

The legal-related comments included:

- Establishing the Court of Appeals as the venue for review of environmental review decisions rather than District Court. The Court of Appeals has more experience with environmental issues and has jurisdiction of environmental permit appeals. Because EIS decisions are already part of the record and the Court of Appeals could review an EIS *de novo* (from the beginning), the Appeals Court could limit the time spent on fact-finding and trial, and the time spent preparing appeals at the District Court level.^[54,59]
- Involve the Attorney General's Office early in processes conducted by state agencies so assigned attorneys have a solid background in the project.^[59]
- Require RGUs to set and follow more stringent policy on document management and not distribute drafts.^[59]
- Establish requested deadlines and automatic project approval if those deadlines are not met.^[59]
- Exempt the proposer from paying EIS costs incurred more than 280 days after EIS preparation begins.^[59]

The financial streamlining ideas would all require statutory amendments. Change to Court of Appeals would require statutory amendments and the Attorney General's Office idea would be implemented through internal RGU processes. The remaining legal-related ideas would require statutory amendments.

13. Change the thresholds

Another streamlining idea brought forward by commenters focuses on changing when an EAW is required for feedlot projects. For example, it is mandatory that an animal feedlot project with 1000 or more animal units complete an EAW. As stated previously, the mandatory threshold for animal feedlots was decreased in 1999 from 2000 animal units to 1,000 animal units and the requirement to look at feedlot projects for connected actions was eliminated.

Comments included:

- Raise this threshold to 2000 and only apply it to sites that exclude rain water from manure storage and animal holding areas due to low environmental risk.^[53]
- The current threshold was too high for animal feedlots and should be reduced based on environmental impacts.^[8,9,33]

Any threshold reduction or increase would require rule changes.

14. EIS-specific ideas

During this process, the MPCA received comments that specifically applied to the EIS process.

Comments included:

- Allow the project proposer to prepare the first draft of the EIS. With this approach, the RGU could still retain authority to determine adequacy and require changes, while the proposer could have greater control of the schedule and costs. The need to negotiate contracts could also be eliminated, greatly reducing the time and expense involved in environmental review. If this idea was not viable, the state could better scrutinize consultants hired to assist with EISs.^[54,59]
- Make changes in the EIS scoping process, including clear, up-front expectations on what studies would be needed and a requirement that the notice of preparation occur no later than the notice for public comment.^[54,59]
- “Sound science” should be the basis for MPCA decision-making, and could be accomplished by limiting the Citizens’ Board’s powers to rulemaking, and vesting all other decisions in the commissioner.^[59]

The first and third ideas would require statutory amendments. The second idea could be implemented through statutory or rule amendment.

Conclusions

Many modifications have been made to the environmental review processes over the last 32 years. Changes have typically been in response to stakeholder concerns, emerging issues, new technologies, experience with the program, or regulatory requirements. Some changes have been designed to streamline the process while others were simply to provide general clarification. Past efforts to explore broad streamlining of environmental review have often resulted in polarized views among stakeholders and these efforts have largely been unable to find a path toward further streamlining.

In preparing this report the MPCA reviewed the history of past streamlining efforts, analyzed data from the past two years, and sought stakeholder ideas and comments regarding environmental review streamlining. The report summarizes the history of past efforts and includes a copy of the January 2007 EQB Technical Representatives Report to the Environmental Quality Board, which provides a comprehensive accounting of all past efforts. In the course of this latest effort, it became clear that the state is lacking complete data for projects that are led by local-level RGUs. While data does exist for state agencies, the MPCA recommends that efforts be implemented to standardize data collection and reporting across all RGUs to help ensure that the Legislature has access to quality data that is representative of the entire system.

This effort has clearly demonstrated that there is still a significant divide among stakeholders on whether environmental review should be streamlined at all. While some stakeholders may agree that streamlining is warranted, there remains significant debate about the potential environmental effects of specific streamlining ideas as well as their potential to erode the public participation process. The MPCA has attached copies of all written comments regarding this effort and has summarized and grouped the streamlining ideas into 14 categories. As is evident in the comment letters, there is substantial debate on whether any of the ideas could be implemented while also maintaining or improving air, land, and water quality standards. The MPCA has attempted in this report to reference the specific comment letters related to each particular idea to provide the specific comments both for and against any streamlining idea.

If the Legislature chooses to further evaluate any of the streamlining ideas listed in this report, the MPCA recommends that Attachment 7 be used to identify stakeholders with diverse points of view to inform the discussion. With respect to any ideas that directly involve MPCA processes, the MPCA is available to provide additional analysis as needed.

Attachment 1

Technical Representatives' Report to the Environmental Quality Board on Environmental Review

As Directed by the EQB at its January 2007 Retreat
April 11, 2007

Introduction

At its retreat on January 31, 2007, the EQB directed the EQB staff and Technical Representatives to review EQB's role as it pertains to the Environmental Review Program and report back to the EQB with recommendations.

In order to accomplish this task, EQB staff and Technical Representatives held two special meetings in addition to discussions at two regular Technical Committee meetings. A subgroup studied the issue in more detail and provided the structure and basis for each discussion. Specifically, the EQB staff and Technical Representatives:

1. Reviewed Environmental Review reform ideas coming out of significant reports, studies, and efforts from 1990 to 2002;
2. Sorted and grouped those reform ideas to discover the broad underlying issues/problems; and
3. Examined the history of Environmental Review reform efforts overall to glean what lessons could be learned.

This report briefly examines the EQB's role in the past and present and makes recommendations for the future. It focuses on the EQB's role in past Environmental Review reform efforts, since a majority of EQB's time spent on environmental review has been devoted to this task.

EQB's Historical and Present Role in Environmental Review

When the Minnesota Environmental Policy Act (MEPA) was implemented in 1974, the EQB was responsible for preparing and making the final decision on all EAWs and EISs. This placed a considerable burden on the EQB Board and staff. Consequently, in 1977, the program rules were amended to transfer most responsibility to other state agencies and local governments. State agencies and county and city governments now became the Responsible Governmental Units (RGU) for preparing and making decisions on EAWs and EISs. However, a decision could be brought before the EQB for review by a state agency or by citizens if 500 signatures were obtained. Appeals on decisions rested with the EQB. The appeals decision was moved to District Court in 1980 MEPA amendments (and the procedure for appeal to EQB by 500 citizen signatures was eliminated).

Today, EQB remains the overall Environmental Review Program administrator. EQB is the home of the Environmental Review rules and still has the authority to make decisions on EIS adequacy decisions and cost disputes, RGU assignment, variance requests, AUAR objections, and may order preparation of an EAW if no other unit of government is in a position to do so. The EQB may also initiate or intervene in lawsuits challenging RGU decisions. The EQB issues the EAW form and guidance and provides advice to RGUs on interpretations of the rules. The

staff carries out various administrative duties needed for the functioning of the process, including publishing the *EQB Monitor* and processing citizen petitions.

Almost since the beginning, EQB has fielded complaints about the Environmental Review Program from a wide spectrum of stakeholders. As a result, an almost constant task for EQB has been to attempt Environmental Review reform. The rules (chapter 4410) have been amended six times to accommodate some concerns, clarify parts of the rule, and add new or change category thresholds. Additionally, several major reform efforts were initiated by the EQB between 1990 and 2002 as discussed in more detail in the following section. The last attempt to make a major change to the statute (chapter 116D.04), which ultimately failed, was in 1995. Please refer to appendix A for a history of Environmental Review reform activities.

Significant Reports, Studies, and Efforts

In order to understand the depth and breadth of stakeholder criticisms regarding the Environmental Review Program, EQB staff and Technical Representatives reviewed recommendations for reform in reports, studies, and efforts undertaken from 1990 to 2002. These included:

- “Environmental Review: An Unfulfilled Promise,” a July 1990 article in *Bench and Bar of Minnesota* by John H. Herman and Charles K. Dayton (pp 31-38)
- Recommendations by EQB Technical Representatives dated July 1991
- “Experts Recommend Changes to the Environmental Review Process,” a 1992 report by the Minnesota Environmental Initiative (MEI) (pp 18-21)
- “Concepts for Revision of the Minnesota Environmental Review Program,” a March 1993 report by the EQB Subcommittee on Environmental Review Program Revisions
- *Unfulfilled Promise: Twenty Years of the Minnesota Environmental Policy Act, a Program for Reform*, a March 1994 report by the Minnesota Center for Environmental Advocacy
- 1995 EQB-sponsored legislation (H.F. 1015. This legislation was not adopted)
- Interim Results from a 1995 advisory workgroup appointed by the EQB Chair
- “Public Input on Environmental Statutes, Processes and Rules” a summary of meetings conducted by the MPCA in 2000
- “EQB Topics & Issues for Environmental Review Special Advisory Committee to Consider”, a report by the EQB Subcommittee on Environmental Review Program Revisions to the Special Advisory Committee on Environmental Review reform dated December 2001
- “EQB Analysis of SAC Recommendations” a report by the EQB at the conclusion of the Special Advisory Committee process, dated December 2002

Major Issues Underlying Environmental Review Reform Ideas

To aid their analysis, the EQB staff and Technical Representatives grouped the recommendations according to the underlying problems that these ideas were attempting to solve. These groupings were then given a heading that characterized the underlying problem. These are described in more detail below. Although there might have been agreement among stakeholders on what the problems were, there has been considerable disagreement about the proposed solutions. The discussion below attempts to capture the flavor of the opposing viewpoints.

- Substitution of EAW process for EIS. Recommendations in this category addressed the reality that EAWs have become more than just a “brief document which is designed to set out the basic facts necessary to determine whether an EIS is required for a proposed project.” Extensive new information now exists regarding environmental impacts then when MEPA was first enacted. Much of that information is now included in EAWs. Few ordered EISs are prepared in Minnesota when compared with other states with state environmental policy acts. Environmental and other interest groups have argued that project proposers tend to concentrate their efforts on generating substantial EAWs (or “mini-EISs”) in the hopes of avoiding EISs, when these groups believe an EIS should be ordered. They have suggested solutions that expand environmental analysis, such as requiring or encouraging more EISs or requiring an alternatives discussion in EAWs. Proposers generally have disliked the unpredictability of the EAW (i.e., that an EIS may be ordered by the RGU or by a court on appeal), and so have tended to favor solutions creating more finality.
- Perceived delay in EAW/EIS process. This issue has been a major concern for many project proposers. The issue not only includes procedural time delay, but also uncertainty (i.e., an EIS could be ordered, an appeal could be filed, etc.). Proposed solutions have been wide-ranging, including shortening timeframes specified in the Rule, and allowing the EAW to be a final document, rather than a screening document.
- Lack of checks and balances on RGU decisions. Since the 1977 statutory amendment decentralizing authority for environmental review from the EQB to RGUs, concern has been expressed about RGU decisionmaking. Environmental and other interest groups and concerned citizens have argued that the current structure, where the RGU is sometimes the proposer or sole permitting authority, is a case of the “fox guarding the henhouse.” Proposed solutions have included EQB oversight and different RGU selection criteria (i.e., not the proposer or permitting entity). Proposers have been less concerned about this issue.
- Confusion/ambiguity about cumulative impacts. This is an issue mainly about how much information to include in EAWs regarding cumulative impacts. Environmental and other interest groups and citizens have expressed concern that the impact of the proposed project together with other projects is often inadequately considered. Proposers, on the other hand, have expressed concern about the extent of a cumulative impacts analysis. Solutions have generally involved further specifying how cumulative effects should be treated in environmental review documents. This issue is being addressed currently in the Phase 2 rule amendments.
- “Scope creep”. This is an issue mainly among proposers, who have expressed belief that the scope of EISs tends to be overly broad. Consequently, proposed solutions have been

to keep the scope more narrow; for example, to limit the scope to only issues that have a potential for significant environmental effects.

- Criteria for “potential for significant environmental effects” are subjective. “Potential for significant environmental effects” is not defined in Minnesota statutes or rules. Court decision interpretations have only muddied the water. This has been an issue for all camps: proposers, environmental/interest groups, citizens, and RGUs. The restrictiveness or expansiveness of proposed solutions has varied among the groups. Proposed solutions have included establishing a list of indicators or criteria that would specify a “significant environmental effect”; for example, if the project violates a water standard.
- Mitigation measures are not followed through. Environmental and other interest groups and citizens have argued that mitigation measures relied upon in the EAW are not necessarily incorporated into proposed projects or enforced by permitting agencies once projects are built. Various mechanisms for ensuring follow-through have been proposed.
- Inconsistency with the venue for appeals of other state agency decisions. Environmental review decisions are appealed to District Court. State agency permit decisions are appealed to the Court of Appeals. Other than inconsistency, a concern from all camps has been that district courts are not as familiar with the review standards for appeals as is the Court of Appeals, leading to inconsistency of the court decisions. The venue of District Court also creates a potential extra step in an appeal process, as a District Court decision can then be appealed to the Court of Appeals (and then to the Supreme Court).

There are other reform ideas that have been put forward through the years that are not included in the above discussion. The EQB staff and Technical Representatives determined that some of the ideas proposed:

- 1) had been or were being implemented through prior or current reform efforts;
- 2) were impractical or beyond EQB’s control; or
- 3) were no longer relevant because of changes in circumstances.

These ideas are provided for your information as Appendix B.

Implications

From their review, the EQB staff and Technical Representatives concluded that solutions to perceived problems with the Environmental Review program fall into two groups: 1) major structural reform that generally involves statutory changes; and 2) less substantial changes that can be accomplished through rule revisions.

The EQB has been successful at addressing the second group of problems as they have arisen over the past 30 years. However, several efforts have been made at major structural changes without success. This is because major Environmental Review reform is controversial; factions become polarized and entrenched. Experience has shown that each side tends to see room for improvement, yet fears that change may lead to reversals of progress from their points of view. Consensus or “win-win” solutions have proven to be elusive.

The most recent attempt at major structural reform was during the Ventura Administration in 2001 and 2002. A representative stakeholder group called the “Special Advisory Committee” was appointed by the Governor. The Committee used a consensus process, and after 13 meetings, it issued a one-page report. One of the Committees’ conclusions was that:

“The current Minnesota environmental review program is not perfect, but as a group the committee was not able to come to agreement on a better system.”

Recommendations

Policy and Assistance

The EQB administers the Environmental Review program and makes certain decisions at the policy level as described in “EQB’s Historical and Present Role in Environmental Review” section of this report. Overall, EQB staff and Technical Representatives do not recommend any changes in this role.

Major Structural Reform

After several attempts and significant time spent, successful resolution of major structural reform issues has proven elusive. These failed attempts have resulted in a degree of fatigue and frustration for all participants, including EQB staff and Technical Representatives. EQB staff and Technical Representatives believe that many of the issues are important and still relevant. However, unless a different approach is used, new attempts at major structural reform are likely to result a similar impasse as in past efforts. The EQB staff and Technical Representatives recommend that any new effort to restructure Environmental Review be attempted only if the following conditions are met:

1. There is a clearly defined problem or opportunity that EQB members, given the EQB’s mission, feel would be irresponsible of them not to address now;
2. Significant resources (money) are secured for the effort and a workplan is clearly defined; and
3. If, to move structural reform ahead, the Board feels that some level of consensus among stakeholders is needed, the process should be headed by professionals with expertise in consensus-building/conflict resolution and ideally experience with similar issues. The EQB staff and Technical Representatives believe that state agency staff should not embark on Environmental Review reform again without leadership from a qualified outside party, possibly from outside the state system and selected through a nation-wide search.

Appendix A
History of Environmental Review Rulemaking
Compiled by EQB staff and Technical Representatives
March 2007

- 1974** Environmental Review Rules become effective
- 1977** Rules amended for the first time:
→Previously EQB staff wrote all EAWs, now they are assigned to City and State “RGUs”
→Decision on EAW can be brought before the EQB if 500 signatures are obtained
-
- 1980** Statutes are amended:
→Now ER is completely decentralized from EQB; appeals go to the courts, not EQB
→EIS Categories appear for the first time (before were all discretionary or because of an EAW)
→Petition process changes to need only 25 signatures
- 1982** Rules changed to reflect statute
-
- 1986** Rule are amended – noncontroversial (no hearing), fixed minor glitches in 1982 rule
-
- 1988** Rules are amended
→Solid waste and hazardous waste mandatory categories are overhauled
→AUAR process is added
-
- 1990** **End of Perpich Administration**
In August, EQB Members hold a retreat where they talk extensively about Environmental Review. Extensive discussion triggered by Chuck Dayton and John Herman’s article in the Bench and Bar of Minnesota called, “Environmental Review: An Unfulfilled Promise” The main issue in the article is the “over-reliance” on EAW compared to EIS, contrary to the intent of the program designers. EQB assigns agency Tech Rep Committee to study program and recommend changes.
- 1991** **Carlson Administration**
January EQB sends out Request for Comments for Environmental Review Rule Revisions
July Tech Reps/EQB staff submit written report on recommended changes to EQB subcommittee on Environmental Review
Nov EQB holds “focus group” to review July recommendations. Main recommendations are to replace EAW and EIS with a single document and process (or variation) and re-establish EQB oversight over RGU decisions.
- 1992** MEI holds its own meeting on ER revisions and gives report to EQB

1993

March EQB issues, “Concepts for Revision of the Environmental Review Program” and holds two public meetings on the report. Recommendations include three options for changing nature of EAW process; limited EQB oversight of RGU decisions; and various others that have since been adopted.

1994 EQB spends much of this year is spent preparing legislation for 1995 session.

March MCEA issues Environmental Review program audit study, “Unfulfilled Promise,” which outlines 33 recommendations for changes the program.

1995

Spring EQB tries to pass statutory changes through the legislature; passed House 122-0; failed to get hearing in Senate. Legislation included:
→EQB oversight: remand authority for Chair; “gatekeeper” review of EAW content
→No changes to basic nature of EAW; changes to enhance completeness and quality of data and consideration of mitigation measures, including explicit requirement that mitigation relied on in EAW process must be implemented
→Changes to citizens petition process; 150 signatures and restrict timeframe for filing petition if proposer gives adequate early notice of project

April EQB resend out Request for Comments for ER rule revisions originally sent in 1991

July Public meetings held on the proposed revisions

Sept EQB Chair initiates an Advisory Workgroup of various stakeholders, with the goal to reach consensus on how MEPA (ER statutes) could be revised. The workgroup met for 4-4 hour meetings and decided they were making progress, but needed more time to reach consensus. Not convinced of any real progress, the EQB Chair disbands the workgroup in November.

1996 March, EQB published Request for Comments once again after eliminating most of the controversial issues.

1997 Rules changes become effective. Rule changes include changes to mandatory categories and “housekeeping” items (very similar to 2006). “Phased actions” is clarified by the 3-year look-back” provision.

2000 Ventura Administration

Feb MPCA Board has retreat where they identify ER as top priority

March MPCA Board authorizes staff to solicit citizen input on ER; EQB Chair Hugoson forms ER subcommittee

April MPCA holds “Citizen Focus Groups” in St. Paul, Brainerd, and Rochester

August EQB holds 1-day stakeholder meeting in St. Paul to conduct and initial scope of issues

End of year MPCA gives EQB all their collected information and the process moves forward through EQB only

2001

May EQB sends list of names to the Governor’s office for appointment to a “Special Advisory Committee (SAC)” on ER revisions.

- 2002** SAC meets January through July and cannot come to any consensus. They report out:
- 1) The committee discussed the important issues presented to it by the EQB as well as other issues that the member identified as of concern.
 - 2) The current Minnesota environmental review program is not perfect, but as a group the committee was not able to come to agreement on a better system.
 - 3) The current system balances competing interests.
-

2003 Pawlenty Administration

EQB holds retreat in November; PCA and DEED Commissioner want EQB to look at revising ER rules. Recognizing past failed attempts at an overall structural change, EQB staff/Tech Reps are asked to focus on where projects enter ER – mandatory category thresholds.

2004-2005 Focus is on Mandatory Category Thresholds Study (Housekeeping items also added)

Outreach activities and data collected:

- Comprehensive list compiled of ER done in each category between 2000-2003
- Survey to Local Government RGUs
- Focus Groups specific to a particular category: historic places, aggregate, residential and commercial development
- Met with state RGUs: PCA, DNR, DOT
- Gathered data on fate of petitions
- Conducted a Petitioner's Survey
- Extensive research into PCA categories of Air Pollution and Wastewater Systems
- Questionnaire for WWTF proposers
- MDA and PCA hold animal feedlot stakeholder meetings
- Whole project had a "stakeholder" group, but it was more for communication and not as a working group to reach consensus

2006 October, rule amendments are effective (Phase I)

2007 Continue to work on Phase II rulemaking. Issues are those that were not addressed in Phase I for the following reasons:

- AUAR process (became controversial)
- Shoreland Development Category (not ready)
- Cumulative Effects (waited for court decisions)

Appendix B: Environmental Reform Ideas Not Included in Analysis

Ideas Already Implemented

- Add to the rules specific requirements that when alternatives must be examined, the analysis must cover a standardized list of types of alternatives^{1,2,7,8}
- Add to the rules provisions specifically recognizing the use of “tiered” review where such review is appropriate^{1,2,7}
- Reconsider the definition/application of ‘phased actions’ to animal feedlots and to other types of projects³
- Clarify that ‘plans’ are not ‘projects’ and thus are not subject to environmental review³
- Voluntary extension of EAW process (after comment period) to gather supplemental info.⁴
- Make decisions quickly; Obtain information about other state’s processes to settle time debate⁵
- Revise Mandatory Category Thresholds^{1,2,6,7,8}
- Alternatives in EISs: ⁵
- Revise the way of applying mandatory category thresholds so as to count past project stages as well as the presently proposed stages in order to address cumulative impacts; add EAW question regarding cumulative impacts.^{7,8}
- All projects should provide a short description of the project’s purpose in environmental documents⁸
- Add questions to the EAW form regarding criteria pollutants, stormwater discharge, inconsistencies between state and local plans⁶

Ideas Deemed Impractical, Out of Scope, or No Longer Relevant

- Legis appropriate additional funds for permit review of alternatives at PCA/DNR⁹
- Citizen groups should pursue test cases under MERA and MEPA: pro bono work needed from attorneys⁹
- Create an environmental forecaster to examine future cumulative impacts of a series of developments⁹
- Permitting agencies should consider alternatives whether or not an EIS is required⁹

- State agencies be decisive on decisions of “significant impact” and whether further review is required. Letters ramble and do not give the information needed for decision making.⁵
- Do not use MEPA to clarify the relationships between environmental review and state agency permitting¹
- Separate debate is need on environmental agency consolidation⁵
- Postpone consideration of revising GEIS process until after the Timber Harvest GEIS is completed – use that experience to shape views on the GEIS process itself¹
- ^{In} addition to Monitor, publish notice in newspaper, and other means to get the word out⁶
- EAW form should direct RGUs to MnTAP for toxic related projects for P2 ideas⁶
- PCA had conflicting roles when it come to Solid Waste Facilities and ER⁶

¹ Tech Rep Report on changes to ER 1991

² 1995 Advisory Workgroup (preliminary agreement, never published)

³ “EQB Topics & Issues for Environmental Review Special Advisory Committee to Consider”, 12/17/01

⁴ EQB Analysis of SAC Recommendations, 12/02

⁵ MEI Program Findings and Recommendations 1992

⁶ Citizen Meeting Summary, MPCA 2000

⁷ Concepts for Revision of the Environmental Review Program, EQB 1993

⁸ Unfulfilled Promise, MCEA 1994

⁹ From *Environmental Review: An Unfulfilled Promise*, Dayton and Herman 1990



Publication Date: September 7, 2009
Vol. 33, No. 18

Next Publication: September 21, 2009
Submission Deadline: September 14, 2009

EQB MONITOR

ENVIRONMENTAL ASSESSMENT WORKSHEETS

EAW Comment Deadline: October 7, 2009

Project Title: U.S. Highway 10 Reconstruction and Preliminary Design, City of Anoka, Anoka County.

Description:

The project involves the conservation of Trunk Highway 10 from an expressway to a freeway between western Anoka city limit to the west side of the W. Main Street interchange. As of this time, project funding has not been identified. Right of way acquisition, construction and other project implementation activities will occur as funds become available.

Copies of the EA/EAW, which documents the purpose and need of the project, along with the anticipated social, economic, and environmental impacts, are available for public review beginning September 7th, 2009, at the following locations:

- Mn/DOT Metro District Offices, 1500 West County Road B2, Roseville, MN
- Anoka County Highway Department, 1440 Bunker Lake Boulevard, Andover, MN
- Rum River Library, 4201 6th Avenue, Anoka, MN
- Anoka City Hall, 2015 First Avenue North, Anoka, MN

To afford an opportunity for all interested persons, agencies and groups to comment on the EA/EAW, a public hearing/open house meeting has been scheduled for Tuesday, September 29, 2009 from 6 to 8 PM at Anoka City Hall, 2015 1st Avenue North, Anoka, MN. Individuals with a disability who need a reasonable accommodation to participate in the public meeting, should contact Mn/DOT Project Manager or the Minnesota Relay Service at the telephone numbers listed below.

The *EQB Monitor* is a biweekly publication of the Environmental Quality Board that lists descriptions and deadlines for Environmental Assessment Worksheets, Environmental Impact Statements, and other notices. The *EQB Monitor* is posted on the Environmental Quality board home page at <http://www.eqb.state.mn.us/>.

Upon request, the *EQB Monitor* will be made available in an alternative format, such as Braille, large print, or audio tape. For TTY, contact Minnesota Relay Service at 800-627-3529 and ask for Department of Administration. For information on the *EQB Monitor*, contact:

Minnesota Environmental Quality Board
658 Cedar St., 300 Centennial Office Building
St. Paul, MN 55155-1388
Phone: 651-201-2480
Fax: 651-296-3698
<http://www.eqb.state.mn.us>

The EA/EAW can be made available in alternative formats to individuals with disabilities by calling Mark Lindeberg, Project Manager, at 651-234-7722 or to individuals who are hearing or speech impaired by calling the Minnesota Relay Service at 800-627-3529 or 651-296-9930 TTY.

Copies of the EA/EAW are being distributed to agencies on the current MEQB list and others. The comment period will begin on September 7, 2009. Comments will be accepted through October 9, 2009.

Project Proposer: City of Anoka

RGU: Minnesota Department of Transportation

Contact Person:

Mark Lindeberg, Project Manager
Minnesota Department of Transportation
1500 West County Road B-2
Roseville, MN 55113
Phone: 651-234-7722
Email: mark.lindeberg@dot.state.mn.us

EIS NEED DECISIONS

The responsible governmental unit has determined the following projects do not require preparation of an EIS. The dates given are, respectively, the date of the determination and the date the EAW notice was published in the *EQB Monitor*.

- City of Tower, The Harbor at Tower Project, August 24, 2009 (November 3, 2008)
- Minnesota Department of Natural Resources, UPM Blandin ATV/OHM Trail Project, August 25, 2009 (May 18, 2009)
- Minnesota Pollution Control Agency, Strobel Farms – Jungbloet Site & Buecksler Site, August 31, 2009 (June 29, 2009)

SCOPING DECISION DOCUMENT AND NOTICE OF INTENT TO PREPARE ENVIRONMENTAL IMPACT STATEMENT

Project Title: Zavoral Mine and Restoration Project

Description: The City of Scandia, Minnesota intends to prepare an Environmental Impact Statement (EIS) for the Zavoral Mine and Reclamation Project. The proposed project includes operation of a gravel mine and

processing operation on a dormant, un-reclaimed gravel mine site. The site was mined by multiple operators before it was taken out of production in the 1980's. The previous mining activity was not subject to environmental review. The 114-acre site is located along St. Croix Trail North (State TH 96) near its intersection with State TH 97. A portion of the site is located in the St. Croix River District Zone. The application proposes reclamation activities within the Riverway Zone, and mining and processing activities near the Riverway Zone.

On April 21, 2009, the Scandia City Council approved the Final Scoping Decision Document (SDD) for the Zavoral Mine and Reclamation Project Environmental Impact Statement (EIS). This decision followed the review of the EAW for the proposed project, and the City's declaration of a positive need for an EIS for the project on March 3, 2009. The City prepared the Draft Scoping Decision Document (Draft SDD), and a notice was published in the March 23, 2009 issue of the *EQB Monitor* informing the public of the availability of and public comment period for the Draft SDD under the environmental rules established by the Minnesota Environmental Quality Board (EQB). The City received comments on the Draft SDD at a public meeting held on April 7, 2009.

In addition to describing the project purpose, the Final SDD identifies four project alternatives that will be evaluated in the EIS. (1) The Build Alternative will evaluate Tiller Corporation's proposed operation of aggregate mining, processing and reclamation activities on the site. (2) The No-Build Alternative will evaluate the potential impacts and outcomes if the existing land uses on the Zavoral site were to continue. (3) Alternative #3 will evaluate the impacts of proposed Washing activities on the site, particularly the potential impacts to groundwater and groundwater-dependent resources on the site. (4) Alternative #4 will evaluate the impacts of processing activities at the site and review options for scheduling these activities to avoid times of impacts to recreational use and resources in the area of project impact.

The Final SDD also describes the subjects that will be evaluated in the EIS and the degree to which they will be addressed. It also identifies those subjects that were adequately addressed in the EAW and will not require additional evaluation in the EIS. Key issues that will be evaluated in the EIS include the reclamation plan, potential economic impacts, impacts to fish wildlife and ecologically-sensitive resources, impacts to surface and groundwater resources, potential impacts of traffic and air emissions, odors, noise and dust, visual impacts, and cumulative impacts.

As a result of public comments, some amendments were made to the Draft SDD prior to publication of the Final SDD. The Final SDD and all other documents relating to the EAW and EIS Scoping Process are available on the City's website at: <http://www.ci.Scandia.mn.us>.

RGU: City of Scandia

Contact Person:

Anne Hurlburt,
City Administrator
14727 209th Street North
Scandia, MN 55073-8503
Phone: (651) 433-2274
Email: a.hurburt@ci.scandia.mn.us

NOTICE OF AVAILABILITY OF FINAL STATE ENVIRONMENTAL IMPACT STATEMENT AND NOTICE OF FAA APPROVAL

NOTICE IS HEREBY GIVEN that the City of New Ulm has completed a State Final Environmental Impact Statement (EIS) for a proposal to extend Runway 15/33, relocate and extend the crosswind runway, and associated improvements at the New Ulm Municipal Airport in New Ulm, MN.

The proposed project includes:

- Extending Runway 15/33 and parallel taxiway approximately 1000 feet to an overall length of 5,400 feet
- Decommissioning, relocating, and extending existing crosswind runway 4/22 to a 9/27 orientation from 2,477 feet to an overall length of 3,000 feet
- Installing Medium Intensity Approach Lighting System with Sequenced Flashing Lights
- Acquiring 90.7 acres in fee simple and 63.2 acres in aviation easements

The EIS responds to timely substantive comments on the Draft EIS, which was made available for public review and comment from April 6, 2009 to May 24, 2009. The EIS document was prepared to also meet Federal Environmental Assessment (EA) requirements.

NOTICE IS HEREBY GIVEN that the Federal Aviation Administration (FAA) has announced an approved Finding of No Significant Impact (FONSI) for the above airport improvements. The FONSI indicates the project is consistent with existing environmental policies and objectives as set forth in the National Environmental Policy Act of 1969 and will not significantly affect the quality of the human environment.

In accordance with current Council on Environmental Quality, copies of the FONSI and supporting documentation (the Final Federal EA and State EIS) will be available for review at the following locations during regular business hours through September 23, 2009: Federal Aviation Administration, Airports District Office, 6020 28th Ave S, Room 102, Minneapolis, MN; Minnesota Department of Transportation, Office of Aeronautics, 222 E. Plato Blvd, St. Paul, MN; City Engineering at City of New Ulm, 100 North Broadway, New Ulm, MN 56073; and the New Ulm Public Library, 17 N Broadway St, New Ulm, MN.

Comments on the Final EIS will be accepted by the City through September 23, 2009. Following the close of the Final EIS comment period, the City of New Ulm, as the Responsible Government Unit, will then make a determination of the adequacy of the EIS.

Contact Person:

Ms. Kandice Krull, Environmental Protection Specialist
Federal Aviation Administration
Airports District Office
6020 28th Avenue South, Rm 102
Minneapolis, MN 55450-2706

EIS ADEQUACY DECISION

Project Title: Central Corridor Light Rail Transit System

Description: As the Responsible Governmental Unit for the Central Corridor Light Rail Transit project, the Metropolitan Council has determined that the Final Environmental Impact Statement (FEIS) prepared for the proposed project is adequate under Minnesota law.

As described in Minnesota Rules 4410.2800, subpart 4, an FEIS shall be determined adequate if it:

- A. Addresses the potentially significant issues and alternatives raised in scoping so that all significant issues for which information can be reasonably obtained have been analyzed in conformance with part 4410.2300, items G and H;
- B. Provides responses to the substantive comments received during the Draft EIS review concerning issues in scoping; and
- C. Was prepared in compliance with the procedures of the act and part 4410.0200 to 4410.6500.

All conditions specified above have been satisfied. Copies of the Adequacy Determination are being distributed pursuant to Minnesota Rules 4410.2800 Subp. 6.

U. S. Department of Veterans Affairs

Veterans Affairs (VA) Medical Center Parking Lot #43 and Road Upgrade VAMC, Minneapolis, Minnesota

NOTICE OF AVAILABILITY FINDING OF NO SIGNIFICANT IMPACT

The U. S. Department of Veterans Affairs (VA) announces the preparation and availability of a document titled "Finding of No Significant Impact" (FONSI) for the proposed construction associated with the Veterans Affairs Medical Center Parking Lot #43 and Road Upgrade Project at the VA Medical Center, Minneapolis, Minnesota. The FONSI has been prepared as a result of an Environmental Assessment accomplished in accordance with the regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA), Section 1508.13.

For further information and /or a copy of the FONSI or Environmental Assessment, please contact the Minneapolis Veterans Affairs Medical Center; Mr. Allyn Mogil, Engineering Technician; Engineering Service (138); One Veterans Drive, BR-145; Minneapolis, MN 55417; 612-467-2650.

NOTICES

Minnesota Department of Agriculture

Notification of Releases of Genetically Engineered Organisms

File Number	Company	Crop	Project	County
09-NO-081	Syngenta	Corn	Herbicide Tolerance	Goodhue
09-NO-082	Syngenta	Corn	Herbicide Tolerance	Goodhue
09-NO-083	Syngenta	Corn	Insect Resistance	Goodhue
09-NO-084	Syngenta	Corn	Insect Resistance	Goodhue
09-NO-085	Syngenta	Corn	Herbicide Tolerance	Goodhue

For more information contact Mary Hanks, Minnesota Department of Agriculture, 625 Robert St N., St.Paul, MN 55155, 651/201-6277, mary.hanks@state.mn.us.

Minnesota Pollution Control Agency

Public Information Meeting on Environmental Review Process

The Minnesota Pollution Control Agency (MPCA) was charged in the 2009 legislative session with preparing an Environmental Review Streamlining Report to the Legislature.

From H.F. 2123

Sec. 65. **ENVIRONMENTAL REVIEW STREAMLINING REPORT.**

By February 15, 2010, the commissioner of the Pollution Control Agency, in consultation with staff from the Environmental Quality Board, shall submit a report to the environment and natural resources policy and finance committees of the house and senate on options to streamline the environmental review process under Minnesota Statutes, chapter 116D. In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process. The report shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards.

As part of preparing this report, the MPCA will hold a Public Information Meeting to share data and solicit ideas for streamlining the environmental review process while also maintaining or improving environmental quality. The meeting will take place on September 29, 2009, from 9:00 a.m. to 12:00 p.m. at the MPCA's central office, 520 Lafayette Road North, St. Paul.

This meeting is an opportunity to share information that the MPCA and other state agencies have gathered in order to prepare this report. Participants may also present and discuss their own ideas that would streamline the environmental review process while also maintaining or improving environmental quality. The purpose of the meeting is to share information and ideas. The meeting is not for the purpose of taking public testimony, i.e.

there will not be written or recorded documentation of the discussion. Participants are encouraged to submit their ideas in writing. Only written submissions will be included in the report. Written comments may be submitted at the meeting or until October 14, 2009. All written comments received will be included, at a minimum, in an appendix to the report. Attendance at the meeting is not a prerequisite to submit comments. Anyone wishing to submit ideas in writing is encouraged to do so by October 14, 2009.

The preliminary agenda for the meeting is:

1. Introductions – purpose of the meeting
2. History of changes to Environmental Review programs and streamlining procedures already implemented
3. Suggestions from past studies and workgroups
4. Identified delays in the process
5. Data on environmental review for the last two fiscal years
6. Opportunity for informal discussion
7. Adjourn

The MPCA is requesting people interested in attending this meeting to call or email Susan Heffron, 651-757-2417 susan.heffron@state.mn.us, Craig Affeldt, 651-757-2181 craig.affeldt@state.mn.us, or Joe Henderson, 651-757-2424 joe.henderson@state.mn.us. Materials may be sent out to respondents ahead of time. Other questions about this meeting, please also contact Susan Heffron, Craig Affeldt, or Joe Henderson.

Minnesota Department of Natural Resources

RECLAMATION PROJECTS PLANNED FOR LAKES - DNR DIVISION OF FISH & WILDLIFE

The DNR Division of Fish & Wildlife is planning two lakes and up to five walleye rearing pond reclamation projects this fall. The projects involve the application of rotenone or antimycin, federal and state registered pesticides, to eliminate or reduce less desirable fish species. Following treatment ponds will be stocked with walleye fry. Endangered or threatened species are not present in any of the lakes or ponds. Project goals include improved fish habitat, expanded angling opportunities, and increased walleye fingerling production. Specifics regarding the projects are as follows:

Snowshoe Lake, Cass County. This lake has been managed for stream trout since 1959 after being reclaimed for trout management in 1958. A recent unwanted yellow perch introduction has negatively impacted the brook trout fishery. Rotenone distribution will be done by boat during the fall. Lakewide target concentration is 3 ppm. Following treatment, the lake will again be stocked with brook trout. Comments or questions on this project should be addressed to Tim Brastrup, Area Fisheries Supervisor, 1601 Minnesota Drive, Brainerd, MN 55401

Pavelgrite Lake, Cass County. This is a shallow lake immediately adjacent to Snowshoe Lake. During lake surveys in 1984 and 1987, yellow perch, golden shiner, fathead minnow, and northern redbelly dace were the only fish captured. Pavelgrite will be reclaimed at the same time as Snowshoe Lake in order to prevent reintroduction of unwanted fish species. Rotenone distribution will be done by boat during the fall. Lakewide target concentration is 3 ppm. Comments or questions on this project should be addressed to Tim Brastrup, Area Fisheries Supervisor, 1601 Minnesota Drive, Brainerd, MN

Walleye rearing pond reclamations. Up to four ponds are proposed to be treated in the fall for the purpose of removing existing bullhead or other unwanted fish populations. This alteration will allow the ponds to be used for raising walleye fingerlings, which will later be stocked into local fishing lakes. Rotenone will be used with a target concentration of 3.5 ppm.

Lake Name	County	Township	Range	Section
Long (DOW 82-68)	Washington	32N	20W	27
Jellums Pond (DOW 82-52-02)	Washington	32N	20W	34
Carey Pond (DOW 17-0049)	Cottonwood	106N	38W	24,25
Fish (DOW 82-64)	Washington	32N	20W	28

For general information about any of these projects, contact John Hiebert, Warmwater Habitat Consultant, Box 20, 500 Lafayette Road, St. Paul, MN 55155.

STATE OF MINNESOTA
Office of Energy Security
NOTICE OF DRAFT PERMIT
AND
PUBLIC INFORMATION MEETING

In the Matter of the Sparks Energy, LLC, and Medin Renewable Energy, LLC, Application for a Large Wind Energy Conversion System Site Permit for the Greenvale Wind Farm in Dakota County

LWECS Site Permit Application
PUC Docket Numbers: IP 6819, 6829/WS-09-722

PLEASE TAKE NOTICE that the Minnesota Office of Energy Security Energy Facilities Permitting (EFP) staff will hold a public information on the application by Sparks Energy, LLC, and Medin Renewable Energy, LLC, (Applicants) to the Minnesota Public Utilities Commission (Commission) for a Site Permit for a Large Wind Energy Conversion System (LWECS) of approximately 11 megawatts (MW) to be located in Dakota County (Project).

PUBLIC INFORMATION MEETING
Tuesday, September 22, 2009 – 7:00 p.m.
at
Greenvale Town Hall
31800 Guam Avenue
Northfield, MN

Preceded by an open house from 6:30 to 7:00 pm hosted by the Applicant

The purpose of the public meeting is to provide information about the proposed Project and to take public comment and input on the Sparks Energy and Medin Renewable Energy site permit application and the draft site permit issued by the Commission. EFP staff will provide an overview of the state's wind energy site permitting process and the draft site permit. Representatives from the Applicants will be present to answer questions about the Project.

Prior to the public information meeting, the Applicant will host an open house beginning at 6:30 p.m., at the same location.

Project Description

The Project would consist of up to 11 turbines, along with associated turbine access roads and underground electric collector lines. The Applicants propose to use an existing barn to house an operations and maintenance facility for the Project. Each turbine would be approximately 230 feet high (70 meters) and generate approximately 1 megawatt (MW)

The Project will not interconnect to the transmission system, but will, instead, be connected to the Dakota Electric distribution system through an underground 12.5 kV feeder line.

The Applicant anticipates that the Project will ultimately require between 10 and 15 acres for all the facilities. The Applicant expects to begin construction on the Project in late 2009 or early 2010 and to place it in operation in early 2010.

Project Review Process

Sparks Energy and Medin Renewable Energy filed an LWECS Site Permit Application with the Commission on July 6, 2009. The Commission accepted this application on August 4, 2009, and approved the issuance of a draft Site Permit on August 25, 2009. The application and draft site permit are available from the web site and contacts listed below. Landowners and governments within the site boundary have received an application directly from the Applicant.

The EFP staff is responsible for the public participation process for the Site Permit Application, and is now initiating the public participation process under the Wind Siting Act (Minnesota Statutes Chapter 216F) and the Wind Permitting Rules (Minnesota Rules Chapter 7836). Upon completion of the public participation process, the EFP staff will present the record of this matter to the Commission for a final permit decision.

Public Comments

Interested persons may comment orally at the public meeting on the application and the draft site permit and on the Project generally. In addition, written comments may also be submitted to the Office of Energy Security by the close of business (**4:30 p.m.**) on **October 7, 2009**. Written comments may be submitted by mail, fax, email, or directly on line at the PUC website maintained for this project (see below). Please include the project docket number (**IP 6819, 6820/WS-09-722**) on all written comments. All comments should be directed to Suzanne Steinhauer at the address below.

Contested Case Hearing Request

Any person may request a more formal contested case hearing on the site permit proceeding for the LWECS pursuant to Minnesota Rules part 7836.0900. All contested case hearing requests must be filed with Ms. Steinhauer in writing by 4:30 p.m. on October 7, 2009. The person requesting the contested case hearing must list the issues sought to be addressed in the hearing and the reason why a contested case hearing is required to resolve those issues.

The Commission shall order a contested case hearing if it finds that a material issue of fact has been raised and that the holding of the contested case hearing will aid it in making a final decision on whether to authorize construction of the Project. Upon completion of the public participation and hearing process, the record created will be presented to the Commission for final decisions on the Applications.

Eminent Domain for Sparks Energy, LLC, and Medin Renewable Energy, LLC

The Applicants do not have the power of eminent domain to acquire the land or wind rights for the Project. Wind and land rights necessary to build the facility must be in the form of voluntary easements or lease agreements between individual landowners and the Applicant(s).

Project Contacts and Information

For more information about the process, the Project or to place your name on the Project mailing list, contact the persons listed below. Other contact information: Toll-Free Tel: 1-800-657-3794, Fax: 651-297-7891 or TTY: Minnesota Relay Service, 800-627-3529, and ask for the DOC.

OES Project Manager
Suzanne Steinhauer
651-296-2888
suzanne.steinhauer@state.mn.us

OES Public Advisor
Deborah Pile
651-297-2375
deborah.pile@state.mn.us

Minnesota Office of Energy Security
85 7th Place E., Suite 500
St. Paul, Minnesota 55101-2198

The site permit application, draft site permit, and links to other OES guidance documents and agency rules guiding the review process are available on the PUC Energy Facilities Permitting Project website at:

<http://energyfacilities.puc.state.mn.us/Docket.html?Id=24613>

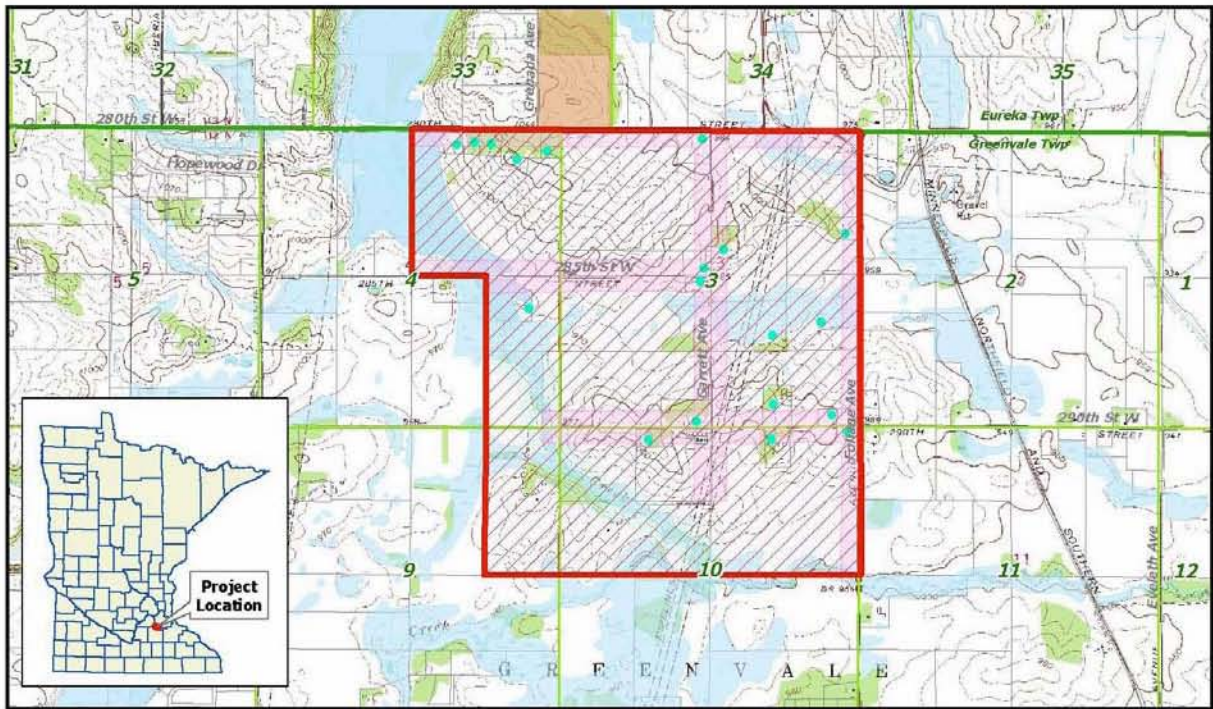
or on eDockets by entering “09” and “722” at:

<https://www.edockets.state.mn.us/EFiling/search.jsp>

The site permit application and draft site permit are also available for review at the Farmington branch of the Dakota County Library and the Northfield Public Library. Landowners and governments inside the LWECs Project boundary have been mailed a copy of the Site Permit Application directly from the Applicant.

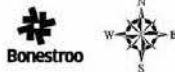
Persons interested in adding their names to the project mailing list should contact the OES project manager or public advisor, or register online at the above PUC site.

Questions about the Project and site permit application can also be directed to Sparks Energy by contacting Anna Schmalzbauer at (612) 232-3207, or anna@sparksenergy.net; or to Medin Renewable Energy by contacting Leone Medin at (612)701-9283, or lmedin@ix.netcom.com.



2008 Dakota County Aerial

EXHIBIT 2



7/20/2009
Study Area = 1,265 Acres

**MEDIN RENEWABLE ENERGY LLC
SPARKS ENERGY, LLC
GREENVALE WIND FARM
Dakota County, Minnesota**



Data Provided by: Bonestroo, MN/DNR, USGS Dakota County
1:\4820\48200000\0\GIS\Projects\Map2.mxd

Legend

- Home Location
- Study Area
- 250' ROW Buffer
- County Boundary
- Township
- 21 Sections
- WMA Boundary
- Wetland & Waterbody
- PWA Watercourse
- 300' Chubb Creek Buffer

Attachment 3

List of Stakeholder Organizations that were sent email notification of the September 29, 2009, Public Information Meeting

Association of Minnesota Counties
Association of Minnesota Townships
Builders Association of the Twin Cities
City of Bloomington
Clean Water Action
Iron Mining Association of MN
Izaak Walton League
Land Stewardship Project
League of Minnesota Cities
MCEA
Metropolitan Council
Mining Minnesota
Minnesota Association of Watershed Districts
Minnesota Chamber of Commerce
Minnesota Environmental Partnership
Minnesota Lakes Association
Minnesota Milk Producers
Minnesota Pork Producers
Minnesota Project
Peters and Peters Law Firm
Sierra Club

Consultants representing the following companies:

Bonestroo
Kimley-Horn
SEH, Inc
SRF
Wenck
Westwood

Introduction & Purpose

Beth Lockwood



Housekeeping

- Introductions
- Handouts
 - PowerPoint presentation
 - Form for submitting streamlining suggestions (optional)
 - EQB Technical Representatives' Report (2007)

Agenda

1. Introductions & purpose
2. History of reforms
3. Streamlining examples
4. Causes of delays
5. Wrap up

Legislation

H.F. Sec 2123 Sec. 65. ENVIRONMENTAL REVIEW STREAMLING REPORT

- "By February 15, 2010, the commissioner of the Pollution Control Agency, in consultation with staff from the Environmental Quality Board, shall submit a report to the environment and natural resources policy and finance committees of the house and senate on options to streamline the environmental review process under Minnesota Statutes, chapter 116D.
- In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process.
- The report shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards."

- MPCA in consultation with EQB prepare report to Legislature.
- Consult with interested stakeholders.
- Include options to reduce time and cost while maintaining or improving the environment.

Report: Steps to date

1. **Meeting** with EQB, DNR, MNDOT, and Tech Reps
2. **Gathered** historical reports/data/statistics
3. **September 7, 2009** – public notice of meeting and request for input in EQB Monitor
4. **September 28, 2009** – EQB board information item
5. **September 29, 2009** – public informational meeting

Projects by RGU (2008-2009)

City
County
MPCA
MnDOT
DNR
Watershed District
Township
Others

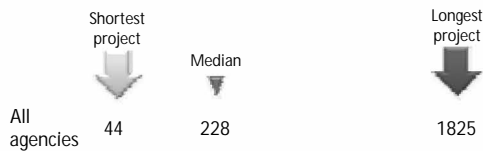
- Multiple RGUs
- 99 Total RGUs (3 state agencies; 96 non-state)
- 208 projects in this time period
- City and County conducted 55%
- MPCA conducted just under 25%
- State agencies combined conducted 35%

2008-09 EAWs

70% of projects	30% of projects
40 Highway projects (inc. federal)	8 Transmission lines
25 Feedlots	8 Mixed use
18 Commercial property	6 Campgrounds
18 Nonmetallic mining	5 Recreational trails
18 Residential development	5 Fuel conversion
16 Public waters	4 Streams and ditches
12 WW treatment facilities	4 Airports
	4 Landfills
	3 Marinas
	14 Everything else (mostly single project types)

- The majority of EAW projects are not considered "traditional, big industrial projects" such as ethanol, mining
- The majority of the EAWs are: highway, feedlots, residential/commercial development, wastewater treatment plants
- Ethanol: Fuel conversion category

Cycle time



For all agencies, the shortest cycle time was 44 days and the longest, 1825. What is more telling is the median: 228 days. This means one-half of the projects were completed before the median - 7 1/2 months; one-half the projects were completed after.

Agenda

1. Introductions & purpose
2. History of reforms
3. Streamlining examples
4. Causes of delays
5. Wrap up

History of Reforms

Gregg Downing
Jon Larsen

History of revisions

Original rules:
EQB does all
review &
makes all
decisions

1974	1977	1980	1982
	Partial decentralization; EQB still appeal body	Statutory amendments	Rule amendments – major overhaul to streamline process

History of revisions

1980 statutory/
1982 rule
streamlining:

1980/1982	1986	1988
	Minor amendments	Many improvements to rules; creation of AUAR process

- EQB no longer appeal body
- Mandatory EIS categories
- Petitions only for EAW (not EIS)
- Provided for substitute forms of review

History of revisions

1995	1997	1999	2003
Failed statutory amendments	Many improvements to rules; allowed substitution of federal EA for EAW	Feedlots: eliminated connected actions, revised thresholds	Legislature eliminated most discretionary review of feedlots

History of revisions

2005	2006	2009
Recreational trails mandatory EAW & exemption categories added	Many improvements to rules; several EAW thresholds raised or eliminated	Pending rule amendments; various clarifications

Other streamlining

- Alternative review (4410.3600: MnDOT, Dept. of Military Affairs, pipeline routing process, tiered review during Dual-Track Airport Siting Process)
- Energy facility siting alternative review (by rule: power plants, transmission lines, wind)
- Transfer of energy facility siting authority to Public Utilities Commission

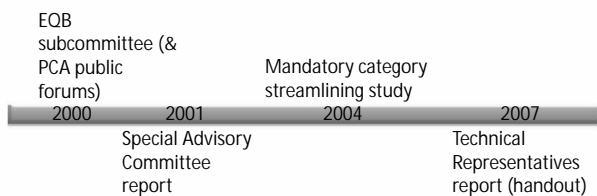
Other streamlining

- Joint state-federal review
- GEIS
 (forestry, animal agriculture, Red River basin water resource projects)
- Revisions to EAW form
- Custom feedlot EAW form (1999)

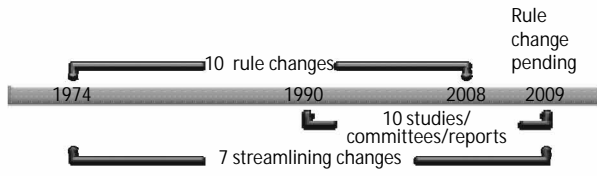
Reform studies/committees/reports (since 1990)



Reform studies/committees/reports (since 1990)



Summary



Example Streamlining Ideas Past and Present

Jess Richards



Streamlining ideas

1. Undo decision link between EAW and EIS
2. Customize EAW forms to specific sectors
3. Early public engagement
4. Eliminate duplication between environmental review and permitting
5. Green-streamlining for existing facilities

Undo the decision link between EAW and EIS

EAW is a stand-alone information document	Considerations
<ul style="list-style-type: none"> ▪ Studies environmental impacts / mitigation ▪ Regulatory framework ▪ Cannot lead to an EIS 	<ul style="list-style-type: none"> ▪ Requires legislation ▪ Alleviates economic fear of EIS ▪ EIS thresholds may be too high

As you have heard, there have been numerous studies over the years to generate streamlining ideas. In response to the legislature's requirement that we prepare more options, the MPCA has reviewed all of the past studies and has conducted some limited brainstorming on additional options.

I will briefly discuss 5 examples of options that may streamline the Environmental Review process. These are presented as examples to facilitate our later discussion, and to generate more ideas, however the MPCA is not really advocating for any of these options. Each of these examples has numerous pro's and con's which cannot possibly all be discussed in this presentation.

This option would be to use the EAW as only an information tool. The EAW would provide consolidated information to the public and be used to inform permitting. In this scenario an EAW would look at the impacts, the regulatory framework and possible mitigation, but there would not be a determination made on whether there is a significant potential for environmental effect. Similar to an EIS, the only decision would be whether the EAW is adequate. Under this option and EAW could no longer lead to an EIS. Only the mandatory EIS thresholds would lead to preparation of an EIS.

Considerations: Requires legislation

Pro - Alleviates economic fear of EIS: Time and Money.

Con - Current EIS thresholds may be too high and may require changes (some projects that should have an EIS due to site specific conditions - won't).

Con - More information in EAW may trigger a longer EAW process to ensure information is complete.

Additional key consideration: while public comments could lead to collecting more information for a permit, it could not lead to the preparation of an EIS.

Environmental Review Streamlining

Part III: Example Streamlining Ideas Past and Present

Customize EAW forms to sectors

Reasoning	Considerations
<ul style="list-style-type: none"> Not one-size-fits-all Predetermines key sector 	<ul style="list-style-type: none"> No legislation Focuses on key issues



Currently the majority of EAW projects follow a one-size-fits-all approach by using the same EAW worksheet which covers all possible environmental scenarios. A possible streamlining option would be to create customized sector specific forms. These forms would be designed to ask sector specific questions to focus on the key environmental issues for that sector. This could streamline the overall review of those projects.

This is currently in place for feedlot EAWs. For example, this form focuses on the number of animal units and manure handling.

Other possible sectors that may benefit from this could include WWTF, residential development, and sand and gravel operations

Considerations: Can be done without legislation or rule changes – can be approved by the EQB chair.

Focuses attention on key issues for that sector.

Early public engagement

Options	Considerations
<ol style="list-style-type: none"> RGU: early public meeting Proposer: early public meeting Public communication plan 	<ul style="list-style-type: none"> May require legislation or rule change More time upfront Alleviate concerns Allows proposer to adapt to issues



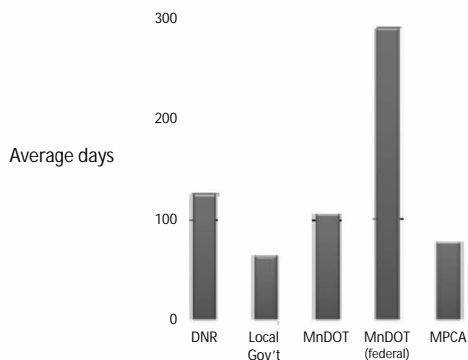
In our experience, the projects that receive the most public support (or least opposition) will ultimately have a more streamlined ER process. We have experienced many situations where the public simply feels that there has not been adequate information available for a long enough time. This can lead to long delays in the final stages of a project.

One idea to streamline the process as a whole could be to spend more time on the front end of a project to engage the public early in the process.

Three examples of how this could be done include: 1) Require RGU to hold an early public meeting to provide information on the project and the process. 2) Require proposer to hold an early public meeting to provide information and answer questions about the proposal. 3) Require the proposer to develop a public communications plan as part of the project submittal.

Considerations: Each of these options may require legislation or rule changes at a minimum. May add time and resources on the front end. May alleviate concerns and facilitate understanding early in the process. If issues are raised early it allows proposer to adapt early and modify the project to meet the citizens needs.

Time between EQB notice and decision

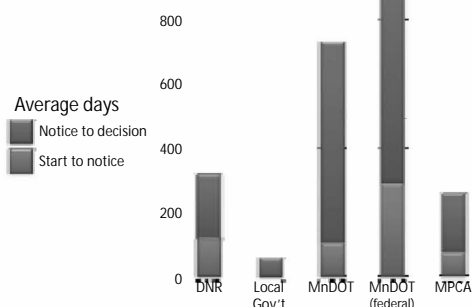


The bar graph displays the average time between placing an EAW in the EQB monitor and the ultimate decision on the project per RGU type. It is important to note that the majority of EAW's conducted by the DNR and MnDOT are related to specific DNR and MnDOT activities such as parks and trails and highway projects. In these cases they are both the RGU and the proposer so it may not fall within the traditional streamlining discussions. The MnDOT start dates includes time to develop the project concept.

Environmental Review Streamlining

Part III: Example Streamlining Ideas Past and Present

Time from *start* to decision



This graph denotes the average process time from the start of the project through the decision. Note that the Local Government bar does not contain process time from the Start to the notice of the project. Data does not exist for this portion of the projects where Local Government is the RGU. You can see by this graph that the majority of the process time occurs after the project is placed on public notice in the EQB monitor. It is possible that requiring early public engagement could help streamline the notice to decision time overall if it were to minimize public questions or concerns.

Eliminate duplication between environmental review and permitting

Options	Considerations
<ol style="list-style-type: none"> 1. Pre-screen EAW's 2. Replace narrative with links to permit 3. Limit decision items 	<ul style="list-style-type: none"> ▪ Limited review ▪ Limited decision ▪ Public access to information ▪ Requires legislation



Currently there are a number of areas in Environmental Review that overlap with the permitting process. This is particularly true in areas such as air risk/modeling, wastewater discharge, and stormwater management. In a revised set of statutes the state could keep most of the mandatory Environmental Review categories but change the focus to only cover issues that are not already covered in a state permit. This concept has been raised in the past. There are three implementation options that could be considered: 1) Pre-screening of EAW projects: - Essentially this would use a checklist or some method to analyze which issues are covered by the permit process. If the checklist determines that these issues are covered in permitting then they would not be included in the EAW.

Considerations:

- Project Review and decisions on the EAW would be limited to those items not covered in a permit.
- Steps would need to be taken to ensure the public has access to all information if it wouldn't all be in the EAW.
- This would require statutory change.

Eliminate duplication between environmental review and permitting

Options	Considerations
<ol style="list-style-type: none"> 1. Pre-screen EAW's 2. Replace EAW narrative with links to permit 3. Replace narrative with links and limit decision 	<ul style="list-style-type: none"> ▪ Same worksheet ▪ Same decisions ▪ No legislation/guidance required



2) A second option would be to replace the EAW narrative sections with links to permit documents rather than new language for the EAW. This could save some time in the drafting of the EAW.

Considerations:

- This would utilize the same EAW worksheet, but simply have less narrative and more reference to other documents
- The items subject to decision on "significant environmental effect" would be the same as now
- No statutory changes would be required, however rule and or guidance changes may be necessary to implement
- Again providing public access to all of the information is a key issue

Environmental Review Streamlining

Part III: Example Streamlining Ideas Past and Present

Eliminate duplication between environmental review and permitting

Options	Considerations
<ol style="list-style-type: none"> 1. Pre-screen EAW's 2. Replace EAW narrative with links to permit 3. Replace narrative with links and limit decision 	<ul style="list-style-type: none"> ▪ Same worksheet ▪ Permit = no decision on impact ▪ Requires legislation



3) The third option is similar to #2 in that it would replace narratives, with links to permits. The difference is that any items that are covered by a permit would not be subject to a decision on significant potential for environmental effects. The information would still exist in the EAW, but the decision point would not.

Considerations:

- Would utilize the same worksheet
- Would limit the scope of the decisions
- Fewer opportunities for public input on permit related issues. Depending on your perspective this can be a good or a bad thing.
- This option would require statutory change

Eliminate duplication between environmental review and permitting



The most common argument that the MPCA hears regarding duplication between environmental review and permitting is that permits are much different today than they were when MEPA was enacted. This slide illustrates just the federal EPA regulations that must be considered when preparing a permit. While it is clear that permits have changed significantly over the years, so has the complexity of environmental issues that are covered by ER document. This option has many pro's and con's that would likely lead to some lively debate regarding the purpose of ER vs. the purpose of permits if it were ever to move forward.

Green-streamlining for existing facilities

Options	Considerations
<ol style="list-style-type: none"> 1. Green off-ramp from Environmental Review 2. New process for green expansions 	<ul style="list-style-type: none"> ▪ Incentive for improvement! ▪ Focus on key issues ▪ Public input ▪ Difficult to design ▪ Requires statute or rule change



Over the past few years the idea of a "Green Economy" or "Green Jobs" has gained much momentum. While the environmental review rules do provide certain exemptions, there is not a direct link to streamlining for green improvement to existing facilities. This green streamlining might be accomplished through 2 implementation options:

1) Language could be added to the rules that provides an incentive for existing facilities to design projects that further the environmental improvement goals of the state without triggering environmental review. In this scenario an existing facility may be allowed to expand beyond environmental review thresholds, without actually conducting environmental review, if it takes limits or makes other changes that are environmentally beneficial. 2) Rather than an off ramp, criteria could be developed at a state level to determine which type of projects hold the greatest potential for environmental improvement and thus a prioritized and streamlined environmental review process. In this scenario criteria would be written to ensure that the expansion project is reducing the overall environmental impact compared to the current conditions. While these projects would undergo some environmental review, it would only be designed for key issues that are not already covered by permitting and/or result in an increase in pollution. This scenario would require that the proposer take limits to ensure all other environmental impacts the same or reduced from the current levels.

Environmental Review Streamlining

Part III: Example Streamlining Ideas Past and Present

Considerations:

- Both provide an economic incentive for environmental improvement
- Focus would be on the key environmental issues
- An off ramp may limit public input on a project
- It would be difficult to create and implement a screening process to ensure fair application of the off ramp or streamlining
- Both may require changes to the statute or rules at a minimum

Streamlining summary

- Undo decision link between EAW and EIS
- Customize EAW forms to specific sectors
- Early public engagement
- Eliminate duplication between environmental review and permitting
- Green-streamlining for existing facilities

1

Common Causes of Delays

Jess Richards



2

Delays

1. Responsible Governmental Unit (RGU)
2. Project proposer
3. Due to level of public involvement

Delays can occur for a variety of reasons during the course of a project. We will briefly discuss some common reasons for delay at the RGU, by the project proposer, or due to the level of public interest in a project. These are the areas that can create the most variability in the review process. These areas may provide us with additional opportunities for streamlining beyond statute or rule changes.

3

Delays at the RGU

- Multiple RGU's: experience
- Competing priorities
- Disagreements with proposer

Multiple RGU's: Between 2008 and 2009 there were 99 different RGU's that processed one or more EAW's . While some organizations routinely process EAW's, many are doing one a year at most or possibly even their first one. Inherently this can lead to a slower process as new RGU's navigate their way through the EAW process.

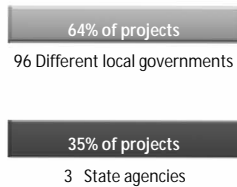
Competing priorities: This can occur on many levels. Many RGU's do not have staff dedicated to conducting Environmental Review and therefore they must prioritize the ER work with the other commitments. For example the ER staff in a county may also be the solid waste officer and a zoning official. They wear

multiple hats. There are also competing priorities for staff resources at the state level. Staff time on EAW and permitting projects must be prioritized and there will always be some projects that are not immediately processed because other projects take a higher priority.

Disagreements with proposer: This can be a major source of delay to a project. This happens when the RGU and proposer disagree on the interpretation of a rule or standard or on the level at which an issue needs to be addressed in the ER document. Example: single source for air permit

4


2008-09 - 99 RGU's



5

Delays by the project proposer

- Project is not clearly defined
- Starts and Stops: Responsiveness
- Poor public engagement

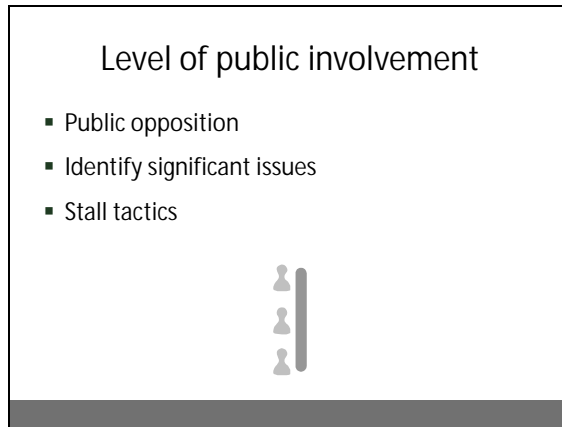


Project is not clearly defined: It is a common occurrence, in the MPCA's experience, that a project proposer has not thoroughly researched or defined the extent of their project. Proposers will often choose the location of the project based on important economic factors such as rail access or proximity to customers, however, they may not consider important environmental factors that affect the bottom line during environmental review. One example of this is site that need groundwater for their process and the fact that the quality of the groundwater varies greatly across the state.

Starts and Stops: Responsiveness Down time may be one of the single largest causes for delay in a project. For a project to keep moving both the RGU and the proposer must ensure that they are responsive to questions and data needs. Multiple starts and stops can add weeks or months of delay as proposers collect data, make decisions on options, or redesign the project entirely. Multiple starts and stops can also occur due to a lack of proper funding for the project by the proposer.

Poor public engagement: This is another factor that cannot be overstated. While some projects will always receive public opposition, it has been our experience that the proposers which engage the public early, are transparent with information, and build strong support in their communities, will usually experience a quicker ER process in the long run.

6

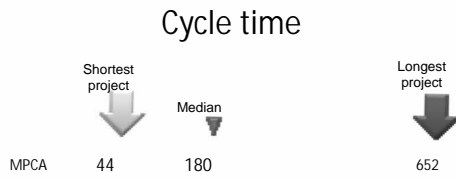


Public opposition: This can range from a few individuals to organized opposition groups. Some projects receive very little public interest and the result is a shorter process overall. Others receive extensive public opposition ranging from concerned neighbors to formally organized opposition groups. When there is significant public opposition the project will take longer. Opposition usually results in significant numbers of comments which must be addressed and can also lead to litigation over the project.

Identify significant issues: Public comments on a project have the potential to identify significant environmental issues that have not been addressed in the ER document. If this occurs, it will lead to a delay because the RGU and proposer will need to collect and analyze data and information regarding the issue prior to making a decision on the environmental effects. Example: An energy project in NW MN. Some members of the public and the USFWS identified an issue regarding a specific wetland which had not been studied. This is the point of public comments, but early public engagement may have resolved it sooner.

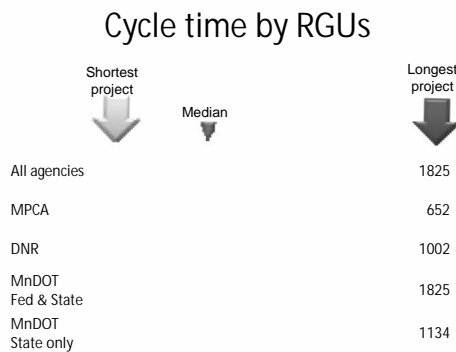
Stall tactics: The vast majority of public input is geared toward helping the process and obtaining information. However, there will always be instances where the NIMBY approach takes effect. In these cases the public may use the ER process to create delays and to stall the RGU's decision making process. In these cases, no answer by the proposer or RGU is adequate in their eyes and they will use all possible options to slow or stop the project. This situation can cause significant delay. This situation can sometimes be mitigated by a strong public engagement effort by the proposer.

7



Describe chart. Median – range. The standard process at the MPCA takes 6 months. This is consistent with the message we relay to all new proposers. Clearly there is variability and it is likely that that variability is caused by one of the 3 factors for delay that were just discussed.

8



Note the median number of days. Half of all projects are completed by the median!

9

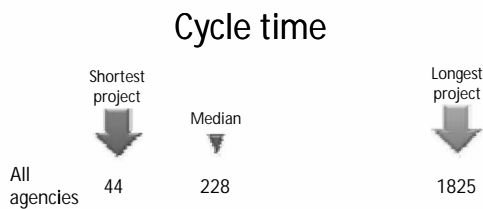
Summary

1. Delays at the RGU
2. Delays by project proposer
3. Level of public involvement

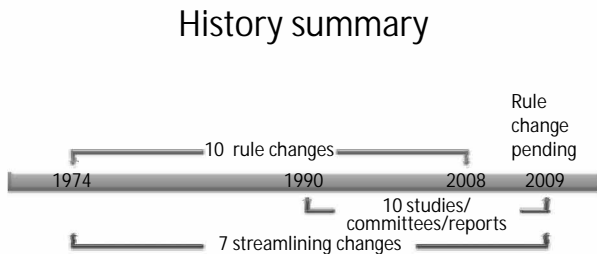
By focusing on these areas of delay we all may be able to minimize the variability in the process and achieve a more engaged public and predictable process in the end.

Informal Discussion & Wrap-up

Beth Lockwood



Reminder: this slide depicts cycle time for EAWs in state agencies only (DNR, PCA, & MnDOT)
The median: 228 days (1/2 projects completed before; 1/2 completed after)
Clearly there is variability and it is likely that the variability is caused by one of the 3 factors for delay that have been discussed



Env. Review Program has undergone numerous program improvement efforts over the years:
10 rule changes
10 streamlining studies/committees/Governor Task Forces/reports
7 streamlining changes

Streamlining ideas summary

- Undo decision link between EAW and EIS
- Customize EAW forms to specific sectors
- Employ early public engagement
- Eliminate duplication between environmental review and permitting
- Utilize green-streamlining for existing facilities

Cause of delays summary

1. Delays at the RGU
2. Delays by project proposer
3. Delays due to level of public involvement

1. Multiple RGUs – seldom do EAWs
Competing priorities/multiple hats
2. Project not well defined
Starts and stops
Poor public involvement
3. Opposition to the project for many reasons
Identification of important issues late in process –
easier to deal with earlier

Environmental review process summary

Not bad

BUT

We continue working to improve!

Report: Next steps

- **October 14, 2009** – written options due
- **Incorporate written options** into report appendix (*at a minimum*)
- **Finalize report** by mid-November
- **November, 2009** –EQB Board information item

Informal discussion (Facilitator: Ralph Pribble)

- Discussion among stakeholders (*not Q&A to MPCA or EQB*)
- Purpose
 - Valuable to hear others viewpoints/experiences
 - Opportunity to share & hear diverse opinions
 - React, respectfully, to different viewpoint

Reminder: Formal suggestions must be
in writing (form provided)

Reminder: Written streamlining options due October 14th by 4:30 pm to Susan Heffron.

There is a form provided in your packet for submitting options. You don't need to use the form, but the ideas must come to us in writing.



Environmental Review Streamlining Report: Streamlining Suggestion Form

Suggestions must be received by **October 14, 2009**

How to submit a streamlining suggestion

Please take this opportunity to provide suggestions/ideas for streamlining the environmental review process, while also maintaining or improving environmental quality. As a guideline, it would be most helpful if your suggestion was accompanied by pros and cons and what process it might take to implement the suggestion (statute change, rule change, form or process change, etc.). All written suggestions will be included in the Environmental Review Streamlining Report. If you would like, you may submit your completed streamlining suggestion form to any MPCA staff at the end of this public information meeting. Or, suggestions may be mailed to: Susan Heffron, MPCA, 520 Lafayette Road N., St. Paul, MN 55155-4194. Suggestions can also be submitted to Susan by fax at (651) 297-2343 or via e-mail to susan.heffron@state.mn.us.

Written suggestions for streamlining the environmental review process must be received by 4:30 p.m. on October 14, 2009.

Name, address and any affiliation (optional):

Streamlining Suggestion:

**Benchmarking Minnesota's Environmental Review and
Permitting Processes for Forestry and Mining Industries:
A Comparative Assessment**

Prepared By:

Ryan J. Aylesworth
Dennis R. Becker
Michael A. Kilgore

June 30, 2008

Department of Forest Resources
College of Food, Agricultural, and Natural Resource Sciences
University of Minnesota

EXECUTIVE SUMMARY

This report was prepared in response to 2005 Minnesota Session Laws, Chapter 1, Section 2, Subsection 7, requiring the commissioner of the Minnesota Pollution Control Agency to submit a report to the Minnesota House and Senate Environment and Natural Resources Policy and Finance Committees benchmarking Environmental Review and permitting laws and procedures in Minnesota with states containing comparable forestry and mining development projects. The report consists of a review of state environmental review programs, case studies of four forestry and four mining development projects, and results of a focus group meeting with state environmental review and permitting project managers.

Data collected for this study was obtained from multiple sources. Background information on state industry trends was compiled through a review of the literature and agency technical reports. Case studies were developed by reviewing environmental impact statements, permit applications, public involvement notices, and supplemental reports. Relevant timeframes and case specifics were verified through informal interviews with agency administrators and project managers familiar with state procedures and the selected projects. Additional project information was obtained through on-site meetings and follow-up correspondence with project managers. The legal, administrative, and procedural aspects of each state's environmental review and/or permitting program were examined by reviewing applicable state statutes, administrative rules, agency reports, and policy guidelines. Perceptions of program effectiveness were obtained through a focus group with state environmental review and permitting project managers.

State Environmental Review and Permitting Programs

Thirty-seven states have adopted an environmental review framework for evaluating nonfederal actions. These states can be grouped into three distinct categories delineated by the scope of development projects subject to environmental review as well as the intensity by which project-specific environmental impacts are assessed. There are 16 states in the first category, defined as having comprehensive environmental review policies, standards, and procedures. These states require preparation of detailed reports equivalent to an environmental impact statement in situations where state authorities believe proposed actions may have significant environmental impacts. The second category of states, of which there are 21, require environmental review only under specific circumstances and where review procedures are only applicable to certain types of economic development activities (e.g., water development, timber harvesting, housing development) or within certain geographic areas (e.g., natural reserves, coastal areas, river banks). The remaining 13 states have no formal environmental review requirement. Although several of these states

request that agencies consider environmental factors when issuing permits, but no guidelines have been adopted that direct how environmental impacts are to be evaluated.

Forestry and Mining Case Studies

Detailed descriptions of environmental review and permitting processes are provided for specific forestry projects in Minnesota, New York, Maine, and Georgia. Similarly, detailed descriptions of environmental review and permitting processes are provided for mining projects in Minnesota, West Virginia, Montana, and Michigan. The selection of states for which the non-Minnesota case studies were developed was based on the following criteria:

- States that compete with Minnesota in either the forest products processing or mining sectors.
- States that employ similar manufacturing processes or mining techniques to those used in Minnesota.
- To the extent they are identifiable, states that have comparable forest products manufacturing or mining projects that have been subject to state environmental review and/or permitting processes within the past 10 years.

Each case study includes (1) an examination of the forestry or mining sector's economic importance in the state. Historical information and trends in that sector's production, economic impact, and employment are discussed; (2) a characterization of the state's environmental review and permitting requirements; (3) a detailed description of the environmental review and/or permitting activities associated with a specific facility development or expansion proposal. This includes a description of the proposed project, planned manufacturing and processing technologies, format and content of the environmental review completed, issues examined, type and extent of public involvement, required permits, records of decision, and current disposition of the project; and (4) a discussion of factors affecting the environmental review and permitting timelines for proposed projects.

Focus Group: State Environmental Review and Permitting Project Managers

A focus group meeting was conducted in Minneapolis, MN, on January 23, 2008, to examine perceived barriers and opportunities for effective implementation of state-level environmental review and permitting. Participants were selected based on their level of knowledge about state environmental review and permitting, familiarity with state processes as applied to forest products or mining operations, and position within their respective agency. Twelve representatives from seven state agencies participated.

The focus group discussion revealed opportunities for improving the delivery and effectiveness of environmental review and associated permitting activities, and it highlighted the challenges states face in

meeting economic development and environmental quality objectives. States have adopted appreciably different governance models and the level of rigor associated with review of proposed mining and forest projects varies considerably from state-to-state, even where states have formal environmental policy acts. Differences in the economic climate, cultural context, natural resource setting, and subsequent organization of state agencies influence the structure and implementation of environmental review and permitting. The focus group discussion also revealed that despite differences, states experience many common successes and challenges. Moreover, in light of the challenges identified, program administrators felt they have been able to successfully adapt their programs to reflect their state's unique economic, social, and institutional environment.

In developing an in-depth understanding of environmental review and permitting for each state, the following thematic areas of discussion emerged from the focus group: (1) linkages and integration between environmental review and permitting; (2) incorporating cumulative environmental impact analysis in project-specific environmental review; (3) coordinating environmental review and permitting activities within and outside state government; (4) linkages between environmental review and economic development; and (5) opportunities for improving state-level environmental review and permitting.

Conclusions

An analysis of the case studies and focus group discussion lead to the following conclusions:

Scope of Environmental Review

- *State environmental review varies greatly with respect to the scope of potential impacts measured.* Some states consider indirect or off-site impacts while others only measure direct or site-specific impacts. Even states having environmental policy acts (i.e., Georgia, Minnesota, Montana, and New York) were markedly different. For instance, an environmental impact statement was prepared for the UPM-Kymmene/Blandin Paper Company project in Minnesota in which substantial consideration was given to off-site impacts associated with increased timber harvesting. In contrast, the environmental review documents prepared for projects in Georgia and New York contained no such analysis, consistent with their state policies.
- *Uncertainty exists across states on how to incorporate cumulative impact assessments into environmental review and permitting procedures.* The requirements and methods for assessing cumulative impacts are often considered by state environmental review program managers to be inadequate. There was disagreement about the appropriate scale of analysis, the role of state agencies in conducting generic assessments of cumulative impacts, thresholds of significance, and whether project proponents are responsible for mitigating for cumulative impacts where their

individual contribution is negligible but surpasses aggregate thresholds. Expanded use of generic assessments at the regional scale may reduce burdens placed on project managers and companies while increasing environmental safeguards for water and air quality and wildlife habitat.

Coordination

- *States differ in their approach to coordination of environmental review and permitting.* Some states conduct environmental review and permitting simultaneously with information generated from the review simultaneously integrated into the permitting process. The same staff may be responsible for administering both processes to aid in information exchange and efficient completion of tasks. Other states keep the processes separate with different staff and the results of the review informing subsequent permitting. Regardless of the approach, most state representatives feel confident their process is effective both in terms of the time required and for the adequacy of the review. They also report extensive coordination and planning among staff throughout both processes.
- *Centrally located and administered environmental review and permitting responsibilities are preferred.* Focus group participants expressed support for consolidating review and permitting functions under one agency to eliminate inefficiencies, even if permitting and environmental review are separated by programmatic boundaries. However, although efficiencies may be gained through the consolidation of state environmental review and permitting processes where they are currently divided among multiple units of government, it is important to note that state law typically precludes the possibility of making such sweeping changes without legislative approval. Because state legislatures may be reluctant to authorize large-scale bureaucratic restructuring it is not necessary reasonable to conclude that such change is possible as long as sufficient support exists among agency officials.
- *Coordination between state departments of economic development and environmental review and permitting authorities is important.* State agencies responsible for environmental review are better able to anticipate information needs and planning horizons if they are kept apprised of state economic development plans. The lead agency can identify relevant obstacles to planning in a timely manner prior to obligation of state funds.
- *Some states administer environmental review and permitting at a sub-regional level.* In the cases of West Virginia and New York, permitting is coordinated at a multicounty level with little to no oversight by the central state office of the administering agency. No attempt was made to evaluate the effectiveness of these models but it is important to note differences when comparing projects across multiple states.

- *Pre-application meetings contribute to information exchange among project proposers and the administering agency.* Information sharing and discussions about project scope prior to submission of formal environmental review or permitting documents reduces confusion about needed information, alerts staff to upcoming projects, and allows applicants an opportunity to modify plans based on agency feedback before significant investment is made.

Public Involvement

- *Public involvement and outreach strategies can greatly affect environmental review and permitting.* Administrators in several states believe that the public is ill-informed about environmental review policies and procedures, how it works in conjunction with permitting, and the role of the public in providing information. As a result, public comments often lack substantive information that can be used in the process and requires considerable staff time and resources for the small number of people who choose to participate.
- *Educating the public about the role and process of environmental review enhances the quality of comments received.* Providing public education about the underlying purpose and processes of environmental review is a valuable tool for improving the quality of public comments and the overall public involvement processes.
- *The use of information technologies such as “e-permitting” is important for increasing communication.* Web-based technologies such as e-permitting may facilitate the transparency of the review process, speed reviews, and reduce confusion about outstanding information needs and requests. Information can be shared efficiently and in a consistent manner.

Project Timelines and Delays

- *Delays are a result of several factors often outside the control of the administering agency.* Project delays often happen as a result of: (1) inadequate information provided by consultants hired to work on a project, (2) failure of firms to provide requested information in a timely fashion or providing incomplete or incorrect information, (3) failure of sister agencies to provide necessary information in a timely manner, (4) inability of a firm to secure the appropriate level of financing needed for a project, and (5) lack of preplanning by the firm or pursuing an preliminary level of analysis when an environmental impact statement is necessary.
- *Environmental review and permitting took longer in situations where extensive public involvement was required.* An active citizenry requires a greater number of public meetings and may also result in more comments provided in which agencies must respond. State administrators agreed that

public involvement is a fundamental part of the review process and that efforts to accelerate timelines should not be at the expense of opportunities for public involvement.

- *Environmental review and permitting took longer in situations where cumulative impact assessment was required.* The emphasis on cumulative impact assessment in states like Minnesota may have increased the time necessary to complete environmental review. The forestry and mining projects reviewed are not representative of all possible cases, but they do illustrate the expanded scope necessary to adequately assess off-site environmental impacts.
- *Efforts to reduce overall project review time could potentially have negative consequences.* Consideration must be given to the negative consequences (e.g., reduced opportunity for public involvement, failure to adequately address particular environmental impacts) that could result from an accelerated environmental review or permitting process. Although certain stages of project review could perhaps be shortened without undermining environmental quality objectives, agencies must weigh the benefits of reducing total project review time against the associated costs.
- *Environmental review and permitting processes should be as predictable as possible.* Consistency in carrying out environmental review and permitting requirements helps project sponsors anticipate the types of information required of them and how long the review process will likely take, which can aid in securing financing. Unpredictable or inconsistent requirements may result in the loss of economic development opportunities to states with more predictable processes. However, an appropriate balance must be achieved between the need for thorough environmental review and efforts to create a predictable process. Similarly, while much discretion is given to agency staff in terms of timelines and protocol, explicit guidelines may not reflect the diversity of project circumstances, particularly in cases where delays are outside the responsibility of the lead agency.

Attachment 7

Distribution List Name: ER Legislative Report Stakeholder List 2009

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Attachment 8

LIST OF COMMENT LETTERS RECEIVED

1. Stephanie Henriksen, Minnesota COACT. Received October 14, 2009.
2. Kristen Eide-Tollefson, Communities United for Responsible Energy. Received October 14, 2009.
3. Mark Sulander, Minneapolis Neighbors for Clean Air. Received October 14, 2009.
4. Justin Eibenholz, Southeast Como Improvement Association. Received October 14, 2009.
5. Darrell Gerber, Clean Water Action. Received October 14, 2009.
6. Brad Sagen, Northeastern Minnesotans for Wilderness. Received October 14, 2009.
7. Katie V. Troe, Safe Wind in Freeborn County. Received October 14, 2009.
8. Thom Petersen, Minnesota Farmers Union. Received October 14, 2009.
9. Bobby King, Land Stewardship Project. Received October 14, 2009.
10. Andy Driscoll, St. Paul. Received October 13, 2009.
11. Carol Overland, Legalectric, Inc. Received October 13, 2009.
12. Carol Overland, Legalectric, Inc. Received October 14, 2009.
13. James Peters, Peters & Peters, PLC. Received October 14, 2009.
14. Leslie Davis, Earth Protector, Inc. Received October 14, 2009.
15. Leslie Davis, Earth Protector, Inc. Received October 13, 2009.
16. R.L. Sauer, MD. Preston, Minnesota. Received October 12, 2009.
17. Tod Rubin, Ely, Minnesota. Received October 15, 2009.
18. Jane and Steve Koschak, Ely, Minnesota. Received October 14, 2009.
19. Shellene Johnson, Center City, Minnesota. Received October 14, 2009.
20. Thomas Schulte, Goodhue County, Minnesota. Received October 14, 2009.
21. Erik Carlson. Received September 29, 2009.
22. Tom Mahoney, Hancock, Minnesota. Received October 14, 2009.
23. Bob Tammen, Soudan, Minnesota. Received October 14, 2009.
24. Lori Andresen, Duluth, Minnesota. Received October 14, 2009.
25. Elizabeth Kristin Larsen, St. Louis County, Minnesota. Received October 14, 2009.
26. Paul Sobocinski, Wabasso, Minnesota. Received October 14, 2009.
27. Alan Perish. Received October 14, 2009.
28. Florence Sandok, Rochester, Minnesota. Received October 14, 2009.
29. Jim and Karen Falk, Murdock, Minnesota. Received October 14, 2009.
30. Charlotte Neigh, Citizens Against the Mesaba Project. Received October 14, 2009.
31. Paula Goodman Maccabee, Just Change Law Offices. Received October 14, 2009.
32. Ray Schmitz, Rochester, Minnesota. Received October 14, 2009.
33. A. Richard Olson, Minneapolis, Minnesota. Received October 14, 2009.
34. Elanne Palcich, Chisholm, Minnesota. Received October 14, 2009.
35. Elanne Palcich, Chisholm, Minnesota. Received October 14, 2009.
36. Marilyn Lundberg, Lilydale, Minnesota. E-mail Received October 14, 2009.
37. Julie Mellum, Take Back the Air. Received October 14, 2009.
38. Nancy Przymus, Minneapolis, Minnesota. Received October 14, 2009.
39. Amanda Nesheim, Bigfork, Minnesota. Received October 14, 2009.
40. Kerry Schroeder, Ripley Township Planning & Zoning Chair. Received October 14, 2009.
41. Jan Greenfield, Highland Park, Minnesota. Received October 14, 2009.
42. Jan Greenfield, Highland Park, Minnesota. Received October 14, 2009.
43. Julie Andrus, Minneapolis, Minnesota. Received October 14, 2009.
44. Bruce and Marie McNamara, Mac-Lane Farms, Goodhue, Minnesota. Received October 14, 2009.
45. Ciara Schlichting, Bonestroo. Received October 14, 2009.
46. John Shardlow and Ciara Schlichting, Bonestroo. Received October 14, 2009.

47. Steven Menden, Wenck Associates. Received September 29, 2009.
48. Kevin Paap, Minnesota Farm Bureau Federation. Received October 14, 2009.
49. Bob Lefebvre, Minnesota Milk. Received October 14, 2009.
50. Brian Schafer, Minnesota State Cattlemen's Association Legislative Chair. Received October 14, 2009.
51. William L. Oemichen, Cooperative Network. Received October 14, 2009.
52. Steven H. Olson, Minnesota Turkey Growers Association and Broiler & Egg Association of Minnesota. received October 14, 2009.
53. David Preisler, Minnesota Pork Producers Association. Received October 12, 2009.
54. Mike Robertson, Minnesota Chamber of Commerce. Received October 14, 2009.
55. Trudy Richter, Minnesota Resource Recovery Association. Received October 14, 2009.
56. Bob P. Bowlin, Glenwood, Minnesota. Received October 14, 2009.
57. Jan Blevins, Olmsted County Concerned Citizens. Received October 14, 2009.
58. Jill Johnson, R.S., Winona County Environmental Services Department. Received October 14, 2009.
59. Iron Range Resources and Rehabilitation Board. Received October 19, 2009.
60. Mel Haugstad, Minnesota Trout Association, Inc. Received October 14, 2009.
61. James Erkel, Minnesota Center for Environmental Advocacy, received via email November 2, 2009.
62. Christine Frank, Climate Crisis Coalition of the Twin Cities. Received October 30, 2009.
63. Nancy Tank, Villard, Minnesota. Received October 30, 2009. (??)
64. Nathan (no last name). Received October 29, 2009.
65. Renee Lepreau, Saint Paul, Minnesota. Received October 29, 2009.
66. Matt Johnson, UBS Financial Services Inc. Received October 29, 2009.
67. Beverly Ferguson. Received October 28, 2009.
68. Nancy Hone, Neighbors Against the Burner. Received October 21, 2009
69. Lois Norrgard. Received November 2, 2009
70. Alan Muller. Received November 3, 2009

①

Heffron, Susan

From: david [dkamis@rconnect.com]
Sent: Wednesday, October 14, 2009 4:44 PM
To: Heffron, Susan; jon.larsen@state.mn.us
Subject: Comment/Streamlining environmental review

Oct. 14, 2009

Dear Ms. Heffron:

Minnesota COACT is a statewide, 501c4, citizens organization of 12,000 members that educates and organizes people to empower themselves to take action in the democratic process on social justice issues, which include health care reform and family farm survival.

We only received word on the comment deadline on this report this past weekend. One wonders why several farm and environmental groups were not notified. Our organization supports local control and public input into the process of environmental review. Having reviewed the MPCA power point presentation and the technical report, we would oppose any changes that weaken environmental review or cut citizens out of the process. Removing the citizen's right to request an EIS is unacceptable. Concerning feedlots, there has already been considerable streamlining done on that EAW. Thresholds for a mandatory EAW should be dropped from 1000 au back to no more than 500 au, for example.

If the agency would return to dealing with the EAW and EIS concepts as originally intended, there might be an occasional EIS ordered, and should be. Recent attempts to inflate an EAW, ordering staff to gather more and more information and hold more and more hearings naturally results in additional staff time and cost to the taxpayer. Yes, the cost of an EIS is borne by the proposer, but that is the cost of business, after all. If a project shows potential for environmental damage, we expect the agency to follow through.

Stephanie Henriksen, field organizer
Minnesota COACT, southern district
1866 130th St. E.
Dundas, MN 55019

507-645-7086

Please confirm that you have received my comment.

Heffron, Susan B (MPCA)

②

From: healingsystems69@gmail.com on behalf of Kristen Eide-Tollefson
[healingsystems@earthlink.net]
Sent: Wednesday, October 14, 2009 5:09 PM
To: Susan.Heffron@state.mn.us; Craig.Affeldt@state.mn.us; Joe.Henderson@state.mn.us;
Gregg.Downing@state.mn.us
Subject: Re: Comments due on ER Streamlining options
Attachments: MPCAEnvironmentalReviewCommentFinal.doc

All:
My apologies for the timing. My local coffee house lost wireless (or was overwhelmed by student use) at 4:25. Please find attached my letter, by way of comment on MPCA recommendations for Environmental Review Streamlining. This, in response to the alert I received just this morning from environmental advocates.

Yours,
Kristen Eide-Tollefson

October 13, 2009

Susan Heffron
Craig Affeldt
Joe Henderson
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155-4194

RE:
Environmental Review Process Streamlining

Dear Ms. Heffron, Mr. Affeldt., Mr. Henderson:

I have received only within the last 12 hours, notice of the deadline for comment on MPCA recommendations for streamlining environmental review. It is disturbing that this initiative has not been more broadly noticed to public and long term stakeholders. Unfortunately I have time only for a brief letter responding to the options for 'streamlining' outlined in MPCA's recent power point presentation.

Background: I am a 15 year public advocate in the arena of energy infrastructure siting and routing. I have been part of a number of discussions of the Environmental Review process over the last 10 years, including MPCA workshops and EQB forums. I was also on the 2001-02 , governor's special advisory committee on environmental review (SAC) – mentioned in the 2007 EQB Tech report. This report cites the 'upshot' of the 2002 SAC committee's report as following:

“The current Minnesota environmental review program is not perfect, but as a group the committee was not able to come to agreement on a better system”

As I remember, we were working under a legislative deadline and fear of undermining 'compromise'. But even without my notes, I remember some key discussions well.

A. The greatest inefficiency in the process is not, as is often contended by proposers, the exploitation of the review process by 'opponents'. It is the lack of assurance of the accuracy and the timeliness of the information provided by the proposer. The attempt (and need) to 'discover' relevant information is a chronic issue which consumes public resources. The 'information problem' particularly undermines right relationship between proposer, agency and affected communities. Undermined confidence and trust in the process inevitably contributes to a climate of opposition, and slows progress. And it distracts all parties from the real goal of environmental review, which is to find the most suitable, environmentally sustainable project design.

The SAC discussed a number of remedies for this problem, including third party confirmation of accuracy and adequacy of information. Another streamlining remedy that has been tentatively considered in recent years – is the use of a standing advisory committee, which would participate in application review at either draft or 'completeness' phase.

B. Another key SAC conclusion was that it is not possible to streamline, or otherwise 'rebaseline' our environmental review program – without better defining the role and function of the agency/agencies in the review process. What difference would it make – if the environment, if our resource commons, were viewed as the 'client' – that the agency is representing, and for which our state's experts are 'advocating'?

The 'referee' role that agencies typically play (between public and proposer) can exacerbate division and put inappropriate burdens upon public participants who do need agency expertise to be actively engaged. The role that the EQB review program plays, in providing information to all parties to create -- at least -- a common ground for engagement is invaluable. As is the interagency Tech Rep program, which provides for public access to agency expertise -- and coordination of review across agencies.

Finally, in evaluating options for 'streamlining' environmental review, we cannot ignore fundamental purposes of the environmental review process. One key purpose being to provide for the exercise of the rights and responsibilities of all Minnesotans -- under MERA.

The legislature finds and declares that each person is entitled by right to the protection, preservation, and enhancement of air, water, land, and other natural resources located within the state and that each person has the responsibility to contribute to the protection, preservation, and enhancement thereof.

As long as we allow our essential resource commons to be used as a 'sink' and a medium for dissolution and dispersal of hundreds and thousands of substances and processes, the public -- which pays the cost of these externalities in a myriad of ways --- must have a process which allows them to participate fully and meaningfully.

- The review process must provide for timely and accurate review of essential information --- for public and RGU -- and demonstration that a project will maintain or improve environmental quality. This is the first item that should be 'fixed' if we want economically and temporally efficient review.
- Alternatives should be included in all forms of environmental review.
- Permits should not substitute for or qualify areas to be eliminated from environmental review
- Public petition for EIS should not be eliminated
- While 'early engagement' is an excellent strategy, it must not be a 'pr' opportunity. Only if the process provides for timely and full information disclosure -- will it be both effective and protective of public rights and environmental quality.
- "Green-streamlining" is a slippery slope, which has too many pitfalls.
- Customizing EAW's, endangers due process and public accessibility to information and effective participation.

I hope that this discussion is not over and would welcome the opportunity to bring my last 10 years of experience in public engagement -- to the table. The options under review are inadequate and are detrimental to the letter, spirit and purpose of Minnesota's Environmental Law. I'm sure that we can do better.

Most sincerely yours,

Kristen Eide-Tollefson
P.O. Box 130
Frontenac, MN 55026
for CURE, Communities United for Responsible Energy
715-317-0228

Heffron, Susan

3

From: Mark Sulander [tedebearmark@msn.com]
Sent: Wednesday, October 14, 2009 4:28 PM
To: Heffron, Susan; gregg.downing@state.mn.us
Subject: Comments on streamlining re HF2123 / your immediate reply requested

Dear Ms. Heffron and Mr. Downing, et al,

1. I am writing to you today, to submit comments regarding the proposed "streamlining" of the environmental review process for EAW, EIS, etc. that is part of HF2123**

There is no need for any changes or "streamlining" to the EAW/ EIS process at this time.

The primary cause of delays is most commonly due to a lack of timely response from project proposer/developers in responding to information needed for environmental review. Other major sources of delay have to do with the inadequate or reduced funding and staffing at the MPCA and other environmental review agencies.

I submit that any changes that have been suggested, are primarily focused in reducing proper environmental review, not improving it.

2. I am also writing to you today to protest that a number of environmental organizations (with an interest in the environmental review process), were not informed of the consultation meeting that took place on September 29, 2009 re: HF2123, the Omnibus Environmental Finance Bill, (re:Sec. 65. ENVIRONMENTAL REVIEW STREAMLINING REPORT.?)

I am a member of Minneapolis Neighbors for Clean Air (MNFCA/ minneapolisneighborsforcleanair.org), and our organization is just one of many that were not properly notified or allowed to participate in this HF2123 process.

Under the conditions set forth in HF2123, MNFCA should have been notified of this process, since MNFCA currently has an active petition for environmental review now in process at the EQB/ MPCA for an EAW/ EIS re: the Hennepin County and Covanta Energy proposal to expand the HERC incinerator in downtown Minneapolis.

(Note: On that specific matter, we have documentation that clearly shows that Hennepin County/ Covanta Energy voluntarily agreed with the City of Minneapolis on July 23, 2009, to voluntarily submit their HERC facility air permit and also their HERC expansion proposal to the EQB/ MPCA for review. Regardless of any MPCA declaration to the contrary, by law this is an open and active EAW/ EIS petition process which deserves full review by the EQB/ MPCA).

3. We note that a failure to properly notify all affected environmental organizations, including MNFCA, is a violation of the requirements of HF2123. Your rushed, inadequate process did not properly consult the interests of those organizations with an interest in the environmental review process. We hereby challenge this flawed process.

4. We also demand a 4 week extension of notice to all environmental organizations with an interest in the environmental review process, and that a new replacement meeting now be scheduled (no sooner than 4 weeks from now) to replace the flawed meeting that occurred on September 29.

5. We also demand any information about that September 29 meeting, under the Minnesota Data Practices Act.

We hereby request that you and all appropriate individuals and agencies connected to this process, including that meeting, produce all documents, data, or notes, whether written, electronic and otherwise on:

A. The preparations for the September 29th meeting.

B. What took place during that meeting.

C. Any follow-up information or discussions or notes about the meeting that occurred from September 29 until today, and continuing, until this issue is resolved.

**The legislature in 2008 passed HF 2123 --- Omnibus Environmental Finance Bill, including:

Sec. 65. ENVIRONMENTAL REVIEW STREAMLINING REPORT.

By February 15, 2010, the commissioner of the Pollution Control Agency, in consultation with staff from the Environmental Quality Board,

shall submit a report to the environment and natural resources policy and finance committees of the house and senate on options to streamline the environmental review process under Minnesota Statutes, chapter 116D.

In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process. The report shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards.

6. In closing, I request that both of you respond directly to the concerns I have listed above via email or letter as soon as possible at: tedebearmark@msn.com

Thank you,

Mark S.

On behalf of Minneapolis Neighbors for Clean Air

612-310-7827

Mark S.

4

Heffron, Susan

From: Justin [envirocoordinator@secomo.org]
Sent: Wednesday, October 14, 2009 4:27 PM
To: Heffron, Susan; gregg.downing@state.mn.us
Subject: Streamling The Environmental Review Process

Ms. Heffron and Mr. Downing,

On behalf of the Southeast Como Improvement Association Environment Committee, who has actively participated in several environmental reviews in the area, we ask that the rules not be altered at this time to "streamline" or otherwise make it easier for a pollution source to operate in the State of Minnesota. Already, here in Southeast Minneapolis we have many sources of emissions and existing contamination sites even as we work with local industries and organizations like MnTAP to reduce toxic emissions and waste. Currently, the public is often not informed of changes in operations or new developments or new emissions until after the source has been allowed and permitted to operate. It is becoming increasingly difficult for neighbors and residents to stay informed on these matters and will become more so if thresholds are eliminated and EAW's do not lead to EIS's necessarily, for example.

Dilution of this process is not what we seek at this time. We appreciate efforts to ease paperwork on the side of the PCA (Minnesota Pollution Control Agency) and other State Agencies in these matters, but if the end result is the possibility of more carcinogens, poisons, and mutagens being released unnecessarily into the environment along with climate change gases we are staunchly opposed. The health and well-being of the citizens of Minnesota is too valuable to be left solely to the review a finance committee or the good intentions of private industry. If there is any direction this process needs to move it is to become more stringent, adopting the precautionary principle, and putting the burden on the private sector to adequately demonstrate that their facility/process/site is indeed benign.

If it is more resources (financial, or staff) needed to insure that our health and natural resources are better protected we would be happy to press our elected officials for more action in this area, as they are prone to mention their commitments to Minnesota's environment. We hope you share our concerns with those who will make a decision on altering the existing rules and that you share in our passion to protect the health and well-being of all of Minnesota's people, wildlife, and natural resources. Thank you.

Sincerely,

Justin Eibenholz
Environmental Coordinator
Green Village Program Coordinator
Southeast Como Improvement Association
837 15th Ave SE
Minneapolis, MN 55414
612-676-1731

5

Heffron, Susan B (MPCA)

From: Darrell Gerber [dgerber@cleanwater.org]
Sent: Wednesday, October 14, 2009 4:27 PM
To: Susan.Heffron@state.mn.us
Subject: Clean Water Action comments on Environmental Review streamlining
Attachments: Environmental Review Comments 2009_10_14.doc

You'll find attached comments from Clean Water Action on the study about streamlining the environmental review process.

Please acknowledge receipt.

Thank you,

Darrell Gerber
Program Coordinator
Clean Water Action Midwest Office
www.cleanwateraction.org

308 E Hennepin Ave
Minneapolis, MN 55414
(612) 627-1530 Direct
(612) 623-3354 Fax
(612) 802-5372 Cell

This message (including any attachments) is intended only for the use of the person(s) to whom it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you receive this message in error, please notify me immediately by email, telephone, or fax, and delete the original message from your records. Thank you.



CLEAN WATER ACTION

MINNESOTA

Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Oct. 14, 2009

Dear Ms. Heffron:

Below are the comments of Clean Water Action in response to the Minnesota Pollution Control Agency's (MPCA) "Environmental Review Stream Lining Report: Streamlining Suggestion Form." These comments are based on Clean Water Action's involvement working with communities in the environmental review process both at the grassroots level and directly with agencies.

Changes should only improve or maintain current environmental protections. Evaluation and analysis of options to streamline the Environmental Review process must be based upon an immutable requirement that environmental and public health protections are maintained or, preferably, improved. Any proposed changes should expressly address this point. Streamlining of Environmental Review can accomplish this requirement if agency resources can be more effectively applied to pollution prevention. However, providing a faster process for development cannot trump the fundamental purposes of Environmental Review and the MPCA and Environmental Quality Board (EQB) to protect the environment and public health.

In addition, when considering cost savings from streamlining it should also be noted that in the past improper environmental review has frequently cost tax payers hundreds of thousands of dollars in staff time, enforcement time, clean up costs and court costs not to mention the environmental impacts, the pain, suffering and costs to citizens living near a problem project. A few examples of projects that have developed costly problems are the St. Paul Ethanol Plant, Buffalo Lake Ethanol, Granite Falls Ethanol, Valadco, Kingstrum feedlot, Churchill feedlot, Excel Dairy, Golden Oval and several Minnesota Sugar Beet processing plants. In each of these cases a more deliberate Environmental Review process with a focus on protecting the environment and public health could have avoided costly and dangerous problems.

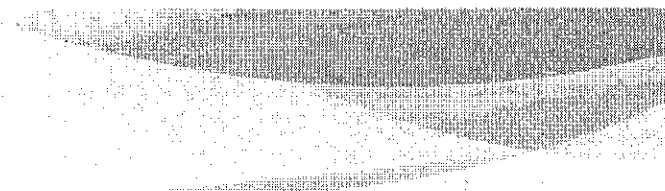
There was inadequate public engagement in compilation of the report. The public engagement process the MPCA used in preparing this report was inadequate to provide a meaningful reflection of public concerns and preferences. A single public

National Office | 1010 Vermont Avenue NW, Washington, DC 20005-4918

Minnesota Office | 308 East Hennepin Avenue, Minneapolis, MN 55414

Phone 612.623.3666 | Fax 612.623.3354 | cwa@cleanwater.org

www.cleanwateraction.org

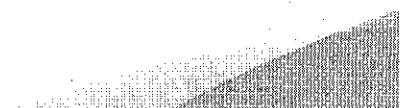


meeting held at MPCA headquarters during the middle of the day does not allow for broad participation of stakeholders and affected members of the public. Those located in Greater Minnesota were particularly impacted due to the travel requirements. The enabling legislation for the report requires “the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process.” A single public meeting with little prior notice or additional public engagement does not fulfill the legislative requirements.

Do not undo the decision link between an Environmental Assessment Worksheet (EAW) and an Environmental Impact Statement (EIS). This streamlining approach has the potential to seriously undermine environmental protections as well as decrease the opportunity for the public to provide meaningful input into proposed projects. The EAW is intended to be a screening tool to determine the need for an EIS which provides a more detailed analysis into the environmental impacts of a project (both direct and cumulative). The EAW is a necessary tool to determine instances when an EIS should be done but does not address the same extent of potential environmental impacts as the EIS. This linkage provides a critical entry point for public feedback on projects. The release of an EAW is often the first time the public has an opportunity to see a listing of potential environmental and public health impacts of a project. It is important the public has an opportunity to review the EAW and is able to provide site specific information that may justify an EIS. Limiting EIS's to only those prescribed by the mandatory thresholds is not sufficient to protect the environment and public health. A discretionary EIS is a critical tool that should not be eliminated.

An option that should instead be considered is to follow the intended role of an EAW and an EIS. The MPCA has effectively repurposed the EAW into a “mini-EIS” that explains why an EIS is not needed rather than it being a screening tool to determine the need for an EIS. This results in delays in the preparation and public release of EAWs. The MPCA should instead reduce the level of information included in an EAW as well as more frequently and quickly rule for an EIS in projects where they are appropriate. This will allow for earlier exposure of important environmental impacts noted in the EAW as well as a quicker transition to the more extensive EISs where needed.

Customizing EAW forms for specific sectors must retain equivalency. Any efforts to customize EAW forms to reduce irrelevant sections and make them more straightforward for targeted sectors must retain equivalency in environmental and public



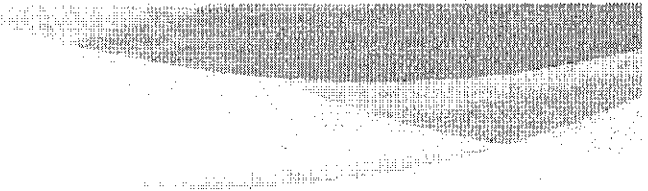
health protection. This has not been the case with EAW forms for feedlots which instead act to restrict the types of potential environmental and public health impacts reported. Our experience is that efforts to provide customized forms should be viewed with skepticism.

Early public engagement can be effective to streamline the process but it must be meaningful public engagement. Engaging the public and stakeholders early in the project development process provides the opportunity to identify and solve problems when it is less costly and time consuming to do so. Including public input early in the project provides an opportunity develop a greater sense of ownership by the public and a greater understanding and thus an increased level of comfort.

However, benefits from early public engagement only hold true if it is meaningful public engagement. It is not sufficient to require that only a meeting be held. The agency should couple a requirement for early public engagement with a broader effort to ensure that a high standard for public collaboration is consistently applied in all projects, no matter their location or complexity. An important component is to increase transparency of and access to decision-making, to bring citizens, government officials and project applicants together in a more equal relationship and to create a sense of community accountability for environmental and public health. An effort began in March 2009 to improve the public engagement in watershed and water restoration planning. It is recommended that a similar effort be undertaken for Environmental Review.

The agency should also avoid labeling public opposition to projects as Not In My Back Yard (NIMBY). During the September 29 public meeting opposition to projects was given a blanket characterization as NIMBY by agency staff. This shortchanges the role of the public in the Environmental Review process and the importance of their expertise about local conditions. Due to the obvious range in local conditions it should not be surprising that occasionally projects are better if not located where originally proposed.

Elimination of duplication between environmental review and permitting should not be done. In most cases, the Environmental Review process is the only opportunity to consider the broad environmental and public health impacts. This includes cumulative impacts due to the combination of the proposed project and other nearby projects and conditions. Other permits may use some of the same information to make decisions but they have a different scope and basis for decisions. Furthermore, decisions by the state based upon an environmental review should not prevent local



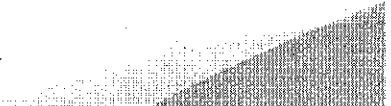
communities from setting stricter standards they deem necessary to protect their communities.

Green-streamlining for existing facilities should not receive special consideration. "Green" projects should still be required to meet the same extent of environmental review, including public engagement, as other similar projects. The difficulty in providing a definitive definition of what is "green" means that the label is variable and not sufficient to ensure there is no negative environmental or public health impact. For example, ethanol plants are considered by many to be green projects, yet, they involve industrial processes that have impacts on the air and water that must be considered in a careful Environmental Review.

Clean Water Action believes changes to the review process must demonstrate they maintain or improve protection of the environment and public health. Thank you for the opportunity to comment on this matter.

Sincerely,

Darrell Gerber
Program Coordinator
Clean Water Action
308 E Hennepin Ave
Minneapolis, MN 55414
612-623-3666



Heffron, Susan B (MPCA)

6

From: hbsagen@cpinternet.com
Sent: Wednesday, October 14, 2009 4:13 PM
To: Heffron, Susan; Gregg Downing
Subject: COMMENTS ON ENVIRONMENTAL REVIEW STREAMLINING - as attachment
Attachments: ER_Streamline_NMWCmt.doc

Ms. Heffron, Mr. Downing,

A few minutes ago I sent you, as an email, comments from NMW on the proposed environmental review streamlining. I am sending them again as an attachment which retains the intended formatting, etc. I think this version will be more readable.

Brad Sagen

Bradley Sagen
13667 Deer RD
Ely, MN 55731
(218) 365-6461

Via Electronic Mail

To: Susan Heffron <susan.heffron@pca.state.mn.us>
Gregg Downing <gregg.downing@state.mn.us>

From: Brad Sagen, Chairperson's Representative
Northeastern Minnesotans for Wilderness

Date: October 14, 2009

Re: COMMENTS ON ENVIRONMENTAL REVIEW STREAMLINING

I am writing on behalf of Northeastern Minnesotans for Wilderness (NMW) to comment on proposals to streamline environmental review, an EQB report on options for which is required by HF 2123. NMW is a regional grassroots, wilderness advocacy group. NMW's core mission is to preserve and protect wilderness and wild places in the Minnesota Arrowhead Region, especially the BWCAW. Since its founding in 1996 NMW has grown to represent over 400 members and supporters in Northeastern Minnesota.

We conclude that the proposed options presented at your 'public' meeting of September 29 should all be rejected. The legislation called for, "... options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers *while maintaining or improving air, land, and water quality standards.*" (Emphasis added.) **None of the options presented will maintain or improve air, land, and water quality standards.**

The options, as we understand them, and our comments follow.

1. "Undo decision link between EAW and EIS"

"Under this option an EAW could no longer lead to an EIS. Only the mandatory EIS thresholds would lead to preparation of an EIS." The ER process, as presented in NEPA and related documents is currently well understood. The proposal to rule out the possibility of an EAW presenting issues sufficient to require an EIS undoes the careful reasoning that created the linkages between EAW and EIS. Adoption of this option would lead to costly administrative appeals and litigation since opponents of a proposed action would have no recourse except to demand an EIS from the outset (rather than receive information from the EAW before deciding on a request for an EIS).

2. "Customize EAW forms to specific sectors."

This proposal would force EAW into categories rather than allowing new (and indeed all) issues to be addressed within an umbrella framework. This would effectively prevent new issues from being raised as such. Again, this option undoes the careful reasoning behind the EAW (ER) framework.

3. "Early Public Engagement"

As we understand it, one option for doing is this is "Require the proposer to develop a public communications plan as part of the project submittal." Again, this option undermines the concept of public comments which are to be received after a proposal has been submitted and the public allowed to carefully examine the proposal and its anticipated consequences. Public comments on site specific characteristics of proposal are among the most important components of the ER process.

4. "Eliminate duplication between environmental review and permitting"

"Essentially this would use a checklist or some method to analyze which issues are covered by the permit process. If the checklist determines that these issues are covered in

permitting then they would not be included in the EAW." Environmental review and permitting are distinct operations, each governed by different regulations and standards. For this reason alone, duplication is to be expected. Postponing issues to the permitting process will likely weaken the standards applied to issues such as, air risk/modelling, wastewater discharge, and stormwater management. This would also provide fewer opportunities for public input on permit-related issues.

Environmental review is part of the permitting process and not covered elsewhere. This necessary role must be maintained.

5. "Green-streamlining" for existing facilities"

Existing facilities (as opposed to new constructions) have been the worst polluters in Minnesota. To streamline existing facilities as a category is absurd. No proposal from an existing green facility should need exemption from rigorous environmental review.

NMW also requests the public comment period be extended by at least three weeks.

The public was ill informed of the proposed options as 'presented' rather than being offered in written form. The 'public' meeting was not sufficiently publicized to environmental organizations and the two week comment period is not sufficient for a well informed public review.

Our contact information is,

NMW

P.O. Box 625

Ely, MN 55731

Email, hbsagen@cpinternet.com

Please include us on a list to receive future communications concerning this proposed action and to participate in any public meetings on the topic.

7

Heffron, Susan B (MPCA)

From: Carol A. Overland [overland@redwing.net]
Sent: Wednesday, October 14, 2009 4:21 PM
To: Heffron, Susan; Lockwood, Beth; Richards, Jess; gregg.downing@state.mn.us;
jon.larsen@state.mn.us; Katie V Troe
Subject: Comments of Safe Wind in Freeborn County
Attachments: Safe Wind -Environmental Review Comments.pdf

All -

Please see attached

thanks

Carol,
for Katie V. Troe
Safe Wind in Freeborn County

—
Carol A. Overland
Attorney at Law

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P.O. Box 69
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overland@legalelectric.org

www.legalelectric.org
www.nocapx2020.info

Safe Wind in Freeborn County
27510 775th Ave
Clarks Grove MN 56016-4088
507.256.4343 kvtroe@juno.com

October 13, 2009

Dear Ms Heffron: susan.heffron@pca.state.mn.us

I'd like to thank you for opening a comment period regarding "streamlining" environmental review.

Safe Wind in Freeborn County strongly supports heightened environmental review for wind projects beyond that which exists now.

I am part of a group, Safe Wind in Freeborn County, which participated in what the state terms "environmental review." A large problem we ran into is that there is strong state bias toward wind projects and a shortened review process.

A second, and very obvious problem, was that the developer chooses whether a project will be reviewed at a local level or at the state. It's our belief that the developer chose local review because our County, Freeborn, had not conducted environmental review for a wind project before, and also, because the developer hopes to be able to use county roads for its high voltage transmission line. The "environmental review" was a joke, literally a cut and pasted project application. The county was told to do it over, and the result was the same cut and pasted job with additional parts obviously cut and pasted from other sources. We worked very hard to lay out the issues and our concerns, bring in credible sources, to little effect.

On the other hand, our efforts resulted in the Dept. of Health report on Public Health Impacts of Wind Turbines. Even though the environmental review was awful, "the state" did listen, and in large measure backed us up in our concerns.

Safe Wind in Freeborn County wants to go on record urging you to upgrade environmental review, to make it more thorough and stringent, to mandate state assistance where local governments fail at the job, to allow assessment of costs, to provide early and frequent public participation options, and above all, to take our concerns seriously.

While reading through the comments received during this comment period, I would like to ask you to commit to having an open mind. Thank you again for opening this comment period. I am excited to hear your findings and what you propose be taken to the State Legislature. Please let me know.

Sincerely,

Katie V. Troe

Katie V Troe
Organizer of Safe Wind in Freeborn County

8

Heffron, Susan

From: Thom Petersen [Thom@minnesotafarmersunion.com]
Sent: Wednesday, October 14, 2009 2:40 PM
To: Heffron, Susan
Subject: Environmental Review

I understand the PCA is preparing a report to the legislature concerning changes to Environmental Review. Minnesota Farmers Union (MFU) supports the current environmental review process, and would like to share our farmer-member developed policies on the issue for your information. Thank-you

Thom Petersen
Director of Government Relations
MN Farmers Union
600 County Rd D. W. #14
St. Paul, MN 55112
(O) 651-288-4067
(C) 612-860-9462

-We call on the Minnesota Legislature to restore citizens' ability to petition for environmental review of proposed large feedlots. We oppose any further weakening of environmental review.

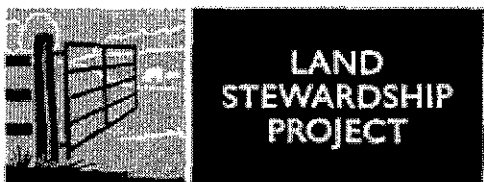
-Minnesota Farmers Union endorses a stricter level of protection at the state and federal level against the aggression of large Concentrated Animal Feeding Operations (CAFOs) against rural citizens by readopting procedures of review and environmental assessment options of all CAFOs between 300 and 999 animal units. We support redefining a CAFO by the Minnesota's MPCA rule at 500 animal units rather than the 1000 animal units in the current rule.

Heffron, Susan B (MPCA)

From: Bobby King [bking@landstewardshipproject.org]
Sent: Wednesday, October 14, 2009 2:08 PM
To: Susan.Heffron@state.mn.us
Subject: Comments to Streamlining Environmental Reivew Process
Attachments: LSP Comments to MPCA on Env Reivew.pdf

Attached and below you find the Land Stewardship Project's comments on the issue of streamlining the environmental review process.

Bobby King
Land Stewardship Project
612-722-6377



831 East 45th Street,
Suite 200
Minneapolis, MN 55407
Phone: 612-722-6377

Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Oct. 14, 2009

Dear Ms. Heffron:

Below are the comments of the Land Stewardship Project in response to the MPCA's "Environmental Review Stream Lining Report: Streamlining Suggestion Form." These comments are based on the Land Stewardship Projects involvement at the grassroots level in the environmental review process over two decades.

It appears that the MPCA process of gathering input on this report was not inclusive of environmental organizations or the public. The legislation requiring this report states that "In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process." The Land Stewardship Project is an agriculture and environmental organization with a long standing interest in environmental review that is known to both the MPCA and EQB. Despite that LSP received no communication from the MPCA seeking input into this report. The issue is not on the MPCA website. It appears that public outreach was a single public meeting on Sept. 29, 2009. The MPCA should extend the time for public input and hold further public meetings around the state if meaningful input from citizens and environmental organizations is going to be part of the final report.

A major cause of delay in preparation of the Environmental Assessment Worksheet is often the MPCA's unwillingness to order an Environmental Impact Statement. The EAW is lengthened in an effort to explain away the need for an EIS. The EAW is intended "as a screening tool to determine whether a full Environmental Impact Statement (EIS) is needed. The worksheet is a six-page questionnaire about the project's environmental setting, the potential for environmental harm and plans to reduce the harm." [EQB website.] In

the case of large-scale feedlot confinements EAW's have gotten longer and longer and can now reach hundreds of pages.

The MPCA for a number of years has worked with the attitude of treating the regulated industry and businesses as "customers" as opposed to regulated entities. MPCA staff stated this bluntly at a meeting with LSP members. This makes citizens engaged in the environmental review process with concerns as barriers to MPCA delivering service to their "customer." From large feedlots, to ethanol plants to the tire burning facilities LSP's observation has been that MPCA staff becomes advocates for the project, often treating citizens and others critical of the project dismissively.

A result of this attitude is that MPCA work to avoid the EIS and pad the EAW with information to explain away the need for an EIS thus defeating the purpose of the EAW by substantially lengthening it. The obvious solution to this is for the MPCA to follow the intent of an EAW when preparing it, think of the public as their "customer" and have the courage to order an EIS when the situation calls for it.

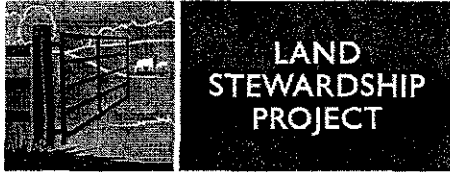
Another cause of delay is the proposer supplying incorrect information or inadequate information. It would be helpful to know what percentage of delays is caused by this. According to the MPCA the median time for environmental review is 6 months. This does not seem unreasonable considering that these are large projects that have the potential for severe negative consequences to the environment.

The concept of delinking the EAW and EIS process defeats the purpose of an EAW and will result in harm to the environment. EIS's are intended to be much more thorough than the EAW and most importantly EIS's examine mitigation of environmental harm through alternatives which the EAW does not.

LSP believes that changes to the review process must demonstrate that they maintain or improve protection of the environment and are not enacted merely from political pressure from development interests seeking to eliminate or reduce environmental review.

Sincerely,

Bobby Kings



821 East 35th Street,
Suite 200
Minneapolis, MN 55407
Phone: 612-722-6377

landstewardshipproject.org

Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Oct. 14, 2009

Dear Ms. Heffron:

Below are the comments of the Land Stewardship Project in response to the MPCA's "Environmental Review Stream Lining Report: Streamlining Suggestion Form." These comments are based on the Land Stewardship Project's involvement at the grassroots level in the environmental review process over two decades.

It appears that the MPCA process of gathering input on this report was not very inclusive of environmental organizations or the public. The legislation requiring this report states that "In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process." The Land Stewardship Project is an agricultural and environmental organization with a long standing interest in environmental review that is known to both the MPCA and EQB. Despite that LSP received no communication from the MPCA seeking input into this report. The issue is not on the MPCA website. It appears that public outreach was a single public meeting on Sept. 29, 2009. The MPCA should extend the time for public input and hold further public meetings around the state if meaningful input from citizens and environmental organizations is going to be part of the final report.

A major cause of delay in preparation of the Environmental Assessment Worksheet is often the MPCA's unwillingness to order an Environmental Impact Statement. The EAW is lengthened in an effort to explain away the need for an EIS. The EAW is intended "as a screening tool to determine whether a full Environmental Impact Statement (EIS) is needed. The worksheet is a six-page questionnaire about the project's environmental setting, the potential for environmental harm and plans to reduce the harm." [EQB website.] In the case of large-scale livestock confinements EAW's have gotten longer and longer and can now can reach hundreds of pages.

The MPCA for a number of years has worked with the attitude of treating the regulated industry and businesses as "customers" as opposed to regulated entities. MPCA staff stated this bluntly at a meeting with LSP members. This makes citizens engaged in the environmental review process as barriers to MPCA delivering service to their "customer." From large feedlots, to ethanol plants to the tire burning facility LSP's experience has been that MPCA staff become advocates for the project, often treating citizens and others critical of the project dismissively.

A result of this attitude is that MPCA staff work to avoid the EIS by padding the EAW with information to explain away the need for an EIS thus defeating the purpose of the EAW by substantially lengthening it. The obvious solution to this is for the MPCA to follow the intent of an EAW when preparing it, think of the public as their "customer" and have the courage to order an EIS when the situation calls for it.

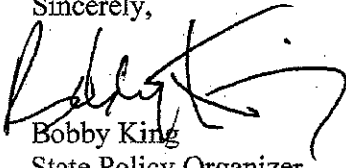
Another cause of delay is the proposer supplying incorrect information or inadequate information. It would be helpful to know what percentage of delays is caused by this. According to the MPCA the median time for environmental review is 6 months. This does not seem unreasonable considering that these are large projects that have the potential for severe negative consequences to the environment.

The concept of delinking the EAW and EIS process defeats the purpose of an EAW and will result in harm to the environment. EIS's are intended to be much more thorough than the EAW and most importantly EIS's examine mitigation of environmental harm through alternatives which the EAW does not.

In Sept. 2007 as part of the report "Creating a Bright Future for Livestock Farmers in Minnesota" four Minnesota farm organizations - the Minnesota National Farmers Organization, Minnesota Farmers Union, the Sustainable Farming Association of Minnesota and the Land Stewardship Project recommended that "The Minnesota Legislature restore citizens' ability to petition for environmental review of proposed large feedlots. This long standing right, which has protected the rural environment, was stripped in the 2003 Legislative session." From our perspective family farms have not been served well by the "streamlining" of the process for feedlots. The full report is online at http://www.landstewardshipproject.org/pr/04/newsr_041001.html and the relevant pages are attached.

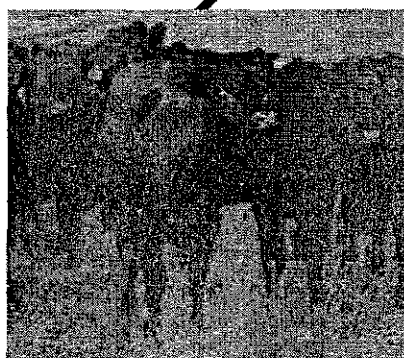
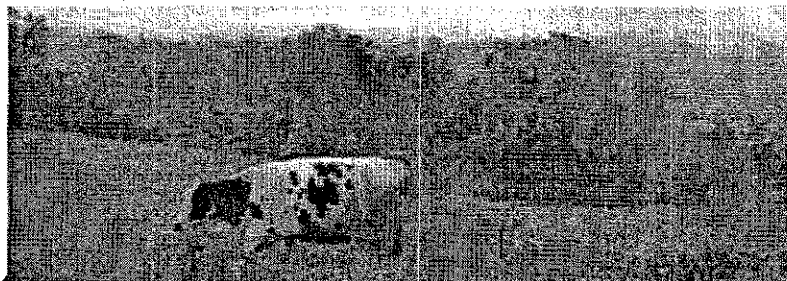
LSP believes that changes to the review process must demonstrate that they maintain or improve protection of the environment and are not enacted merely from political pressure from development interests seeking to eliminate or reduce environmental review. I am happy to provide additional information and thoughts.

Sincerely,



Bobby King
State Policy Organizer

Creating a Bright Future for Livestock Farmers in Minnesota



A Report by the Citizen Task Force on Livestock Farmers & Rural Communities

Land Stewardship Project

Minnesota Farmers Union

*Minnesota National
Farmers
Organization*

*Sustainable Farming
Association of
Minnesota*

September 23, 2004

III. Promoting Livestock Farming that Benefits the Environment

Livestock farmers can play a major role in protecting our environment by using environmentally minded farming practices that improve water quality, reduce greenhouse gas emissions that exacerbate climate change problems, and create wildlife habitat. This is best accomplished when livestock is raised on diversified family farms.

The Citizen Task Force Recommends:

- 1) The Minnesota Legislature pass a bonding proposal to fund the University of Minnesota's proposed "Green Lands, Blue Waters" initiative. This initiative is working to improve water quality, wildlife habit and human health by promoting agricultural systems based on perennial crops such as grass and hay which significantly reduce soil erosion and chemical runoff. With a focus on non-regulatory incentives that "keep working lands working," raising livestock on pasture is an important feature of the program.
- 2) The Minnesota Legislature pass a bonding proposal to fund the purchase of multi-year easements on farm land to grow perennial crops such as pasture and hay. Well-managed perennial systems, including livestock that is raised on pasture, reduce erosion, protect water quality and enhance wildlife habitat. This program would be similar to the Minnesota Conservation Reserve Enhancement Program, but instead of idling farmland would operate with the philosophy of "keeping working lands working."
- 3) The Minnesota Legislature allow land in the Minnesota Conservation Reserve Enhancement Program to be used for grazing livestock as long as there is a state approved grazing plan that protects the environment and wildlife habitat.
- 4) The Minnesota Legislature restore citizens' ability to petition for environmental review of proposed large feedlots. This long standing right, which has protected the rural environment, was stripped in the 2003 Legislative session.

1), 2) & 3) How Livestock can Help the Environment

Livestock holds great potential for helping creating a landscape that is not only economically sustainable, but environmentally sound. In particular, animal agriculture can help economically justify plant systems such as pasture and hay that leave the land covered in living vegetation for most of the year. Such perennial plant systems have been shown to be better for water quality and wildlife habitat. Livestock agriculture also promotes the use of small grains and other resource conserving systems that protect the soil and break up pest cycles.

During the past 25 years in Minnesota,

perennial plant systems such as alfalfa hay and pasture have been systematically replaced by annual crops such as corn and soybeans. An analysis by University of Minnesota soil scientist Gyles Randall shows how cropping patterns have shifted dramatically in a nine-county region in southeast Minnesota. Between 1975 and 2001, corn and soybeans went from 64 percent of all farmed land, to 82 percent. Those increased acres of row crops have come at the expense of perennial landscapes such as pastureland, wetlands and forests. Even hay ground, another perennial plant system, has been going by the wayside. Randall found that hay plantings dropped from 22 percent to 15 percent of all acres in that nine-county

...
"Let's get out of the mind-set of just what can we do with corn and soybeans...livestock can play such a big role in dealing with water quality problems."

— Steve Morse,
Endowed Chair in Agricultural Systems at the University of Minnesota
...

region during the same period.²⁴ It's the same—in some cases worse—throughout Minnesota.

Global climate change & livestock agriculture

One estimate is that the agricultural sector accounts for about 7 percent of the total greenhouse gas emitted in the United States. This estimate includes emissions from soil management, manure management, rice cultivation, field burning and farm equipment fossil fuel combustion. Livestock contributes almost 30 percent of agriculture's total greenhouse gas emissions. While the agricultural industry accounts for a relatively small amount of total greenhouse emissions, incorporating more diversity into farming could help mitigate current climate change trends.

For example, Rotational grazing systems for dairy and beef cattle emit less greenhouse gas emissions than confinement operations because of four main factors:

1) Rotational grazing systems reduce the soil erosion associated with row cropping since the animals are able to feed directly on the forages growing on the land. Less soil erosion means less carbon emissions from the soil.

2) When manure remains in the dry state it generally emits little to no methane.

3) The manure adds to the fertility of the soil, thus reducing the need for chemical nitrogen application. This increases the productivity of the land, which in turn raises the amount of carbon captured and stored.

4) Little soil disruption occurs on grazed lands, therefore maintaining root biomass year-round, further reducing the potential for soil erosion and the loss of soil carbon. Some research even suggests that grazed lands tend to capture and store greater levels of the carbon than land otherwise left untouched.

Swine operations that utilize deep-bedded straw practices (often referred to as hoop houses) allow for manure to mix with the straw that is continually applied to the facility's bedding pack. This prevents the manure from emitting methane by keeping it relatively dry, and helps stabilize the nutrients within the manure. In addition, as the straw and manure mix decomposes, the bedding pack generates heat, which helps keep the hogs comfortable in colder weather. Such a natural heat generation system can cut

energy use, further reducing greenhouse gas emissions. And this compacted manure and straw mixture can be further composted and spread on farmland in place of fertilizers.²⁵

Green Lands, Blue Waters

There is great potential for increasing livestock farming's positive impact on the environment by funding research at the University of Minnesota that supports diverse agricultural systems and family farmers. One exciting research proposal is "Green Lands, Blue Waters: A Vision and Roadmap for the Next Generation of Agricultural Systems." This is an initiative involving land grant universities, non-governmental organizations and government agencies in seven states, including Minnesota. Green Lands, Blue Waters is working to improve water quality by promoting agricultural systems that establish more perennial plants on the landscape. The initiative's approach is to do this in a non-regulatory way that "keeps working lands working" and improves economic diversity in rural areas.²⁶ (See *Solutions from the Countryside* sidebar on page 15 for more on how diverse farming systems can help the environment).

4) The Importance of Citizen Initiated Environmental Review

The 2003 Minnesota Legislature stripped citizens of the right to petition for environmental review of large feedlots. However, citizen-initiated environmental reviews of animal feedlots have played a key role in protecting Minnesota's air, water and land, according to a 2003 study based on an analysis of Environmental Quality Board records and citizen petitions, as well as interviews. The study looked at all the citizen petitions for environmental review of feedlots filed between 1998 and 2002. It found that:

1) The overwhelming majority of petitions are filed by local residents who use their right to petition for environmental review as a means to have significant environmental concerns addressed. In many cases, it was the only means available to them.

2) The right to petition for environmental review has resulted in the concerns of neighbors to proposed projects being brought to the attention of the appropriate government agency, resulting

in protection of the environment.

3) The permitting process for animal feedlots cannot effectively be used as a substitute for the right to petition for environmental review.

Large agribusiness firms claim the environmental review process, which was put in place by the Minnesota Environmental Policy Act over 30 years ago, was systematically abused by groups who are opposed to large-scale factory farming. However, the "Benefits to Minnesota of Citizen-Initiated Environmental Review" analysis found that the petitions all listed authentic environmental concerns that were site and project specific, and that the overwhelming majority of the signers were local residents.

Environmental issues cited in the petitions included concerns that sensitive geology in the area would make sources of drinking water particularly vulnerable to manure contamination, or that the close proximity of houses to a manure facility would make homeowners vulnerable to emissions of hazardous gases such as hydrogen sulfide. In one case, a 7.3 million gallon earthen manure lagoon would have been built in an area of southeast Minnesota where sinkholes and karst geology make the groundwater extremely vulnerable to contamination.²⁷ ○

Heffron, Susan

10

From: Andy Driscoll [andy@driscollgroup.com]
Sent: Tuesday, October 13, 2009 11:24 PM
To: Dick Cohen; Dick Cohen; Erin Murphy; Driscoll Newswire
Cc: Heffron, Susan; gregg.downing@state.mn.us
Subject: Outrageous attempt to curb citizen rights in MN environmental review process

Dick, Erin - just what the heck is going on here? From where does this audacity continue to spring? Do Democrats support this erosion of citizen participation and environmental safeguards (as if the EAW and EIS process has ever really reflected actual impact to begin with)? If so, you all have some hard explaining to do. I will be doing a show on this fairly soon. This is an agency, along with the EQB, that has ignored the public interest for its entire tenure, taking pride as it has in never refusing to issue a pollution permit to any corporate applicant and only refusing but one permit to a public agency in all its history.

The arrogance governing this agency's work is all but overwhelming and it's persistent affirmative contempt for public health in its permitting and renewing processes, not to mention the phony EIS and EAW justification for issuing those permits, are blots on the entire notion of regulation and protections state government is responsible for. These agencies have, at every possible turn (with some very rare exceptions), fallen in line with polluters and developers whenever tension between the public interest and health and economic interests clash.

This has to stop - now. A complete overhaul and revamping of this agency and other regulators (MDH, EQB, et al) who have little or no power and no budgets or willingness to exert what power they *have* been given, let alone their fundamental mandates as public overseers, is vastly overdue. This has been a plague on the state's stewardship of the environment and public health for over 35 years, perhaps longer. And no number of legislative audits have resulted in any significant improvements.

I give you the power line, ethanol plants here and elsewhere, the ignoring of cumulative effects of permitting polluting facilities in close proximity (the coal-fired power plants, the ethanol and plating plants all within blocks of each other); dairy and livestock feedlots and the nonpoint source pollution resulting from them, to name but a few. Add to that the power generation facilities and transmissions facilities issues, and you have a rip-roaring bundle of special interests spelling disaster for the human condition around here. The diminution of urban and rural air quality and water potability has been the direct result of this state's unwillingness to hold polluters at all levels accountable to the public - and this includes the Legislature.

I have not only directly witnessed this non-regulatory behavior in such circumstances for some 40 years, but I have covered these issues time and again in my 50 years as a working journalist.

Under no circumstances should any of the environmental review processes be allowed to erode under agency rulemaking enabled by your colleagues (and you?) in the legislation below.

We will be working harder than ever to expose this travesty of a regulatory system in Minnesota, but this stops right now!! There will be consequences for improper action or inaction, as the case may be.

Thank you.

Andy Driscoll, St. Paul
District 64A

NEXT TTT - KFAI 11AM - OCT 14: CITY

ELECTIONS 2009: Minneapolis RCV Primer and the BET Question (Scroll down for details)

LAST TTT October 7: MINNESOTA MEDIA: Mainstream No More? PODCASTS: TTT on MobileMe; DELICIOUS; MyPODCAST; GarageBand/G-CAST Direct Play; GarageBand/G-CAST All shows list; Subscribe in iTunes

Sept 30: RALPH NADER PODCASTS: TTT on MobileMe; DELICIOUS; MyPODCAST; GarageBand/G-CAST Direct Play; GarageBand/G-CAST All shows list

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email: andy@driscollgroup.com

Public comment closes TOMORROW, October 14th, at 4:30.

Send comments to

susan.heffron@pca.state.mn.us , gregg.downing@state.mn.us

(And copy your legislators!)

We just found out about--thanks to Stephanie Henrickson--an effort to "streamline" the Minnesota environmental review process (EAW/EIS) in favor of developers and polluters. (AGAIN, says Atty. Carol Overland, who should know.)

One proposal by would apparently end the ability of citizens to petition for an Environmental Impact Statement.

Background: The legislature in 2008 passed HF 2123 --- Omnibus Environmental Finance Bill, including:

Sec. 65. ENVIRONMENTAL REVIEW STREAMLINING REPORT.

By February 15, 2010, the commissioner of the Pollution Control Agency, in consultation with staff from the Environmental Quality Board, shall submit a report to the environment and natural resources policy and finance committees of the house and senate on options to streamline the environmental review process under Minnesota Statutes, chapter 116D. In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process. The report shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards.

The problem with this, of course, is that HF 2123 doesn't call for "improving" or "strengthening" environmental review, but only for "streamlining" it. Streamlining is a code word for weakening.

The PCA "consulted" by holding a public meeting on September 29 of which no record was kept. We are told that representatives of the Minnesota Center for Environmental Advocacy and Clean Water action attended. The MPCA is accepting "written streamlining options" until 4:30 on October 14th.

In a presentation, Jess Richards of the PCA put forth "examples of options," stating "however, the MPCA is not really advocating for any of these options." (Another report with mostly historical discussion.) The proposed "options" are all bad news:

1. **"Undo decision link between EAW and EIS"**

"Under this option an EAW could no longer lead to an EIS. Only the mandatory EIS thresholds would lead to preparation of an EIS." In other words, no more discretionary EIS's in response to citizen petitions.

Fran Sauer wrote: "...if this type of regulation had been in place in 2002, we would not have been able to seek an EIS. We may not have been able to challenge the MPCA and the MPCA Citizens Board and eventually get an EIS ordered. The door would have been slammed shut and we would, most likely, be living with the effects of a tire burning plant in SE MN."

2. "Customize EAW forms to specific sectors."

This seems intended to focus on already-recognized issues and prevent the raising of new ones. "This is currently in place for feedlot EAWs.... this form focuses on the number of animal units and manure handling. Other possible sectors that may benefit from this include [sewer plants], residential development, and sand and gravel operation."

3. "Early Public Engagement"

This basically means that project proposers would be encouraged or required to propagandize the public in favor of their projects. One option for doing is this is "Require the proposer to develop a public communications plan as part of the project submittal."

From Mr. Richards or his colleagues we get this pure industrial propaganda:

"Stall tactics: ... there will always be instances where the NIMBY approach takes effect. In these cases the public may use the ER process to create delays and to stall the RGU's decision making process. In these cases, no answer by the proposer or RGU is adequate in their eyes and they will use all possible options to slow or stop the project.... This situation can sometimes be mitigated by a strong public engagement effort by the proposer." [That is, some uppity citizens actually want a say about what happens.]

4. "Eliminate duplication between environmental review and permitting"

"Essentially this would use a checklist or some method to analyze which issues are covered by the permit process. If the checklist determines that these issues are covered in permitting then they would not be included in the EAW." Examples offered by the MPCA include "air risk/modelling, wastewater discharge, and stormwater management." This would be disastrous because none of these areas--for example--are adequately covered by permitting requirements--aren't the air and water still polluted?--and the opportunity for more comprehensive review would be gone. The MPCA puts it this way: "...any items that are covered by a permit would not be subject to a decision on significant potential for environmental effects." This "Would limit the scope of the decisions and provide " ...Fewer opportunities for public input on permit-related issues."

(Says Overland: "Isn't environmental review a PART of the permitting process, not covered elsewhere? -- the most basic environmental review?")

5. "Green-streamlining" for existing facilities"

Experience shows that this would mean more exemptions and other special treatment for many of the most undesirable projects such as ethanol plants, feedlots, transmission lines, garbage incinerators and "biomass"

burners. It is also absurd because if a proposal was actually green why would it need exemption from rigorous environmental review?

As of this afternoon the MPCA had received only three comments.

R. L. Sauer MD, of Preston, MN, wrote (excerpts):

" ... this streamlining can only be at the behest of developers and politicians that consider demonstrating best practices in environmental stewardship a tedious, unnecessary, expensive delay. A delay that cuts into their bottom line with no benefit to the community as a whole."

"... those involved with any "streamlining" should look in the mirror every morning and remind themselves that there are 3 million plus "stakeholders" in every project that has any potential to impact the environments air, water, or soil. Short cuts, it is often said, make long delays. In the case of environmental review it may make super fund sites. Worse than that it may make some of those 3 million sick ... Removing the citizenry from the ability to petition the court for more extensive review should be discarded as a viable option."

On the other side, Steve Menden, Vice President, Wenck Associates [A firm that works with developers of polluting facilities such as wood burners] writes:

[Does not like] *"Inability of the Env. Rev. process to recognize state priorities – like energy (wind and biomass projects), solid waste incineration etc."* [That is, politically favored industries should get special treatment.]

"Need to find some way to prevent project opponents from using the ER process to slow down/stop a project without jeopardizing the public involvement process – which is important." [That is, "public involvement" should be feel-good stuff without any real impacts.]

What you can do:

Send Ms. Heffron and Mr. Downing and your state senator and representative an email NOW, indicating your objections to these and any other proposals to weaken the Minnesota environmental review process, and to extend the public comment period at least three weeks.

If you belong to any public-interest organizations, *ask them to oppose the proposed "streamlining."*

Some ideas for comments:

- 1) Changes to the review process must demonstrate that they maintain or improve the environment – not merely result from developer political pressure to eliminate or reduce environmental review;
- 2) Public input on EAWs can improve projects and have positive results with site specific information on projects that the blanket EQB Rule categories do not address;
- 3) EAWs should potentially lead to EISs where site specific concerns demonstrate the need for additional study. This is a critical link in the existing process to maintain or improve the environment in specific locations;
- 4) Delays in project development often result more from the developer's slow turn around on submitting information or initially submitting incomplete/inaccurate information than from the public input portion of the process.

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11

Heffron, Susan B (MPCA)

From: Carol A. Overland [overland@redwing.net]
Sent: Tuesday, October 13, 2009 11:07 PM
To: Heffron, Susan; Lockwood, Beth; Richards, Jess; gregg.downing@state.mn.us;
jon.larsen@state.mn.us
Subject: Revising Minnesota Environmental Review
Attachments: Comment.pdf

... over my dead polar bear... sigh...

Please see attached comments

Carol

--
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October 13, 2009

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RE: "Streamlining" Environmental Review

Dear Ms. Heffron, Ms. Lockwood, Mr. Richards, Mr. Downing and Mr. Larsen:

Enclosed please find my comments regarding Environmental Review. I am making these comments as an individual who has much experienced with environmental review in various venues, too many to remember, and not in the course of representation of any client. I'm also making these comments as one who was NOT deemed to be a stakeholder, and who should have been.

Jurisdictionally, it's a problem that this matter is in the hands of the MPCA rather than the Environmental Quality Board – I think that's just another attempt to neuter the EQB. It's also an attempt by the executive branch to further neuter the MPCA in its jurisdiction over feedlots and air permits. The MPCA has jurisdiction over only certain types of environmental review and should not be "speaking for other

agencies.” The role of the EQB over time has been an important one, one that’s been whittled away over decades, and that trend must be reversed.

The focus of this is supposed to be “Environmental Review” but addresses only EAWs at the DNR, PCA, and DOT. “Environmental Review” encompasses a lot more than that. I see no mention of the Dept. of Commerce’s grossly feeble attempts at “Environmental Review”, and this is one area that deserves heated scrutiny.

This process included “consultation with interested stakeholders” using an apparently fine sieve, where “stakeholders” are determined by what process? And then those “interested” are allowed input by the MPCA. Then, much later in the game, after it’s pretty much decided, the public is able to submit comments. This is an inappropriately limiting procedure. As recommended as an environmental review option in this powerpoint, there should be early public participation, and, as not mentioned in this docket, there should be frequent public participation. The public is clearly not regarded as a driver, and should be.

It’s also problematic that there is an extreme push for “streamlining” without identifying the source of the desire for change. In my experience, the many calls for “streamlining” have meant repeated gutting of environmental protection at the behest of industry interests. I note that the Pawlenty administration has been unsuccessfully attempting to “streamline” environmental review since he took office. The Governor’s efforts have not been entirely successful and “environmental review” still lives, in a weakened condition. Enough. The state’s environmental review is far laxer than it was when my legal career began in 1994. Our environmental review system has been gutted and rather than be further gutted, it needs some guts and gonads added.

Early public engagement is good, but it must not supplant a breadth of public participation options and process. Project developers can hold public meetings anytime and shouldn’t have to be told to do so. If they don’t, and suffer for it, maybe they’ll learn. Poor public engagement as a cause for delay is to be expected, a prime example is the Waseca machine gun range and tank track. The developer’s attitude and approach so antagonized the neighbors and community, and ultimately the County Board, that the project was rejected.

From the Lockwood powerpoint, there were under 200 EAWs last year. For a state the size of Minnesota, that is not many, and from personal experience, I know there were not nearly as many as there should have been. Only 35% are conducted by state agencies. EAWs are not particularly burdensome to the state, given they’re typically prepared by the developer or consultant, and the developer or consultant should be assessed state or local government staff costs. Delays are, as the powerpoint notes, typically caused by the developer’s failure to follow up, to produce information, sufficient for the process to proceed. The information about numbers of EAWs and cycle time is not indicative of a problem nor should it be cause for alarm -- it’s notice that the process is being used and that it works... sort of... sometimes. Environmental review should identify problems and deal with them, that’s the whole point.

Customizing EAW forms could help in that it would set out clearly, or should, definitional problems, i.e., what counts as 80 acres of land conversion, what is a wetland, etc, issues I’ve litigated in the past. This should not be surreptitiously used to limit the scope of review.

Delay is not necessarily bad. Don’t put a negative value on it as the Jess Richards MPCA power point does. Time is viewed as the enemy, that it is a problem if environmental review takes some time. However, this time used could help separate projects not adequately capitalized, or not well-conceived, because houses of cards usually fall over if given time. If projects are rushed through, more projects could get through that just shouldn’t be built. If MPCA’s median time is 6 months, what’s unreasonable

about that? What is the typical dollar value of the project at issue? What are the potential impacts? For a MPCA reviewed project, which is likely an air permit or ethanol plant or feedlot, which has great potential for environmental impacts, and as infrastructure, a decades long life, six months is not too long.

The concept of “eliminate duplication between environmental review and permitting” makes no sense to me, and I’ve been a part of many permitting and environmental review dockets. In my experience, environmental review is a part of and is subsumed into a permitting process and there is no duplication. This complaint seems fabricated. There’s no reason a developer can’t link to their permit application or a permit docket, no reason why documentation in the permit docket can’t be used as supporting documentation in the EAW or EIS, this is a non-issue. The purpose of this “duplication” complaint seems to be revealed in slide 3, where it states that “The difference is that any items that are covered by a permit would not be subject to a decision on significant potential for environmental effects.” THAT is the KEY, and that seems to be the objective. Any option with this “non-decision” as the result must be rejected.

Arguments regarding purpose of environmental review and purpose of permits are necessary, because the purpose of a “permit” is to permit, and the purpose of environmental review is to question whether to permit, determine impacts, and determine if impacts can or should be mitigated.

What changes ARE necessary:

The first major necessary change is to reverse the 2005 shift of environmental review of utility infrastructure from the EQB to the “Public Utilities Commission” (it’s the Dept. of Commerce that is actually handling Environmental Review for the Commission). The results are horrific – the Dept. of Commerce has no environmental charge or public participation charge -- it is an entity primarily promoting private interests and private profit efforts. Environmental review of utility infrastructure must be returned to the EQB.

Of the “Streamlining Ideas Summary,” only “Employ early public engagement” should go forward, and only if it is a means of bringing in the public, and providing more opportunities for participation. If not, if it’s window-dressing and greenwashing, the public will know and then the agencies will be worse off than before.

Alternative review is not appropriate for pipeline routing or energy facilities such as power plants, transmission lines, and/or wind. These projects are, under Minnesota law, deemed to have significant environmental impacts, and require no less than full environmental review.

Environmental review has been essentially eliminated for ethanol plants and wind projects, and this is not appropriate. Both ethanol plants and wind projects need full environmental review – these are projects presumed to have environmental impacts, yet the state is lessening environmental review. This trend must be reversed.

The MPCA’s Jess Richard’s attitude toward neighbors of projects must be changed. If someone next to a project objects to breathing its polluted air, seeing its bright lights, drinking its wastewater, living under its transmission lines, next to its pipelines, these concerns should not and must not be discounted. If it’s a problem for the neighbors, it’s also likely to create problems downwind and downstream – the neighbors are the canary of environmental review. PAY ATTENTION, with RESPECT.

Where joint federal and state environmental review is reasonably foreseeable, that joint federal and state review must occur. Joint review should not be circumvented or avoided, as it was in the CapX 2020 transmission Certificate of Need proceeding. The “Commissioner of Commerce’s” scoping decision said federal review was not anticipated. The Commissioner was in fact on notice that the Rural Utilities

Service was going to prepare an EIS, due to many public comments in the record, and doubtless the agency knew of the impending review. That joint EIS level of review was necessary for that project, and it did not occur.

The notion that only mandatory EAW and EIS categories would get an EAW or EIS is against the public interest and MEPA. Projects requiring an EAW or sufficient to produce an EAW Petition are ones that entail some level of environmental harm, and a project of that magnitude should expect to have to demonstrate there will not be environmental harm, that any harms can be adequately mitigated. Any attempt to delink EAW and EIS must be stopped.

Calling something Green is no reason for process to be eliminated. Look no further than the "green" claims of Excelsior Energy Mesaba Project for proof. Wind projects circumvent much environmental review, and should not, but it took the Dept. of Health to address the issues raised by Intervenors and members of the public commenting in dockets. Environmental review has been inadequate. Don't make it worse. Restore full environmental review for all "green" projects.

The state agency's role is one of environmental review, not promotion. This has not always been apparent in proceedings I've witnessed.

Delays – keep the EQB in the process, handling triage and procedure issues. Alliant/Wisconsin Power & Light's Bent Tree wind project is a good example of how NOT to handle environmental review. The EQB should be able to take a directive role and help local government to do the job. In this case, I'd guess the developer chose local review because it hadn't been done before, and the EQB should be alert for these scenarios where local government needs help and HELP, assessing the developer for costs.

FYI, the EQB's site is hopelessly outdated. The Sept. 7 EQB Monitor won't download, it's "corrupted" nor will the "two comments" thus far received, also "corrupted." The notice for this comment period should be on the home page loud and clear, not "corrupted."

Bottom line: "Streamlining?" NO! Try improving, protecting, strengthening, controlling, preserving, but not STREAMLINING. It's the Environmental QUALITY Board, and the Pollution CONTROL Agency.

When is the meeting for a decision by EQB?

Who will be charged with writing the legislation to be proposed?

PUBLISH NOTICE OF THE NOVEMBER 2009 EQB BOARD INFORMATION ITEM ON THE HOME PAGE IN CAPITAL LETTERS AND BOLD FONT!

PUBLISH NOTICE OF FUTURE LEGISLATIVE HEARINGS ON THE HOME PAGE IN CAPITAL LETTERS AND BOLD FONT!

If you have any questions, or require anything further, please let me know.

Very truly yours,



Carol A. Overland
Attorney at Law

Heffron, Susan

12

From: Carol A. Overland [overland@redwing.net]
Sent: Wednesday, October 14, 2009 2:35 PM
To: Heffron, Susan; Lockwood, Beth; Richards, Jess; gregg.downing@state.mn.us;
jon.larsen@state.mn.us
Subject: Comments - "Streamlining" Environmental Review

All -

Please regard this as my "Comment #2" in this matter.

As you know, I submitted comments last night, hastily written due to little notice. Today, I've spent quite a bit of time getting notice out via my site and lists and clients, and the results have been disturbing. What I've learned is that people active in environmental issues and frequent commentators in environmental review dockets are unaware that this comment opportunity exists.

At this time, I ask that the Comment Period be extended 30 days and that notice be provided to those who have commented by the 4:30 p.m. deadline today, that this re-notice be posted on the EQB and MPCA websites in a prominent location, and that email notice provided to those who have commented in environmental review dockets within the last two years.

You all know who the "usual suspects" are who should have received notice of this docket.

Also, please provide the link where comments received are being posted.

Thank you for your consideration.

Carol A. Overland

—
Carol A. Overland
Attorney at Law

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www.nocapx2020.info

Heffron, Susan

13

From: James Peters [jim@peterslawfirm.us]
Sent: Wednesday, October 14, 2009 9:43 AM
To: Heffron, Susan
Subject: Environmental Review Report

October 14, 2009

To: Susan Heffron
From:
James Peters, Attorney at Law
Peters & Peters, PLC
460 Franklin St. No. #100
Glenwood, MN 56334

I write to comment and make suggestions on the environmental review process. Our law firm has represented a number of different citizen groups in various parts of the state in environmental review matters.

1. Retain the ability of agencies and courts to order EISs on specific projects following the EAW process and maintain the EAW process as originally intended. Site specific information generated during the EAW process should lead to an EIS, where an agency or court deems it appropriate. This link is critical to effective administration of the environmental review process. An example is where the Citizens' Board ordered an EIS on the Tire Burner proposed for Preston, Minnesota. That EIS was critically important to that area of the state. Another example is the EIS ordered on the proposed ethanol plant for Erskine, Minnesota. Agencies noted the need for additional information and the Citizens' Board agreed with regard to ground water and surface water interaction. The Hancock Pro Pork EIS showed that the project had impacts that the EAW did not address and required mitigation (dead animal disposal plan, air emissions, and land application of manure in high water table areas). The one size fits all rule approach is not a good model. Real estate is all about location, location, location.
2. We appreciate the acknowledgement that the projects that have early and good public involvement tend to get approved quicker and are less controversial. Provide adequate notice to the public with an adequate description of the project and the impacts expected on the project so that people have the opportunity to submit appropriate comments. People do know their local area. They identify environmental factors that the developers aren't aware of, and often even the State is not aware of. These factors can be important to mitigation and to review of possible alternative locations. We have seen projects where developers hide the ball on impacts or spring the project on the public in a hasty effort to quickly get approval without consideration of relevant factors. The public gets upset and sees that the developer is taking advantage of the process and is pursuing an experimental or intensive project. This results in delays and is a 3rd world process.
3. Establish some deadlines on developers to timely submit information in the EAW process. This would help developers push consultants to get the information into the RGU in a timely manner. Establishing developer turn around deadlines would reduce the time required to complete environmental review and would avoid the misuse of the EAW process as a mini-EIS. Do not let streamlining turn out to be substantial weakening of the review process. Deadlines already exist for public comment. Deadlines do not exist for developers to submit information. Please add such developer deadlines to reduce delays and keep the EAW as an EAW.
4. Establish rules to maintain the EAW process as intended and prevent abuse of the EAW process by turning it into a mini-EIS. This abuse naturally lengthens the process for an EAW and increases the cost to the agency. The EAW takes more time because they turn EAWs into mini-EISs, a process which was never intended. The RGU ends up spending more resources on the EAW process because it has been warped into a mini-EIS under developer (or political) pressure to avoid an EIS on a project that often warrants an EIS because of the extensive impacts anticipated.

5. Any proposed change should demonstrate achievement of the statutory mandate that the change will maintain or improve the environment. I am concerned that, based on the specific suggestions of MPCA to date, projects with major impacts will avoid necessary environmental review and degrade environmental quality in Minnesota. The quality of the environment in Minnesota is too important to put at risk, for many reasons. We need to retain and improve on the environmental review process.

Please reply to confirm receipt. jim@peterslawfirm.us Thank you for the opportunity to comment.

James Peters

Heffron, Susan

14

From: Leslie Davis [leslie@lesliedavis.org]
Sent: Wednesday, October 14, 2009 9:49 AM
To: Heffron, Susan
Cc: gregg.downing@state.mn.us; Joe Mullery; Alan Muller
Subject: EQB RULES

Dear Ms. Heffron and Mr. Downing:

The date to comment on the proposed environmental rule changes got away from me but I am interested and want to comment.

However, I would like you to extend the comment period by 30 days in order for me, and others, to do so. If you decline to extend the comment period please accept the comments below as my official response.

I await your advice on an extension of time and the location of the information needed to review and comment more fully.

Sincerely,

Leslie Davis, President

Earth Protector, Inc.

P.O. Box 11688

Minneapolis, MN 55411

612/522-9433

COMMENTS ON ENVIRONMENTAL RULE CHANGES

- 1) Changes to the review process must demonstrate that they maintain or improve the environment – not merely result from developer political pressure to eliminate or reduce environmental review;
- 2) Public input on EAWs can improve projects and have positive results with site specific information on projects that the blanket EQB Rule categories do not address;
- 3) EAWs should potentially lead to EISs where site specific concerns demonstrate the need for additional study. This is a critical link in the existing process to maintain or improve the environment in specific locations;
- 4) Delays in project development often result more from the developer's slow turn around on submitting information or initially submitting incomplete/inaccurate information than from the public input portion of the process.

End.

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Heffron, Susan

From: Leslie Davis [leslie@lesliedavis.org]
Sent: Tuesday, October 13, 2009 11:31 PM
To: gregg.downing@state.mn.us
Cc: Heffron, Susan; Joe Mullery
Subject: PROPOSED CHANGES TO EQB RULES

Dear Mr. Downing,

It has come to my attention that the environmental review regulations are undergoing proposed changes. I regret to say that I have not been up to speed on this subject and hereby request an extension of time to November 14, 2009 for review and comment.

Please send me the necessary information about the proposed changes and your assurance that an extension of time will be granted to comment.

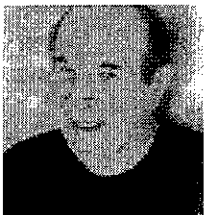
Yours truly,

Leslie Davis

P.S. Below are some suggested comments that have been sent to me and by this communication I submit them as my comments at this time unless given additional time for review and comment.

COMMENTS ON PROPOSED ENVIRONMENTAL REVIEW CHANGES

- 1) Changes to the review process must demonstrate that they maintain or improve the environment – not merely result from developer political pressure to eliminate or reduce environmental review;
- 2) Public input on EAWs can improve projects and have positive results with site specific information on projects that the blanket EQB Rule categories do not address;
- 3) EAWs should potentially lead to EISs where site specific concerns demonstrate the need for additional study. This is a critical link in the existing process to maintain or improve the environment in specific locations;
- 4) Delays in project development often result more from the developer's slow turn around on submitting information or initially submitting incomplete/inaccurate information than from the public input portion of the process.



**Leslie Davis, President
Earth Protector, Inc.**

P.O. Box 11688
Minneapolis, MN 55411
Phone: 612/522-9433
www.EarthProtector.org
Leslie@EarthProtector.org

Heffron, Susan

16

From: Lockwood, Beth
Sent: Monday, October 12, 2009 11:13 PM
To: Heffron, Susan; Richards, Jess; Affeldt, Craig; Henderson, Joe
Subject: Fw: EAW and EIS "streamlining"

Fyi. A comment on ER Streamling.-I will send an acknowledgment to Fran that we received the comment letter. -Beth

Beth Lockwood, Manager
Environmental Review and Feedlot Section
651-757-2534
800-657-3864
Sent from Blackberry

From: Fran Sauer <efsauer@mchsi.com>
To: Lockwood, Beth
Sent: Mon Oct 12 13:47:56 2009
Subject: EAW and EIS "streamlining"

R. L. Sauer MD
317 Chatfield Ave. Box 348
Preston, Mn. 55965
r.sauer@mchsi.com

10/12/09

Dear Ms Lockwood and EQB Staff,

I have just read the power point presentation titled Environmental Review Streamlining and the Technical Representatives Report dated April, 11, 2007 associated with the power point.

My immediate response was two fold. Firstly that this streamlining can only be a request of developers and politicians that consider demonstrating best practices in environmental stewardship a tedious, unnecessary, expensive delay. A delay that cuts into their bottom line with no benefit to the community as a whole.

Secondly, that it was an end run around the original MEPA to reduce the workload of EQB, the EQB staff, and the MPCA staff. Considering the appropriations for those organizations and my previous experience with the MPCA I have discarded this late response as unworthy.

I do believe, however, those involved with any "streamlining" should look in the mirror every morning and remind themselves that there are 3 million plus

stakeholders" in every project that has any potential to impact the environments a
water, or soil. Short cuts, it is often said, make long delays. In the case of environme
review it may make super fund sites. Worse than that it may make some of those 3
million sick.

Removing the citizenry from the ability to petition the court for more extensive
review should be discarded as a viable option. A super EAW is not a reasonable
alternative. Site specific complaints should not be automatically viewed as NIMBY.
Option that an EAW lead to an EIS is the greatest impetus for developers to be forth
coming in their preparation of an EAW.

Incomplete information in the EAW or lack of attribution for studies and expect
discharges, along with developer delays in answering citizens' questions, are the gre
reason for delays. More extensive EAW's with bibliographies and attributions inclu
or technical or controversial pollutants and discharges would speed up many
developments. This would be especially true if coupled with early public meetings b
proposers and/or the RGU.

The charter for the EQB and the MPCA given in the MEPA is to maintain or
improve the environment which I am sure is your purpose. I am hoping you will no
allow political or economic pressures to influence you to consider short cuts.

Sincerely,

R.L.Sauer

Heffron, Susan

17

From: T Rubin [trqqq@yahoo.co.uk]
Sent: Thursday, October 15, 2009 4:08 AM
To: Heffron, Susan; gregg.downing@state.mn.us
Subject: Retain Citizen's right to participate in environmental reviews

Dear Ms.Heffron and Mr. Downing -

I own land near Ely, Minnesota and am very concerned about proposals to limit public involvement in environmental reviews. As you may know, several projects are underway in the area that have potential to severely reduce my property value, due to environmental consequences of poorly executed and poorly regulated mining. These projects include the PolyMet mine near Hoyt Lakes, and the Hardrock Minerals project in Superior National Forest. It is crucial that citizens have the opportunity to have significant involvement in these and other activities that impact them and the environment.

I would like to know what purpose is served by eliminating public involvement, other than streamlining a permit and review process that benefits businesses and its lobbyists, but severely impacts local taxpayers.

My major points:

1. Citizens must retain the right to petition for an Environmental Impact Statement.
2. Minnesota must maintain a strong and balanced environmental review process, one that does not favor "streamlining" at the expense of citizen input, proper review of projects, and environmental quality.

Please excuse the late timing of this letter, as I only learned of the issue on the day that the comment period closed.

Please also inform me of other related issues and opportunities to comment on them.

I will appreciate hearing your reply.

Thank you,
Tod Rubin
trqqq@yahoo.com

Send instant messages to your online friends <http://uk.messenger.yahoo.com>

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Heffron, Susan

From: Jane @ River Point Resort & Outfitting Co. [info@elyoutfitters.com]
Sent: Wednesday, October 14, 2009 8:36 PM
To: Heffron, Susan
Subject: From Jane & Steve Koschak: Curb Citizens Rights in MN Environmental Review Process

Dear Ms. Heffron,

We have just found out about the newest effort to weaken the MN environmental review process, and we strongly object to this proposal and others that weaken the public review process in MN. This so called, "streamlining" of the process, does nothing but favor the developers and polluters. **Furthermore, the public comment period should be extended at least for three more weeks.**

Following are reasons why this process should not be "streamlined":

First, any changes to the review process should demonstrate that the change actually maintains or improves the environment. Changes should not come merely from the developer's political pressure to eliminate or reduce the environmental review.

Second, public input on EAW's can improve projects and have positive results with site specific information on projects that a blanket EQB Rule category does not address.

Third, EAW's should possibly lead to EIS's that expose more concerns for additional study of the environment in question.

Fourth, most of the time the developer is the one who makes the delay in submitting necessary information... rather than the public input portion of the process.

We are property owners on Birch Lake and the South Kawishiwi River in the Ely area, and strongly oppose any hardrock mineral exploration and/or development until it can be proven that no pollution would occur. Minnesota needs a moratorium on sulfide mining just like in Wisconsin. In the name of jobs for the short-term, are we really willing to forever more damage and/or destroy wetlands and the waters all creatures need to live? There are plenty of other places in the US to mine for these minerals, that would not destroy wetlands, or would not be as sensitive an area to mine in, as in the heart of Minnesota's lakes area and the Boundary Waters Canoe Area---a pristine wilderness recreational area.

Thank you for your consideration.

Sincerely,

Jane and Steve Koschak
PO Box 397
Ely, MN 55731
218.365.6625
info@elyoutfitters.com

Heffron, Susan B (MPCA)

19

From: Shellene Johnson [johnsonshellene@yahoo.com]
Sent: Wednesday, October 14, 2009 4:24 PM
To: Heffron, Susan
Subject: Environmental Review streamlining comments
Attachments: Environmental Review comments.doc 97.doc

Please accept my attached comments.

October 15, 2009

RE: Minnesota Environmental Review "streamlining" Comments:

To Whom it May Concern,

I am submitting the following comments on Environment Review "streamlining" process being considered. I ask that my following comments be taken into consideration and be included as part of the record.

Ensuring for proper, formal and comprehensive environment review is essential to protecting our environment today and in the future. Natural resources must be protected and evaluated fully as we are interdependent and intertwined with the environment not separate from. We must advocate for the highest in standards for review.

Environmental review for transmission lines and power plants must be transferred back to the EQB. Environmental Reports prepared by Commerce in utility dockets do not provide adequate environmental review and do not do the job of an Environmental Impact Statement. It has been seen time and time again Commerce does not have the technical knowledge and skill to properly do imperative environmental review.

Environmental Reports as environmental review almost completely eliminate the public's participation component of environmental reviews as required by NEPA. "Streamlining" implies eliminating and/or reducing steps and corners in an very important review process. Public's participation should always be ensured and promoted as this is our environment and the public must have the ability to remain involved. I personally have been actively involved in these processing and have seen only positive outcomes with the public's participation.

I have seen over and over through the years, environmental protections weakening significantly with devastating negative impacts. It is ethical and good policy to ensure comprehensive environmental reviews and environmental review must be strengthened in Minnesota. Let us lead the country in our ability to recognize the absolute importance of protecting our environment and having a process in which we have high standards.

I would like to see public comments timelines extended and the process in which the public is notified improved. Public notice has been fragmented and poor. Information and primary documents should be available and accessible on the website with sufficient background information, including the posting of comments online.

Minnesota State utility sitting laws allow for a project that is being proposes for the proposer to select the local government for review, and local governments do not have sufficient expertise or budget to conduct adequate environmental review of utility projects. Not only are local governments lack the technical skills for this review process, this is not in the best interests of the

State for one local government, who can easily be manipulated and exploited, to make these types of decision that will have an impact.

Respectfully submitted,

Shellene Johnson

Shellene Johnson
P.O. Box 355
Center City, MN 55012

Heffron, Susan

20

From: Schulte, Thomas [thomas.schulte@lmco.com]
Sent: Wednesday, October 14, 2009 4:22 PM
To: Heffron, Susan; Lockwood, Beth; Richards, Jess; gregg.downing@state.mn.us;
jon.larsen@state.mn.us
Subject: LWECS-Concerned Citizen

Hello!

I am writing to you today because I fear the letters I have posted to the PUC will mostly go unread. Furthermore, if they are read, they will be ignored for the "Greater Good" and damn the people who have the most to lose!

I live in the potential footprint of the Goodhue Wind project with my wife (Mechanical Engineer and Registered Nurse, soon to be a Nurse Practitioner) and three children. We no more completed our house when the rumblings of two wind developers clandestinely signing up landowners reached our ears. Thank goodness for a kind neighbor or we may still be left unaware of the projects. If I were to have known that a wind project was slated for my area, I would have never built here! I feel like David versus Goliath. It seems we really have nobody that is standing up for us. State agencies whose job it is to protect the people seemingly pay no attention to the mounting evidence that you simply cannot put an industrial wind turbine in someone's back yard without any side effects. The wind developers seem to think that any side effect is just something people need to live with in order to meet a state mandated energy goal. They have stated to me personally "people felt the same way about utility poles too when they first went up". They have the intestinal fortitude to compare a 400' tall tower with the footprint of a 747 to a 30' power pole? Amazing!

I have read many of the postings on the PUC's web site commenting on the current setbacks. Of course, all the wind development companies have banded together to present one voice on this issue, wrapped it up in a nice neat package and had a lawyer sign off on it. They all feel the current setbacks are adequate siting many studies along the way. And why shouldn't they... those setbacks greatly favor them! They all seem to have a common theme that if you can't hear it, it does not exist and contain many statements like "should not cause any health effects". Would this be good enough for the FDA when bringing on a new miracle drug? They all seek to discredit the MN Department of Health study which states clearly there are health-related issues with many people when turbines are sited closer than .6 mile from their home. I find it interesting, however, that Excel Energy breaks from the pack and agrees with the MDH study.

Clearly, more research is necessary. I propose this research be conducted by appropriate Medical Doctors (perhaps from the Mayo Clinic) teamed with Acousticians and Engineers who are in no way tied to the wind development companies. Too many of the studies they site are tainted by the outcome the wind developers wish to achieve. To date, Pierpont has been the only MD PhD that has worked the issue logically. That is, start with the problem and work toward the cause.

The welfare of my family is also at stake here. We spent our life savings on our current home and cannot afford to take any hit on the value. Numerous studies show that having a wind turbine within 3 miles can affect the property value. Logically, this makes perfect sense. Why would I live here and pay the same price when I could go live over there where no wind turbines are present.

Finally, the way these developments tear a community apart makes me weep. Here in Goodhue, we have sibling against sibling, cousin against cousin, neighbor against neighbor and even spouse against spouse. What a tragedy in the making! Many of these issues are caused by the tactics the wind developers employ. "you might just as well go ahead and sign up, everyone else is" commonly spews from their lips. Often times, landowners do not even know what they are signing and it takes a lawyer to decipher the document. When they do find out, it is too late! Also, those of us in the community strong enough to speak up are instantly labeled as "Anti-Wind". Not wanting an industrial object located near my house suddenly elicits name calling. Another tragedy! Industrial objects belong in industrial parks, not on prime agricultural land!

Thank you for your time and looking into this matter further. I can be reached anytime at 651-245-0068 if you wish to discuss the issue further.

Kind Regards,
TJS

1

Thomas Schulte
Subsurface Business Manager
651-456-2372

21

Heffron, Susan

From: Erik Carlson [carlson7472@yahoo.com]
Sent: Tuesday, September 29, 2009 3:37 PM
To: Susan.Heffron@state.mn.us
Subject: ER streamlining comment

Tiering is an existing streamlining provision that should be encouraged, incentivized and integrated more fully into the rules. The tiered EIS provision (4410.4000) only allows for a series of tiered EISs with a level of detail appropriate for each phase of project development. Though information can be sized appropriately within an EIS, the rules default to the most expansive process (EIS) for successive tiers with no contemplation of potential impacts. It would be better to also scale the Tiered ER process down to an EAW or up to an EIS depending on potential impacts (EAW or EIS).

The state could allow EAWs in a tiered environmental review process. When a project proposer comes back in to have the second phase (tier 2) of their project reviewed after completing an EIS for tier 1, an EAW could be done instead of another EIS if the tier in question does not exceed mandatory thresholds for an EIS by itself.

Also an applicable GEIS could be used as a tier 1 report. An RGU should be able to rely on a GEIS to reference information and to determine the appropriate level of analysis.

The RGU for tier 1 would remain the RGU through all of the tiers (unless a GEIS were used as the tier 1 and then the RGU would be the same for tier 2 onwards) and only one tier could be reviewed at a time.

It is also my understanding that Federal agencies may do a Tier 2 EA after doing a Tier 1 federal EIS. The state could work with federal agencies to determine if and when tiering an EA off of a state EIS or GEIS is appropriate instead of completing a federal EIS.

Erik Carlson

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Heffron, Susan

From: Tom Mahoney [mm11@fedtelirect.net]
Sent: Wednesday, October 14, 2009 3:10 PM
To: Heffron, Susan; gregg.downing@state.mn.us
Cc: rep.paul.anderson@house.mn; sen.joe.gimse@senate.mn
Subject: ENVIRONMENTAL REVIEW STREAMLINING

Ms Heffron and Mr Downing:

I have recently become aware of the effort to streamline the environmental review process while maintaining or improving air, land and water quality standards and that the deadline for public comment is today. I would ask that you extend the deadline for public comment for at least three to four weeks coupled with an increased effort to assure public awareness of the process.

I believe any changes in the environmental review process must show specifically how the change will guarantee that current environmental quality standards are improved or maintained. If a change can result in reduced environmental quality, it should not be implemented. I believe we have experienced the terrible consequences of "process streamlining" in the real estate and banking industries. We do not need an environmental disaster to occur in Minnesota in the name of streamlining.

I also believe that maximizing citizen input in the review process is vital to the protection of air, land and water quality. EAW s should lead to improvement of projects and that citizens should have the ability to petition for more information and a full EIS based on the findings of an EAW. As a township officer I know that townships, as well as, county and state officials need complete information to make land use decisions. Reducing input will lead to poor decision making. Many permit processing delays are a result of project proposers providing too little information or not providing information in a timely manner.

Please let me know if the comment period will or will not be extended and where I can find minutes or summaries of the information gathering you have done to this point.

Thank you,

Tom Mahoney
Hancock, MN

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Heffron, Susan

From: Bob Tammen [bobtammen@frontiernet.net]
Sent: Wednesday, October 14, 2009 3:24 PM
To: Heffron, Susan
Cc: gregg.downing@state.mn.us
Subject: HF2123 Streamlining

Re: HF2123 Streamlining Report

The proposal for "streamlining" appears to be an effort by corporate polluters and their friends in government to bypass the citizens of Minnesota.

In Northern Minnesota the Saint Louis River is being turned into a drainage ditch for sulfates from mining tailing ponds that are little more than mineralized cess pools.

The inability of the State of Minnesota regulators to clean up the Saint Louis River is ample evidence that we need more citizen involvement, not streamlining.

The MPCA is granting variances, allowing corporations to operate on expired permits, and creating schedules of compliance and voluntary investigation and compliance agreements that sound like they were written by the polluters' lawyers.

HF2123 is a streamlined attack on Minnesota's environment.

Sincerely,

Bob Tammen
PO Box 398
Soudan, MN 55782

Heffron, Susan

24

From: Lori Andresen [andres01@charter.net]
Sent: Wednesday, October 14, 2009 3:38 PM
To: Heffron, Susan; Gregg Downing
Subject: Re: comment on ENVIRONMENTAL REVIEW STREAMLINING REPORT

To: Ms. Heffron and Mr. Downing

Re: comment on ENVIRONMENTAL REVIEW STREAMLINING REPORT

The public needs more opportunities to review and comment on what any possible changes to the environmental review process would mean. It appears to be an attempt by industry to bypass comprehensive public and regulatory review of their proposals. I would request that the comment period for the proposed streamlining of the environmental review process be re-opened and more widely distributed.

"The report shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards."

We need more, not fewer, opportunities for the public to comment on projects. Using the mining sector as an example, it has been stated by both the MDNR and the MPCA mining leads that once a project reaches the DEIS/EIS stage the project has been accepted as a good one and therefore WILL be permitted. That was in response to being questioned on whether the state agencies have ever denied a mining project once it has gotten to the DEIS/EIS stage (the answer was "No").

Our agencies are over taxed and in some cases so conflicted in their mandates as to make current environmental review inadequate. To further curtail the environmental review process in an effort to cave in to industry and governmental authorities advocating for potentially destructive projects, is an abdication of the responsibility of those entrusted with protecting the resources of the state (i.e. the People's resources). We have enough cheerleaders for industry in our government already, we need to strengthen, not weaken the public's ability to oversee the environmental review process. Delays in projects often are the fault of the project proposer / developer. EAWs should potentially lead to EISs, when specific concerns of a project demonstrate the need for additional study.

Any changes made to the review process must first demonstrate that they maintain or improve the environment. Streamlining for the benefit of the proposer/ supporters is going backwards in protecting the environment and should not be allowed.

Thank you,

Lori Andresen
3025 E Superior St

Duluth, MN
55812

Heffron, Susan

25

From: Kristin Larsen [larse026@umn.edu]
Sent: Wednesday, October 14, 2009 2:48 PM
To: Heffron, Susan
Subject: Public comment on efforts to "streamline and strengthen"

Dear PCA,

Re : /ENVIRONMENTAL REVIEW STREAMLINING REPORT/ I have been involved in providing input to environmental reviews and I need you to understand that as an individual citizen, I have a right and a need to speak to environmental reviews. Elected officials should only be permitted to legislate within their defined roles, not to have more right to comment than I as a citizen on processes that are NOT subject to their control. No environmental group or advocacy organization functions without it's biases and no business or agriculture group represents my needs.

I find it absolutely abhorrent that any effort should be made to limit this one opportunity the public has to understand and address issues.

When I vote for office holders I vote for them to do what is in their assigned roles, not to be heard over my voice in decisions that are not theirs to make.

Elizabeth Kristin Larsen
St. Louis County MN

//

Heffron, Susan

26

From: Paul Sobocinski [sobopaul@redred.com]
Sent: Wednesday, October 14, 2009 2:55 PM
To: Heffron, Susan
Subject: Environmental Review Report

Susan,

I am a crop and livestock farmer from Wabasso, Minnesota. My comments are going to be brief because we in the middle of harvest and the weather has been challenging. I am opposed to any weakening of the environmental review process. I think it is important for citizens to retain the right to petition for environmental review of what is being proposed in their community. Citizens like me should have the right to petition for environmental review. It is also important that the EAW process be able to lead to an EIS being done. Frankly who gains from weaken the process certainly not livestock farmers like my self or other citizen in my community but rather entities who want to be able to do what ever they want wherever they want without citizens of this state, many of who may be neighbors to a proposed development in their community, to have a right to have any effective say in protecting the environment in which they live.

Protecting air and water quality should be a right of every citizen of this state. The public ability to be informed and being able to act as full citizens should not be reduced.

Sincerely,

Paul Sobocinski
Livestock Farmer and Citizen
24649 230th Street
Wabasso, MN 56293
507-342-5280

Heffron, Susan

27

From: Alan and Karen Perish [apkp@embarqmail.com]
Sent: Wednesday, October 14, 2009 3:01 PM
To: Heffron, Susan; gregg.downing@state.mn.us
Subject: Environment review process

This is not the TIME to streamline any of the environmental review processes. The cause and effect of an action of that nature will allow Corporate Ag to take unfair advantage of a Livestock Industry already suffering from the effect of CORPORATE AG ON THE INDUSTRY . And will do nothing to improve the QUALITY OF THE WATER, FOOD, AIR, for the people of the state of Minnesota. Sincerely Alan Perish

28

Heffron, Susan

From: Richards, Jess
Sent: Wednesday, October 14, 2009 3:08 PM
To: Heffron, Susan
Subject: FW: Proposed Changes to Environmental Review(MPCA)

From: Flo Sandok [mailto:fsandok@charter.net]
Sent: Wednesday, October 14, 2009 2:34 PM
To: Richards, Jess
Subject: Fwd: Proposed Changes to Environmental Review(MPCA)

Begin forwarded message:

From: Flo Sandok <fsandok@charter.net>
Date: October 14, 2009 2:21:05 PM CDT
To: Jess.Richards@MPCA.state.MN.us
Subject: Proposed Changes to Environmental Review(MPCA)

I am a citizen that has been involved for a number of years in educating and trying to protect my Community from environmental damage, whether it be emissions from our local coal plant(Rochester Public Utility)or untried and tested pollutants from a proposed Ethanol Facility(Preston). It has been the Environmental Review process that has enabled non-professionals such as myself to be involved. . By limiting access to review, by hurrying or limiting the process, you will eliminate public participation is what is essentially a citizen oriented goal.. Isn't it in everyones best interest to keep the public involved in cleaning up their own nest?

The public, and government are on the same side. In fact, you as government are our agent, supposedly working on our behalf . Why would you eliminate a essential partner.. the people who are experiencing the problems and have the most intimate information to help with solving the problems

Why make things harder? Do you really want to eliminate an essential part of our solutions., when environment is finally becoming a major issue in EVERYONES minds.. not for just the few that carried the flag for many years ENVIRONMENT is mainstream. Make the process work.. but don't take short cuts that will leave many questions unanswered,, and shortchange the complexity of many issues and decisions. That takes time.and a process that allows for a complete process with all issues addressed, so that all parties feel they have been heard, Otherwise, calls for unfairness, or shoddy science can be the result.

Depending on whose perspective we honor.. we can call time a delay..or an opportunity for truth and essential information.Not all situations can be concluded in one step. Where additional concerns need to be investigated, that needs to be done.

Lets not make an already complex and difficult process which often does work into a process that has little or no validity.

Florence Sandok
1516 13th Ave.N.E
Rochester, Mn
55906
507-288-1149

29

Heffron, Susan

From: James & Karen Falk [jkfalk@westtechwb.com]
Sent: Wednesday, October 14, 2009 2:30 PM
To: Heffron, Susan
Subject: EAW process comment

To: Susan Heffron
From:
Jim & Karen Falk
1170 Hwy 9 NE
Murdock, MN 56334

We want to comment on the environmental review process.

We oppose any change that would streamline the current environmental review process. If any changes were to be proposed, those changes should expand the public's ability for input and focus on efforts to expand protection of the environment. Protecting our air quality and water quality should be a high priority and the public's ability to be informed, understand, and ultimately ask questions related to a development project is crucial for a project to exist in harmony in any neighborhood. We need more transparency in this process, not less.

In addition, the EAW process needs to be a process focused on getting the project done right rather than how quickly the process is completed. A one size fits all approach has never been the right solution and each region of Minnesota has its own unique characteristics requiring specific scrutiny by local agencies and the public.

Thank you,

Jim Falk
Karen Falk

Heffron, Susan

30

From: Charlotte Neigh [neighcan@northlc.com]
Sent: Wednesday, October 14, 2009 2:13 PM
To: Heffron, Susan; gregg.downing@state.mn.us
Cc: Tom Anzelc
Subject: environment & public participation

RE: ENVIRONMENTAL REVIEW STREAMLINING REPORT
HF 2123 - Omnibus Environmental Finance Bill - Sec. 65

It would be a disservice to Minnesotans to "streamline" the environmental review process in ways that would enable thoughtless and detrimental development at the expense of the environment and the life forms that depend on it.

Experience does not support an assumption that local RGUs will make decisions in the best long-term interests of the citizens rather than for short-term gain. It is too easy for political factions to be co-opted by a developer's promises and so turn a blind eye to negative impacts.

Care must be taken not to dismiss the people immediately and directly impacted by harmful projects as NIMBYs. It is logical and natural that concerns about negative impacts are raised by the people in the vicinity of a proposed project who therefore have sufficient incentive to invest the time and effort necessary to investigate and analyze it. These are the same people who best understand the existing environment and its vulnerabilities. They are crucial guardians of the environment.

The environment belongs to all of us. The process must recognize and accommodate that value.

Charlotte Neigh, Co-Chair
Citizens Against the Mesaba Project
25886 Spruce Drive
Bovey MN 55709
(218) 245-1844

Heffron, Susan B (MPCA)

31

From: Paula Maccabee [pmaccabee@visi.com]
Sent: Wednesday, October 14, 2009 2:05 PM
To: Susan.Heffron@state.mn.us; Craig.Affeldt@state.mn.us; Joe.Henderson@state.mn.us
Subject: Environmental Review - Streamlining and Enhancing Environmental Protection
Attachments: ltrEIS_EAW_MPCA10.14.09.pdf

Dear Ms. Heffron, Mr. Affeldt, Mr. Henderson:

Attached, please find a comment letter pertaining to the options under consideration by the MPCA for "streamlining" environmental review.

Sincerely,

Paula Maccabee, Esq.
Just Change Law Offices
1961 Selby Ave.
St. Paul MN 55104
phone: 651-646-8890
fax: 651-646-5754
Cell: 651-775-7128
e-mail: pmaccabee@visi.com
<http://www.justchangeconsulting.com>

³Justice, justice shall you pursue.² (Deut. 16:20)



Paula Goodman Maccabee, Esq.

Just Change Law Offices

1961 Selby Ave., St. Paul, Minnesota 55104, pmaccabee@visi.com

Ph: 651-646-8890, Fax: 651-646-5754, Cell 651-775-7128

October 14, 2009

Susan Heffron
Craig Affeldt
Joe Henderson
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155-4194

RE: Environmental Review Process Streamlining

Dear Ms. Heffron, Mr. Affeldt., Mr. Henderson:

The following comments are provided as those of an individual. Although I represent a number of public interest groups and individuals passionately concerned about environmental protection, the insufficiency of notice of this opportunity to comment on potential environmental review process "streamlining" does not permit review by my clients.

I would respectfully request, if the MPCA would like to obtain appropriate feedback from groups and individuals concerned about environmental protection that the MPCA provide broad-based electronic notice of any proposed "options" under consideration to a wide range of persons concerned about the environment, beginning with persons on internal lists, the Minnesota Environmental Partnership and the Minnesota SEED network. Any "options" under consideration should be posted clearly on both the Minnesota Environmental Quality Board (MEQB) and MPCA website and delineated. We obtained information today about the options from a scanned version of PowerPoint slides by Jess Richards of the MPCA provided by a member of the public who attended the September 29, 2009 meeting on this issue. This is not sufficient notice to the public.

Reviewing the PowerPoint slides cited above, all of the options identified by MPCA at the September 29, 2009 public meeting are unacceptable and inconsistent with the underlying state policy for all of the environmental review statutes:

(a) to declare a state policy that will encourage productive and enjoyable harmony between human beings and their environment; (b) to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of human beings; and (c) to enrich the understanding of the ecological systems and natural resources important to the state and to the nation. Minn. Stat. §116D.01.

Section I of these comments provides a brief rationale for rejecting the MPCA's current streamlining suggestions as inconsistent with environmental protection and, for the most part, unlikely to reduce either time or money in environmental review.

There are a few critical changes in the EAW and EIS process that would streamline the time required to be spent by state agency officials, while increasing the understanding of ecological systems and allowing decisions to be made in keeping with the "state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or

destruction." Minn. Stat. §116D.04, subd. 6. My preliminary suggestions for these new streamlining options is contained in the Section II of these comments.

I. The current "options" under consideration by the MPCA to "streamline" environmental review are inconsistent with environmental protection and unlikely to result in significant efficiencies.

1. Eliminating the potential that EAW analysis can trigger an EIS would undermine environmental review.

According to the MPCA PowerPoint, "Under this option an EAW could no longer lead to an EIS. Only the mandatory EIS thresholds would lead to preparation of an EIS." This option, removing the potential that a discretionary EIS would be required after scientific evidence demonstrates the potential for environmental harm, is inconsistent with environmental protection and inconsistent with rational decision-making. It would strip the MPCA Board of the authority, on the basis of the evidence, to order an EIS, as was the case of the southeastern Minnesota tire burning plant. If this "option" were to be implemented, not only would the EAW become a more cumbersome process, but persons aggrieved by a decision not to require an EIS would resort to litigation, rather than the MPCA's policy and review process.

2. Customizing EAWs for sectors would reduce transparency and produce no efficiency.

According to the MPCA PowerPoint, "A possible streamlining option would be to create customized sector-specific forms. This is currently in place for feedlot EAWs.... this form focuses on the number of animal units and manure handling. Other possible sectors that may benefit from this include WWTF [wastewater treatment], residential development, and sand and gravel operation." This option would restrict information to what was known about impacts whenever the sector-specific form was developed and would have no real benefit in terms of saving time. Anyone who has dealt with EAWs knows that the time-consuming part of the process is the part that deals with new or substantial evidence of environmental pollution or impairment. If there is an area of the form that is not pertinent, since the project will not cause harm to that aspect of the environment, completing the EAW is quick and easy. In addition, members of the public who are just learning about a proposal will view omissions with concern. The effort to exclude information is likely to lead to mistrust and delays throughout the process.

3. Public engagement without environmental review information is public relations, not public participation.

According to the MPCA PowerPoint, "One idea to streamline the process as a whole could be to spend more time on the front end of a project to engage the public early in the process." This public relations function is unrelated to environmental review. It is highly questionable whether "public participation" before the environmental impacts of the project have been examined in a rigorous way under the scrutiny of the RGU provides either true participation or any discernable benefit to environmental review.

The objective of this "option" seems to be to get the public on board to accept the project and "alleviate concerns" whatever the actual risks of pollution, impairment or destruction of the environment are entailed in the project. According to law creating the agency, public relations and promoting the development of project are not within the statutory authority of the MPCA:

To meet the variety and complexity of problems relating to water, air and land pollution in the areas of the state affected thereby, and to achieve a reasonable degree of purity of water, air and land resources of the state consistent with the maximum enjoyment and use thereof in furtherance of the welfare of the people of the state, it is in the public interest that there be established a Pollution Control Agency. Minn. Stat. §116.01.

4. *Eliminating "duplication" between environmental review and permitting is a cynical effort to eviscerate environmental review.*

According to the MPCA PowerPoint, "Currently there are a number of areas in the Environmental Review that overlap with the permitting process. . the state could keep most of the mandatory Environmental Review categories but change the focus to only cover issues that are not already covered in a state permit." This option, seeks to effectively eviscerate environmental review.

First, under this option, no analysis would be done of environmental impacts prior to submitting a project for permitting. It should be noted that, in many instances -- e.g. most of the examples across the nation where mining projects were rejected due to risks to water pollution -- projects are rejected as infeasible or substantially modified due to the scientific information that comes to light in environmental review. This "option" to exclude permitting issues from environmental review would gut this critical part of the process.

Public participation, involvement, and development of scientific information would also be severely constricted under this option. Not only would there be fewer opportunities for public input, but there would be no place where cumulative impacts of a project on all media could be considered together.

The suggestion that EAW explanations would be replaced with links to permits or other documents seems to an intentional effort to make it as difficult as possible for members of the community potentially impacted by a project to secure information. Agency staff and professional consultants hired by the project proponent would have no trouble accessing, interpreting and downloading collateral technical materials. A small city, a citizen or a public interest group would experience additional (and unnecessary) barriers to achieving even a preliminary understanding of what a project might entail.

The substantive elimination of a consideration of a significant potential for environmental effects where items are covered in a permit is not remotely related to any procedural "streamlining" of environmental review. It has been on the polluters' wish list of ways to undermine substantive environmental protection for 30 years, since the Minnesota Environmental Policy Act and the Minnesota Environmental Rights Act were first drafted. It is puzzling at best that the agency required by statute to protect the purity of Minnesota's air, water and land resources would present this option for consideration.

5. *Green-streamlining" for existing facilities would only benefit facilities increasing pollution of the environment.*

According to the MPCA PowerPoint, "there is not a direct link to streamlining for green improvement to existing facilities." The MPCA here proposes that " an existing facility may

be allowed to expand beyond environmental review thresholds without conducting environmental review" if it makes other changes that are environmentally beneficial.

This is an irresponsible proposal, likely to be utilized by the most objectionable and polluting projects. For example, a coal plant could expand by hundreds of megawatts, increasing emissions of carbon dioxide without environmental review, while claiming that its new scrubbers reduce mercury. A garbage burner could double in size, contaminating a neighborhood with dioxide while claiming technology improvements. If a proposal were actually "green" and environmentally beneficial (like Xcel Energy's repowering of the Riverside coal plant to natural gas) performing environmental review as required by law would be welcomed so that the community and local governments would support the project for its beneficial environmental results.

II. Environmental review can be streamlined while enhancing environmental protection by ensuring more accurate and complete scientific information on environmental impacts and alternatives early in the process.

Streamlining environmental review consistent with environmental protection statutes and policies is readily attainable. The critical components to ensure that better and more efficient decisions are made as a result of environmental review are to require more complete and reliable information from project proponents and responsible governmental units, and, in the case of substantial projects proposed by private project proponents for governmental review, to ensure that the RGU has access to sufficient technical expertise to verify the accuracy of data and the appropriateness of modeling for environmental impacts.

Historically and currently, the environmental review processes that have extended for years and consumed agency time and resources have been projects where a proponent has presented incomplete, misleading and inaccurate data and models, leaving either an agency or the public a struggle to determine the extent of pollution, impairment and destruction the project would entail and whether alternatives or mitigation could avert those adverse impacts.

Options that would streamline environmental review, enhance environmental protection and enhance rational decision-making include the following:

1. Require a project proponent and any consultants used by the proponent to certify that all of the information provided for an EAW, environmental assessment, environmental report or EIS is accurate, reliable and complete and that all scientific models and monitoring employed are consistent with the state of the art and applicable professional standards. Provide that if it later comes to light that information in the possession of the proponent was not disclosed or that the proponent or its consultant breached this standard, sanctions will be imposed, including the potential invalidation of any finding of no significant impact.
2. Require a responsible governmental unit and any consultants used by the RGU to certify that all of the information provided for an EAW, environmental assessment, environmental report or EIS is accurate, reliable and complete and that all scientific models and monitoring employed are consistent with the state of the art and applicable professional standards. Provide that if it later comes to light that information in the possession of the RGU was not disclosed or that the proponent or its consultant breached this standard, sanctions may be imposed, including the potential invalidation of any finding of no significant impact.

3. Permit the RGU to assess to a private project proponent costs for reasonable consultants' fees if needed to provide independent professional judgment of the accuracy, reliability and completeness of information and the appropriateness of monitoring and modeling used in environmental review (EAW, environmental assessment, environmental report or EIS). Create a public and transparent record of any such findings.
4. Expressly communicate to project proponents, RGUs and the public that the purpose of environmental review is to assist in the selection of less detrimental environmental alternatives, as well as to meet standards contained in permits. Require substantive consideration of alternatives to the project and mitigative alternatives in any EAW, environmental assessment, environmental report or EIS.

It is critical that the MPCA serve as an advocate for improvements in environmental review. Proponents of the projects most injurious to the water, air and land resources of the State have substantial ongoing interests and resources dedicated to removing the constraints of environmental review and reducing the ability of members of the public to participate effectively in decisions that affect their health and quality of life. Citizens have scarce time and resources and rely on the MPCA to protect the environment, as required by statute, rather than serving as the referee in a one-sided struggle.

I would request that the MPCA affirmatively put forth options that create greater efficiency and accountability for environmental results as described in Section II above and that the agency decline to present to the Legislature the options in Section I, which would weaken environmental review and public participation and are, thus, inconsistent with the statutory mission of the agency.

Sincerely,

Paula G. Maccabee s/s

Paula Goodman Maccabee

Heffron, Susan

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From: Richards, Jess
Sent: Wednesday, October 14, 2009 1:50 PM
To: Heffron, Susan
Subject: Fw: EAW/EIS STREAMLINING
Attachments: pastedGraphic.tiff; ATT201141.txt

Jess Richards (via BlackBerry)

----- Original Message -----

From: rschmitz22@charter.net <rschmitz22@charter.net>
To: Richards, Jess; Lockwood, Beth
Cc: Senjum Dave <sen.david.senjem@senate.mn>; Welti Andy <rep.andy.welti@house.mn>; Lynch Ann <sen.ann.lynch@senate.mn>
Sent: Wed Oct 14 13:48:20 2009
Subject: EAW/EIS STREAMLINING

I reviewed your comments and powerpoint on the possible changes to the EIS/EAW process. Under the guise of "streaming" you are opening the process to changes that would effectively emasculate the citizen input portion of the process.

With the change i payment for the EIS/EAW process we finally were seeing the cost of these assumed by those who most logically benefit from them, the developers. These alternatives are not consistent with the goal of protecting the environment and improving citizen access to the process.

I spent many years representing a LGU in these proceeding and while they can be on occasion frustrating everyone recognized that it was a process the needed to run its course to give everyone the opportunity to be heard. There is an assumption that an outside consultant will in fact have looked at all the issues, this ignores the benefit of real people on the ground who know that, for example, in the spring rains the run off stops in this field. This is a real example of a real situation that only the farmers on the land were aware of and prevented major later issues in an EIS.

The current process is the result of a long period to give and take, I cannot support changing it at this point.

Ray Schmitz
1508 28th St SW
Rochester, MN 55902
507 288 3948

Heffron, Susan

33

From: AROlson [aromolson@gmail.com]
Sent: Wednesday, October 14, 2009 1:38 PM
To: Heffron, Susan; gregg.downing@state.mn.us
Subject: Environmental Review Report

Subject: Environmental Review Report

October 14, 2009

To: Susan Heffron and Gregg Downing

From:
A. Richard Olson
45 University Ave SE, Unit #610
Minneapolis, MN 55414

I write to comment and make suggestions on the environmental review process.

As many Minnesotans do, my wife and I own a lake cottage in Central Minnesota and are concerned by the threat of pollution and negative impacts on public health brought about by the constant expansion of CAFO's in rural Minnesota..

1. I offer the following which I hope you will consider when improving or modifying the current set of rules and guidelines:
 - (1) It is vital to require monitoring at time of permitting as this sets the basis for a well defined process.
 - (2) It is critical to focus on maintaining and/or improving the environmental impact on air, water, and soil when you attempt to streamline the process.
 - (3) Please do not reduce the requirements placed on feedlots, as once established it is nearly impossible to retrofit corrections. It has been my experience that the MPCA is powerless to remediate pollution threats in a timely manner before discharge, which means the solution is always attempted clean-up.
 - (4) Once a project is approved without sufficient protective conditions, then improper claims of this already being a "grandfathered project" arise and hamper and delay adequate enforcement.
 - (5) Projects work best if the public is allowed to participate from inception which requires that sufficient and timely notice of the project is maintained. Do not consider any limitation to the public's right to petition for environmental review.
 - (6) It is fair to assume that with environmental reviews are conducted up front, then less enforcement is required on the continuation of the project. I believe that it is possible to design projects to reduce and minimize impact on the environment is part of the approval process.

(7) Finally, you should not approach this work seeking to reduce the structure and environmental review process but rather to seek ways to strengthen the entire process flow, while keeping the public involved. Deadlines should be there to allow public comment and response and should be maintained for developers too so as not to delay the progress of the reviews. MPCA has had difficulty in effectively enforcing requirements when the projects are crafted in such a manner to flaunt the intent of environmental reviews, such as was the case for the dairy in Thief River Falls.

Thank you for the opportunity to comment.

Richard Olson

Heffron, Susan

34

From: Elanne Palcich [epalcich@cpinternet.com]
Sent: Wednesday, October 14, 2009 12:17 PM
To: Heffron, Susan; gregg.downing@state.mn.us
Subject: Additional comments

October 14, 2009

Additional comments on the streamlining process

As a local citizen who has been tracking the PolyMet sulfide mining environmental process for the past 4 years, I would like to submit additional comments on the streamlining process.

Local legislators, backed by mining company lobbyists and Mining Minnesota, have vocally complained about the length of time that environmental review is taking regarding PolyMet, Inc., a Canadian company seeking to open the 1st metallic sulfide mine in Minnesota. I have asked my legislators to read through the documents regarding this project, but their reply is that the agencies will see to it that the mining is done without polluting the environment. These same legislators then turn around and put pressure on the regulatory agencies to hurry up, get the process completed, and permit the industry.

In my opinion, anyone who actually reads through the documents would come to the conclusion that sulfide mining should NOT be permitted in Minnesota. However, the regulatory agencies, although admitting that the mining will exceed water quality standards, and advising that cumulative effects need to be considered, is poised to permit the industry anyway, based purely upon political/governmental pressure. It does not help that the DNR is divided into 2 parts, the ecological division and the lands and minerals division, whose job is to promote the mining of these ores. The DNR lands and minerals division needs to be separated from its arbitrary attachment to its ecological partner and placed under an economic umbrella instead.

It is correct to say that our regulatory system is flawed. But streamlining a process that is already subservient to political pressure will only exacerbate ultimate clean-up and bankruptcy costs.

With increased access through the internet, citizens groups across the nation are rising up to research and monitor environmental pollution. Citizens are also becoming more aware of environmental degradation and the potential impacts of climate change.

The agencies seeking to lessen the power of citizen involvement are agencies that are insulated from the land they are commissioned to protect. The citizen is the liaison between the abstract world of agency jargon and the real world.

The agencies need to send this streamlining proposal back to the legislature for further review.

Elanne Palcich
29 SE 5th St.
Chisholm, MN 55719

Heffron, Susan

35

From: Elanne Palcich [epalcich@cpinternet.com]
Sent: Wednesday, October 14, 2009 6:47 PM
To: Heffron, Susan; gregg.downing@state.mn.us
Subject: clarification

I added one clarification (in red) below.

October 14, 2009

Additional comments on the streamlining process

As a local citizen who has been tracking the PolyMet sulfide mining environmental process for the past 4 years, I would like to submit additional comments on the streamlining process.

Local legislators, backed by mining company lobbyists and Mining Minnesota, have vocally complained about the length of time that environmental review is taking regarding PolyMet, Inc., a Canadian company seeking to open the 1st metallic sulfide mine in Minnesota. I have asked my legislators to read through the documents regarding this project, but their reply is that the agencies will see to it that the mining is done without polluting the environment. These same legislators then turn around and put pressure on the regulatory agencies to hurry up, get the process completed, and permit the industry.

In my opinion, anyone who actually reads through the documents would come to the conclusion that sulfide mining should NOT be permitted in Minnesota. However, the regulatory agencies, although admitting that mercury and sulfate concentrations will exceed water quality standards, and advising that cumulative effects need to be considered, is poised to permit the industry anyway, based purely upon political/governmental pressure. It does not help that the DNR is divided into 2 parts, the ecological division and the lands and minerals division, whose job is to promote the mining of these ores. The DNR lands and minerals division needs to be separated from its arbitrary attachment to its ecological partner and placed under an economic umbrella instead.

It is correct to say that our regulatory system is flawed. But streamlining a process that is already subservient to political pressure will only exacerbate ultimate clean-up and bankruptcy costs.

With increased access through the internet, citizens groups across the nation are rising up to research and monitor environmental pollution. Citizens are also becoming more aware of environmental degradation and the potential impacts of climate change.

The agencies seeking to lessen the power of citizen involvement are agencies that are insulated from the land they are commissioned to protect. The citizen is the liaison between the abstract world of agency jargon and the real world.

The agencies need to send this streamlining proposal back to the legislature for further review.

Elanne Palcich
29 SE 5th St.
Chisholm, MN 55719

Heffron, Susan

From: Marilyn Lundberg [mardonlun@hotmail.com]
Sent: Wednesday, October 14, 2009 12:09 PM
To: Heffron, Susan
Cc: gregg downing; rick hansen; sen.jim.metzen@senate.mn
Subject: EAW

It is my understanding that the PCA is developing options for changes to the EAW process. I want to express my support for the citizen petition process. I would not like to see that process weakened.

In addition, if rule changes are being made, it would be good to add the Critical Area program to the exemptions in the rules under Subp. 12. (4) See below.

Thanks for your consideration. The EAW is a very important program and should be strengthened.

Marilyn Lundberg
1077 Sibley Memorial Hwy. #504
Lilydale, MN 55118
651-698-8110

Residential development.

The following projects are exempt:

A.

Construction of a sewered residential development, of:

- (1) less than ten units in an unincorporated area,
- (2) less than 20 units in a third or fourth class city,
- (3) less than 40 units in a second class city, or
- (4) less than 80 units in a first class city, no part of which is within a shoreland area, delineated flood plain state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, is exempt.

B.

Construction of a single residence or multiple residence with four dwelling units or less and accessory appurtenant structures and utilities is exempt.

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Heffron, Susan

From: mellum.julie@gmail.com
Sent: Wednesday, October 14, 2009 11:14 AM
To: Heffron, Susan
Subject: environmental review

Susan,

Please use your influence to oppose down the "streamlining" of environmental review. The public doesn't want the toxic assault of burner and other emissions, nor do we want big business interests jamming their agenda down our throats so fast that we lose sight of what's really happening—more pollution. Particle pollution from wood smoke or any combustion process, including biomass, presents a deadly health hazard that contributes to global warming and fouls the air, damaging human health and the environment.

Julie Mellum
President, Take Back the Air www.takebacktheair.com
952-303-6218

38

Heffron, Susan

From: Nancy Przymus and Jim Benz [jnobenz@msn.com]
Sent: Wednesday, October 14, 2009 11:22 AM
To: Heffron, Susan
Subject: Changes to Enviornmental Citizen Review

Dear Susan,

I am opposed to the streamlining of environmental review Citizens now enjoy. If the rules change let it be that more review occurs not less. Citizens should have the right to petition for environmental review of projects.

Many remediations and toxic situations would not have been addressed in Northeast Minneapolis had these changes to the rules been in place for Shoreham yards and Xcel Riverside plant situations.

Nancy Przymus
1501 23rd Ave NE
Minneapolis, MN 55418

Heffron, Susan

39

From: John & Mandy [neshfamily@bigfork.net]
Sent: Wednesday, October 14, 2009 9:50 AM
To: Heffron, Susan; gregg.downing@state.mn.us
Cc: sen.tom.saxhaug@state.mn; rep.tom.anzelc@house.mn
Subject: HF2123 and the MN Environmental Review Process

To Ms. Heffron, Mr. Downing:

Concerning HF2123 and efforts to streamline the Minnesota Environmental Review process, (ERP). I strongly appose any such action in favor of strengthening the ERP.

The suggested streamlining proposal put forth by the MPCA greatly reduces the ability for knowledgeable citizen input.

Jess Richards' suggestion to "Undo the decision link between EAW and EIS" would be a mistake and a great detriment to the state of Minnesota.

While I acknowledge that the permitting process can be long and involved it is a bridge to ensure that all aspects of a proposed project have been addressed. In many cases it is citizens that discover underlying or hidden issues about a project that has the potential of harming the environment and our health.

I agree with Mr. Richards' comments concerning "Early Public Engagement." In an overwhelming majority of controversial projects the general public has no idea that the project is being proposed. Early and open discussion on a proposed project that is widely advertised with many public hearings has the potential to bring positive results to the table. Educated people who have an interest in a proposed project can bring valuable information for decision makers to evaluate.

To "Eliminate duplication between environmental review and permitting" would in effect open the doors to a flood of potential unregulated environmental impacts. Many of the given examples in Mr. Richards report are not adequately covered by the permitting process and by eliminating duplication (oversight) would result in lost opportunities for a more comprehensive review. This is an area that the MPCA should be encouraging more public input because the environmental review is part of the permitting process not covered elsewhere.

These are just some of the concerns I have over efforts in the "streamlining" approach to the ERP. This approach has not adequately been made public. I have only learned this morning, (Oct. 14th), that public comments were being accepted and that the closing date is today at 4:30 p.m. I would ask that more time, at least four weeks, be given for public input and that Mr. Richards' "Early Public Engagement" practices be applied here.

Respectfully,
Amanda Nesheim
Bigfork, MN

410

Heffron, Susan

From: Kerry Schroeder [mnbowhunter@gmail.com]
Sent: Tuesday, October 13, 2009 5:19 PM
To: Susan.Heffron@state.mn.us
Subject: Environmental Review Suggestion(s) Input

From: Kerry Schroeder
65530 120th Ave
Claremont, MN 55924
Cell: (507) 456-6651

I am current P&Z chair of Ripley Twshp of Dodge County, MN

Ms. Susan Heffron,

I would like to input some instances we [Ripley Twshp, Dodge County, MN] have been impacted by with past proposals, and suggestions in regard to environmental review which the MPCA currently is requesting. I currently serve as the chair of the planning and zoning committee of Ripley Township, Dodge County, MN.

1. Changes to the review process should not only comprehensibly portray and demonstrate by fact(s) that they maintain current environment, but may/will also improve the environment – Those that reside within these areas will be personally impacted, thus status quo of quality of living should be held utmost. **Any change(s) should not result merely from proposer/developer political pressure to eliminate or reduce environmental review.** It appears from the information available that the proposals for discussion simply avoid environmental review-or eliminate environmental review on projects. These should not be adopted.

2. Public input on EAWs can and will improve projects and can have positive results with site specific information on projects that the blanket EQB Rule categories do not address. For instance in our (Ripley Dairy) case with regard to past Ripley Dairy proposal in Dodge County, public input brought to light the existence of fresh-water stream presence within the watershed of the proposed site that was NOT identified nor realized prior by DNR personnel. It was brought to DNR attention by such public input, amongst other omitted detailed facts. The EAW process was not adequate on the Ripley Dairy proposal. MPCA made conclusions that were not supported by any evidence. Additional environmental review as ordered by the Court was important. Public input can provide valuable information on sites and proposals that regulatory officials have otherwise missed or overlooked. This knowledge is important to the review process.

3. EAWs should potentially lead to EISs where site specific concerns demonstrate the need for additional study. This is a critical link in the existing process to maintain or improve the environment in specific locations. Because as we all are aware, all areas of our state are not environmentally equal. The geological consistencies of different areas of our state could be compared to human finger-prints. Whereas no two areas are exactly the same. This is highly concerning and should be held paramount to environmental

protections as needed in each case. For example, the Ripley Dairy proposal might have worked in other parts of the state that did not have the site specific concerns that existed here in Dodge County. Where a project has the potential for significant impacts in a specific location, then an EIS is necessary to consider alternative projects and alternative locations. Developers of Ripley Dairy were based in another county and the east coast area. **They did not live here and did not have the same concerns as over 75% of residents that were evidenced as environmentally skeptical toward such a point-source pollution facility.**

4. Recently, a proposed hog finishing proposal in Ripley Township was taking months and months to submit information to the Town Board which had delayed the permitting process. The governing boards [P&Z, town-board] of Ripley were accused by the proposer and other producers of "dragging your feet" while processing said proposal. The proposer of the hog barn(s) [themselves] initially submitted partial, or inaccurate information during the EAW process, which should be confirm-able by MPCA. The developer had taken months and months to provide basic, accurate information and was responsible for these delays.

In fact, this proposal now stands in "limbo." The proposer(s) decided now to postpone/not build after the permitting process was finalized, and approved, due to the current downturn in market conditions. I see that Minnesota hog producers are now seeking federal financial aid due to the poor market conditions. **This project, if it had been built, would likely be asking for federal financial aid and most likely would be in trouble as well.**

I/we thank-you for allowing input toward this highly important environmental matter ALL Minnesotans should hold seriously dear to their current quality of living status-quo!

Best regards,

Kerry Schroeder

In GOD We Trust!

Heffron, Susan

41

From: Janice Greenfield [jan.greenfield@mac.com]
Sent: Wednesday, October 14, 2009 12:34 PM
To: Heffron, Susan
Cc: Gregg.Downing@state.mn.us; sen.richard.cohen@senate.mn;
rep.michael.paymar@house.mn
Subject: Re: "STREAMLINING" THE ENVIRONMENTAL REVIEW PROCESS

Dear Ms. Heffron,

Thank you for your prompt & reassuring reply. I will look forward to following this issue to see that the instruments of regulation that the MPCA needs to protect the public health are safely maintained & strengthened, not weakened! The citizens of Minnesota count on their MPCA as a court of last resort against strong, well-financed & sometimes unscrupulous corporate interests.

Jan Greenfield
Highland Park, MN

On Oct 14, 2009, at 8:57 AM, Heffron, Susan wrote:

Dear Ms. Greenfield,

Thank you for taking the time to comment on this process. They will be taken into consideration and attached to the report in whole to the legislature. -Susan Heffron

-----Original Message-----

From: jan.greenfield@mac.com [mailto:jan.greenfield@mac.com]
Sent: Wednesday, October 14, 2009 12:34 AM
To: Heffron, Susan
Subject: "STREAMLINING" THE ENVIRONMENTAL REVIEW PROCESS

Dear Ms. Heffron,

I am extremely concerned about this current effort to so-called

"streamline" the Environmental Review Process. This is one of the very few tools that the concerned citizen has left to protest the greenwashing & ultimate pollution that big corporations are constantly shoving on to the public landscape.

In my experience, the review process is more often held up by the dragging feet of industry rather than the process itself. It would be disgraceful & unethical to rob the ordinary citizen of the opportunity to have polluting industries exposed for the public misrepresentations they present to us.

Please do NOT support the weakening of environmental review & ultimately, enforcement standards, under the false banner of "streamlining"!

Sincerely,
Jan Greenfield
Highland Park, MN

Heffron, Susan

42

From: jan.greenfield@mac.com
Sent: Wednesday, October 14, 2009 12:34 AM
To: Heffron, Susan
Subject: "STREAMLINING" THE ENVIRONMENTAL REVIEW PROCESS

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Please do NOT support the weakening of environmental review & ultimately, enforcement standards, under the false banner of "streamlining"!

Sincerely,
Jan Greenfield
Highland Park, MN

43

Heffron, Susan

From: Julie Andrus [jul.andrus@visi.com]
Sent: Wednesday, October 14, 2009 8:58 AM
To: Heffron, Susan; gregg.downing@state.mn.us; Phyllis Kahn
Subject: environmental review process

Dear Ms Heffron and Mr Downing,
I object to any proposals to weaken the Minnesota environmental review process. I oppose all streamlining. Julie Andrus,
112 Seymour Ave SE, MPLS, MN 55414

Julie Andrus
jul.andrus@visi.com

Heffron, Susan

44

From: Bruce & Marie [maclane@sleepyeyetel.net]
Sent: Wednesday, October 14, 2009 11:47 AM
To: Heffron, Susan
Subject: REQUEST in matter of STREAMLINING of Environmental Review

Dear Ms. Heffron,

We are rural Minnesota residents who are organic dairy farmers. We are proud of our contributions to the Minnesota economy, and are upset at being challenged with an industrial wind project surrounding our land. We are advocates of alternative energy that is properly sited and properly regulated. There are many, many environmental and human health factors that are NOT being considered.

We would like to make an urgent comment on the streamlining of environmental review. Wind projects should get full review, far beyond the measures that are in place now. Environmental concerns regarding wind projects should be taken extremely seriously. It is evident to us that the Minnesota Department of Health took their role in preparing the white paper on Wind Turbines seriously.

We are hard working, tax paying, Minnesota farmers. We will do our part for America to seek alternative, clean, renewable energy. We are outraged and will not accept anything less by poor legislation or inaction from regulating bodies at the state in directing the wind industry in a responsible and appropriate way. Again, we urge more environmental review, for the health and welfare of all citizens.

Thank you for this opportunity to comment.

Very Sincerely,
Bruce and Marie McNamara
Mac-Lane Farms
Goodhue, Minnesota 55027

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Heffron, Susan

From: Schlichting, Ciara J. [Ciara.Schlichting@bonestroo.com]
Sent: Wednesday, October 14, 2009 3:41 PM
To: 'susan.heffron@state.mn.us'
Cc: Shardlow, John W.
Subject: Comments: Environmental Review Streamlining Report
Attachments: ER Streamlining Bonestroo Comments 10-14-09.pdf

Susan,

Our suggestions regarding streamlining environmental review are outlined in the attached letter. Please confirm receipt of this e-mail.

Our overall suggestion for streamlining environmental review to achieve better environmental outcomes is to **expand the application of the AUAR (Mn Rules 4410.3610) to local comprehensive plans**. This would not require any revisions to environmental review statutes, rules, forms, or processes. The closer integration of environmental review with local comprehensive planning will result in higher levels of environmental performance, while significantly streamlining the entitlement process and save both time and money. **Identifying this concept in the MPCA's Environmental Review Streamlining Report could help initiate the wide application of a review process already allowed for in statutes and rules that will make it easier, cost less and take less time to achieve higher standards of environmental performance.**

Thank you for the opportunity to comment.

Sincerely,

Ciara Schlichting, AICP

Direct 651-967-4557

Cell 651-399-4157

ciara.schlichting@bonestroo.com



2335 Highway 36 W

St. Paul, MN 55113

Tel 651-636-4600

Fax 651-636-1311

www.bonestroo.com

Northern Environmental is now part of Bonestroo.

Heffron, Susan B (MPCA)

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From: Schlichting, Ciara J. [Ciara.Schlichting@bonestroo.com]
Sent: Wednesday, October 14, 2009 3:41 PM
To: 'susan.heffron@state.mn.us'
Cc: Shardlow, John W.
Subject: Comments: Environmental Review Streamlining Report
Attachments: ER Streamlining Bonestroo Comments 10-14-09.pdf

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Thank you for the opportunity to comment.

Sincerely,

Ciara Schlichting, AICP
Direct 651-967-4557
Cell 651-399-4157
ciara.schlichting@bonestroo.com



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www.bonestroo.com

Northern Environmental is now part of Bonestroo.

October 14, 2009



Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, MN 55155-4194

Re: Environmental Review Streamlining Report Comments

Dear Ms. Heffron:

Thank you for affording us the opportunity to provide environmental review streamlining suggestions as part of the Minnesota Pollution Control Agency's (MPCA) Environmental Streamlining Report to the Legislature. Bonestroo is one of the Midwest's largest full-service engineering and planning firms. Since the inception of the environmental review program in the 1970's, we have prepared hundreds of environmental review documents including Environmental Assessment Worksheets (EAWs), Environmental Impact Statements (EISs), and Alternative Urban Areawide Reviews (AUARs). Our goal moving forward is to facilitate and ensure better environmental outcomes by fully integrating the State of Minnesota environmental review program with local comprehensive planning.

Background

The Environmental Policy Act, enacted by the Minnesota Legislature in 1973, established a state environmental policy that included the requirement to review proposed actions for their effects on the environment. To meet this requirement, the Minnesota Environmental Quality Board (EQB) established an environmental review program. Since that time thousands of projects of multiple types and sizes have been reviewed through an EAW, EIS, or the relatively recent AUAR.

On the positive side, this process has raised awareness about significant projects, potential environmental affects, and assembled extensive comments from a broad cross-section of public agencies and the general public. The review process and the information that it has generated has undoubtedly improved decision making by project proposers and the governmental units primarily responsible for their approval.

On the negative side, there is nothing inherent in this review process that guarantees positive environmental outcomes. The quality of environmental review documents and reviewer's comments has varied widely through the years, particularly in times of challenged budgets. The process has also provided opportunities for project opponents to delay/obstruct and add greatly increased costs, even without any substantive evidence of potential adverse effects.

The combination of these factors and the established schedules and procedures for review add significant time and uncertainty to the development process, both of which are deterrents to investment and innovation. The time required to process the review is not inherently productive and shows up significantly in project financing and carrying costs.

The Statewide Conservation and Preservation Plan

The Statewide Conservation and Preservation Plan was prepared for the LCCMR in 2008 and included a broad range of data, natural resource systems inventories, policies and strategies to conserve and enhance Minnesota's natural resources. One of the components of this plan was Land Use Practices and this category was further divided into Agricultural, Forest and Community Land Uses.

The Land Use Practices Sub-Committee consisted of a broad cross section of stakeholders, including U of M faculty, representatives of several key State agencies, counties, cities, builders, regulators and related professions. Despite the diversity of backgrounds and perspectives among the participants there was broad consensus of support for the concept of providing incentives to encourage better performance and more positive environmental outcomes.

One example that was reviewed with great interest was Chicago's Green Code developed by Mayor Daly's administration. This Green Code represents an alternative to the conventional entitlement process and involves not only a significantly expedited time frame for development review and approvals, but also reduced fees and the assignment of a staff member to shepherd the project through the process. The simple mantra that led to the creation of this approach was – *Make it Easier to Do Better*. This same concept is at the heart of these streamlining suggestions.

Alternative Approaches to Expediting Higher Performing Projects

Our suggestion for streamlining environmental review to achieve better environmental outcomes is to ***expand the application of the AUAR (Mn Rules 4410.3610) to local comprehensive plans***. This would not require any revisions to environmental review statutes, rules, forms, or processes. However, updated EQB guidance documents for AUARs may be beneficial for understanding how to best apply the AUAR to an entire community based on a local comprehensive plan. Likewise, this EQB guidance document could outline the information needed in a local comprehensive plan to conduct an AUAR based on the plan.

AUARs are approved alternative reviews for certain residential, commercial, or light industrial projects that otherwise require the preparation of an EAW or a full EIS. In particular, this tool is well suited for the development of large geographic areas that are going to develop over an extended period of time and the Responsible Governmental Unit (RGU) does not know exactly the form the project will take, or the specific timing of the development of areas within the project boundaries. Instead, the AUAR allows the RGU to identify and analyze scenarios, which is similar to the land use alternatives analysis routinely conducted to prepare local comprehensive plans.

Another difference between an EIS and an AUAR is that the EIS provides information to the RGU and it is up to the RGU to determine what to do with this information and requires separate regulatory steps to avoid potential adverse environmental effects. The AUAR, in contrast, requires the preparation and adoption of a Mitigation Plan tied to every relevant aspect of each of the scenarios that are analyzed. This Mitigation Plan must be formally adopted and it then has the same level of authority as a local ordinance. Future project must be consistent with the AUAR assumptions and the Mitigation Plan. If the project is consistent, then no further environmental

review is require. If the project is not consistent, then a separate environmental review must be conducted for the individual project.

AUARs have been successfully prepared for very large portions of several communities. For instance, the City of Hutchinson adopted an AUAR for a 50 year growth area completely surrounding its urbanized area. Maple Grove used an AUAR to manage environmental decision making for its 2,000 acre Gravel Mining Area (Arbor Lakes). Shakopee adopted an AUAR to guide the environmental decisions associated with the 1,300 acre Southbridge development. This is the area surrounding the south side of the new TH 169 Bridge in Shakopee. The City of Lino Lakes prepared and adopted an AUAR for the approximately 5,000 acre area between I-35E and I-35W.

There are, therefore, many successful examples of AUARs that cover large geographic areas and long term growth areas. AUARs have been adopted to guide both greenfield development and large redevelopment areas, such as the Twin Lakes Redevelopment Area in Roseville. There are also several excellent examples of coordination between the Implementation Plan contained within a Comprehensive Plan and the Mitigation Plans contained within AUARs. To date, the City of Hutchinson is the only example of an AUAR that has been prepared and adopted for an entire community. It is noted that the idea to conduct an AUAR for the entire City of Hutchinson came from MPCA staff.

One of the specific recommendations contained within the Statewide Conservation and Preservation Plan was for the LCCMR to fund an "AUAR Certified Comprehensive Plan" approach. Consider that communities are required to prepare and adopt a comprehensive plan and then to adopt official controls (zoning, subdivision regulations, building codes, etc.) to implement the plan. This process is mandatory within the seven county Twin Cities Metropolitan Area under the Metropolitan Land Planning Act. The State Zoning Enabling Statute also requires that zoning be based on a plan for the community's future.

Many of these comprehensive plans contain information, goals, policies related to desired environmental outcomes. Many also evaluate alternatives and contain Environmental Protection elements that tie to various environmental protection ordinances. Any project that exceeded the threshold for either an EAW, or an EIS would need to both satisfy the community's ordinances and complete the mandatory State environmental review. These processes are often at least partially redundant and this duplication of effort adds significantly to the time and cost associated with processing development approvals.

The process and documents produced by communities through the standard comprehensive planning and AUAR process could be enhanced to achieve better environmental outcomes. This can only be achieved by enhancing the data collection, alternatives analysis, and implementation plans contained in Comprehensive Plans. By enhancing the Comprehensive Planning process, including the involvement of state agencies and other parties that are engaged in the environmental review process, we can create AUAR Mitigation Plans that require better environmental outcomes. One idea is to create Model AUAR Mitigation Plans that achieve this goal. The models could address a broad spectrum of environmental issues and be tailored to address greenfield and redevelopment.

Promoting the Process

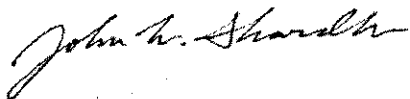
The closer integration of environmental review with local comprehensive planning will result in higher levels of environmental performance, while significantly streamlining the entitlement process and save both time and money. **Identifying this concept in the MPCA's Environmental Review Streamlining Report could help initiate the wide application of a review process already allowed for in statutes and rules that will make it easier, cost less and take less time to achieve higher standards of environmental performance.**

The Regional Council of Mayors (RCM) Environment Committee, a committee of the Minnesota Chapter of the Urban Land Institute (ULI), intends to identify one or two communities and to assist them in preparing and implementing an AUAR for its entire corporate limits. We intend to engage the ULI Regional Council of Mayors, the ULI Environment Committee, the LCCMR Statewide Conservation and Preservation Plan Land Use Practices Sub-Committee, reviewing agencies, local units of government, and others in discussing the process and resultant products that will be needed to achieve better environmental outcomes. We intend to create model AUAR Mitigation Plans that apply to both urban/suburban areas and the remaining rural/agricultural areas within or surrounding developing communities

Thank you for considering our suggestions on how to achieve better environmental outcomes by integrating local comprehensive planning and environmental review.

Sincerely,

BONESTROO



John Shardlow, AICP
Co-Chair Environment Committee,
MN Chapter of Urban Land Institute

Co-Chair Land Use Practices Team
LCCMR Statewide Conservation and Preservation Plan



Ciara Schlichting, AICP
Senior Planner

Heffron, Susan

47

From: Steven T. Menden [smenden@wenck.com]
Sent: Tuesday, September 29, 2009 4:26 PM
To: Heffron, Susan
Subject: RE: Environmental Review Report Meeting

Hi Susan,

Please accept my apology for my absence today, but a project deadline has required me to absent. Susan below I have put some of my thoughts down on this topic and would appreciate it if you could enter it into the record. Please let me know if I need to submit this in a formal letter or if this will be adequate. Thank you.

1. Variation in review levels between RGU's. For instance, a city or county compared to the MPCA.
2. EQB's defined role – this is not intended to minimize or question their role, but instead to emphasize the need for one truly designated entity establishing/setting all of the environmental review policy across the different regulatory agencies and varied RGU's.
3. Inability of the Env. Rev. process to recognize state priorities – like energy (wind and biomass projects), solid waste incineration etc.
4. Impact of court decisions on cumulative impacts analysis is that simple EAWs no longer exist – most EAWs have moved well beyond just being a 'worksheet'.
5. Use of the environmental review process to slow down/stall or stop projects, by project opponents – It should be seen as the review process, not a component of the permitting process.
6. Time, complexity and cost of the environmental review process is resulting in projects stalling, moving else where or not occurring at all. Particularly prevalent in new endeavors and start-ups.

Suggestions:

1. Need to again have a true worksheet level process – perhaps three levels of review? EAW; detailed EAW with cumulative impacts analysis and EIS
2. Define EQBs role across multiple regulatory agencies and RGUs – Have one regulatory entity responsible for all environmental review in the state.
3. Put all energy projects under one regulatory agency – to provide consistency in analysis. For example, MPCA may end up with a smaller (<25 MW) project and as a result the smaller project may undergo a more stringent level of review than larger ones.
4. Need to find some way to prevent project opponents from using the ER process to slow down/stop a project without jeopardizing the public involvement process – which is important.
5. Recognize when a project is consistent with state policies/guidelines and permits (which have been established to a level of protection our environment), etc. and therefore does not warrant ER.

Steve Menden
Vice President
Wenck Associates
<http://www.wenck.com/>
763-479-4247

From: Heffron, Susan [mailto:Susan.Heffron@state.mn.us]
Sent: Monday, September 28, 2009 12:51 PM
To: Steven T. Menden
Subject: RE: Environmental Review Report Meeting

Hi Steve,

This is a reminder that you RSVP'd for the Environmental Review Streamlining Information Meeting on Tuesday, September 29 at 9:00am at the St. Paul Offices, Rooms 2A&B. I have included a link to the St. Paul Office and visitor parking options in case our lot is full. A visitor badge with your name will be waiting for you at the security desk. We don't have materials to hand out prior to the meeting.

<http://www.pca.state.mn.us/about/regions/stpaul.html#map>

Thanks,
Susan Heffron
651-757-2417

From: Steven T. Menden [mailto:smenden@wenck.com]
Sent: Wednesday, September 02, 2009 3:56 PM
To: Heffron, Susan
Subject: RE: Environmental Review Report Meeting

Hi Susan,

Thank you for providing this notice, greatly appreciated. I do plan to attend and look forward to sharing some of my thoughts on this topic.
Take care

Steve Menden
Vice President
Wenck Associates
<http://www.wenck.com/>
763-479-4247

From: Heffron, Susan [mailto:Susan.Heffron@state.mn.us]
Sent: Wednesday, September 02, 2009 3:42 PM
To: Steven T. Menden; john.shardlow@bonestroo.com; ron.peterson@westwoodps.com; brogers@sehinc.com; ciera.schlicting@bonestroo.com; jeanne.witzig@kimley-horn.com; bbartz@srfconsulting.com
Subject: RE: Environmental Review Report Meeting

Sorry, forgot the attachment.

-----Original Message-----

From: Heffron, Susan
Sent: Wednesday, September 02, 2009 3:41 PM
To: 'smenden@wenck.com'; 'john.shardlow@bonestroo.com'; 'ron.peterson@westwoodps.com'; 'brogers@sehinc.com'; 'ciera.schlicting@bonestroo.com'; 'jeanne.witzig@kimley-horn.com'; 'bbartz@srfconsulting.com'
Subject: Environmental Review Report Meeting

Dear Consultants:

The attachment to this email is a notice that will appear in the EQB Monitor on September 7th. It is a notice for a public information meeting regarding the MPCA's legislative requirement to develop a report on options to streamline the environmental review process while still protecting and/or improving Minnesota's environment. The meeting will be held on September 29th from 9:00am to 12:00pm at the MPCA St. Paul Office. You all have been identified as consultants who work on environmental review documents and may be interested in this process. We are sending this email to you just in case you were to miss the notice in the EQB Monitor.

Please forward this to others in your office who may be interested. If you or others are interested in attending the meeting, please respond to this email. That way we can have a security badge ready for you at the front desk. If you have questions, please do not hesitate to call me or the others listed in the attachment.

Hope to see you there, Susan

Susan Heffron
Minnesota Pollution Control Agency

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Heffron, Susan B (MPCA)

From: Jeremy Geske [Jeremy.Geske@fbmn.org]
Sent: Wednesday, October 14, 2009 5:54 PM
To: Susan.Heffron@state.mn.us
Cc: cradatz; kevin.paap@fbmn.org
Subject: MN Farm Bureau comments on streamlining the EAW process
Attachments: 20091014153310636.pdf

Susan,

Attached is a pdf of comments from the Minnesota Farm Bureau Federation in regards to streamlining the EAW process.

Thanks!

Jeremy Geske
MN Farm Bureau

----- Forwarded by Jeremy Geske/FBMN on 10/14/2009 05:36 PM -----

Scan Date: 10.14.2009 15:33:10 (-0400)

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Minnesota Farm Bureau Federation®

October 7, 2009

Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North,
St. Paul, MN 55155-4194
Susan.heffron@state.mn.us

Ms. Heffron:

The Minnesota Farm Bureau Federation (Farm Bureau) appreciates the opportunity to comment on streamlining the Environmental Review process. Farm Bureau asks MPCA to consider the following suggestions.

Streamlining the environmental review process is especially important for farmers involved in the livestock feedlot permitting process. Minnesota's farm and ranch families live on the land, breathe the air and drink the water; therefore, they are committed to protecting our valuable soil and water resources. That being said, there are times when the EAW process can be abused by opposition groups who hope to delay projects without scientific justification. This stall tactic adds tremendous expense for farm families with little or no environmental benefit. Farm Bureau has heard complaints from producers about the EAW process being too open ended, where a local government unit (perhaps under pressure from an organized opposition group) continues to add more requirements to an EAW, resulting in the added expense and delay. Farm Bureau supports the following solution to that problem:

Any person, group or organization, non-profit or for-profit, filing a petition for an EAW or EIS, being responsible for the additional costs incurred by the EAW or EIS process. This would inhibit the use of the EAW as a stall tactic and allow MPCA to recover the costs associated with the additional staff time and labor.

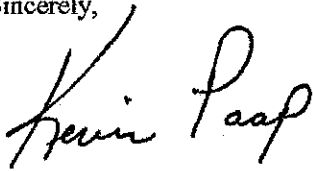
Customizing EAW forms to sectors seems like a logical way to reduce time and expense for MPCA as well as project proposers.

In terms of the feedlot EAW, Farm Bureau does not agree with requiring project proposers to hold early public meetings and have a communication plan as part of the permitting process. These requirements could make proposers easy targets for organized opposition groups. We encourage livestock producers to have a communication plan and to visit with their neighbors individually to answer questions and address concerns before they even apply for a feedlot permit as a way of reducing the potential for local opposition to their project. There are many resources available to help livestock producers through Farm Bureau, the Minnesota Farm and Food Coalition, the Minnesota Department of Agriculture, and livestock producer associations. While a good communication plan is important, it doesn't need to be a requirement.

Regarding the various options for elimination duplication between permitting and environmental review, any way we can reduce or eliminate redundant activities will reduce time, expense and frustration for project proposers and, we imagine, for MPCA staff as well. It is our understanding that the NPDES permit process will cover many of the aspects currently included in the EAW for feedlots now that the manure management plan requires public notice; therefore, those things could be simply referenced in the EAW rather than repeated. The concept of pre-screening EAW projects to ensure that an EAW gathers or references the necessary information to protect the environment without duplication seems to make some sense.

Please consider Farm Bureau's comments on streamlining the environmental review process. If you have any questions about Farm Bureau's comments, please contact Jeremy Geske or Chris Radatz at 651-768-2100.

Sincerely,

A handwritten signature in cursive script that reads "Kevin Paap". The signature is written in black ink and is positioned below the word "Sincerely,".

Kevin Paap
President

Heffron, Susan B (MPCA)

49

From: blefevre@mnmilk.org
Sent: Wednesday, October 14, 2009 4:08 PM
To: Heffron, Susan
Subject: MMPA Environmental Review comments/suggestions
Attachments: Environmental Review Comments 10-14-09.pdf

Dear Susan,
Attached are MMPA's comments related to streamlining the environmental review process. Thank you for the opportunity. If you have any further questions, please feel free to contact me.

Sincerely,

Bob Lefebvre
Executive Director
Minnesota Milk Producers Association
763-355-9697
www.mnmilk.org



MINNESOTA MILK PRODUCERS ASSOCIATION

108 Marty Drive, Suite 2, Buffalo, MN 55313-9338

Phone: 763-355-9697 ★ Fax: 763-355-9686

E-Mail: mmpa@mnmilk.org ★ Web: www.mnmilk.org

October 14, 2009

Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North,
St. Paul, MN 55155-4194
Susan.heffron@state.mn.us

Ms. Heffron:

Minnesota Milk Producers Association members take pride in providing exceptional animal care and environmental stewardship while producing a wholesome, quality product for consumers worldwide. While the Milk Producers recognize the government's role in ensuring the general public that environmental standards are met, meeting these standards should not be overly burdensome, time consuming, or exceedingly costly to the thousands of small family business owners we represent.

The basis for these comments is to specifically focus on the Environmental Review process. How can Minnesota's high environmental standards be maintained while streamlining the current feedlot permitting process?

One significant concern of members of the Minnesota Milk Producers Association is the existence of duplicative processes and overlapping authority relating to feedlot regulations. The Environmental Protection Agency has regulations; the Minnesota Pollution Control Agency has regulations; numerous counties and more and more townships have regulations and zoning ordinances. In addition, the Environmental Quality Board oversees the Environmental Review process.

It can be a very confusing system, even for those who work in this field on a daily basis. Imagine the challenges a small family business owner experiences.

The focus of the regulations must be to ensure the sustainability of our natural resources. It shouldn't be used as a tool by activists and their lawyers to stall or stop projects.

Farmers simply want to do what is necessary to comply with environmental rules so that they can improve their way of life and continue to produce a wholesome quality product. The problem is that many farmers have become victims of activist efforts to use the current system's complexity to stall and even stop the well intentioned efforts of these small business owners, many of whom employ less than ten people and don't have endless resources.

To achieve these goals, MMPA recommends the following changes be made. Some could be made in combination with others or just one change would make for a streamlined process without lessening standards.

First, MMPA recommends the development, maintenance and use of a common database for all agencies. This would allow for better transfer of data resulting in more efficiency in communication. This is something that should be looked at for more than just Environmental Review. However, this is an appropriate application of intergovernmental data sharing because of all the agencies involved with the

Environmental Quality Board as well as all the agencies involved in regulating various aspects of environmental compliance.

Second, "undo the decision link between EAW and EIS". This separation was mentioned as an option to consider during the September 2009 Public Meeting. We have heard from dairy producers that the actual process of answering the questions in an EAW can be helpful to their project planning and to the sustainability of our resources. However, the current linkage between the EAW and EIS is what activists use as a stall tactic. Activists take advantage of the fact that farmers are not flush with money, and they use this mechanism to stop a project. It is noteworthy that in a recent case in which activists sought to require an EIS, the court ruled in favor of the RGU and the dairy project proposers and ordered the plaintiff to pay costs. This serves to strengthen the point that the link between EAW and EIS should be decoupled.

The Minnesota Milk Producers Association has been asking for years that the duplication between environmental review and permitting be eliminated. Since CAFO dairy operations can only be permitted to operate if they meet a zero discharge standard, the need for both an EAW and a NPDES permit is unnecessary in most cases. Duplication should be eliminated and all requirements should be addressed or referenced in the NPDES permit. In the alternative, provision could be made to replace the narrative required in an EAW with links to the NPDES.

One item we urge not be considered is regulatory "early public engagement". We believe it is the producer's social responsibility to engage neighbors early and often. MMPA continues to educate producers on this important aspect. In fact, it is another reason why MMPA built the nationally acclaimed Environmental Quality Assurance Program – so neighbors would know the standards the Five Star dairy producer has achieved and is maintaining.

We appreciate the opportunity to provide a few comments regarding the streamlining of the environmental review process. We are open to more discussions as you move toward improved processes that preserve the publics and the project proposer's financial resources while maintaining environmental standards.

Sincerely,



Bob Lefebvre
Executive Director

The Voice of Minnesota's Dairy Industry

Heffron, Susan B (MPCA)

50

From: Brian Schafer [sfig@sleepyeyetel.net]
Sent: Wednesday, October 14, 2009 1:39 PM
To: Susan.Heffron@state.mn.us
Subject: MN Cattlemen's Assn. comments on streamlining the Environmental Review Process
Attachments: EAW Streamlining MSCA Comments.doc

Ms. Heffron

I am attaching comments from the Minnesota State Cattlemen's Association on streamlining the Environmental Review Process. We greatly appreciate your consideration of our suggestions.

Thank you,

Brian Schafer

MSCA Legislative Chair
37740 240th Ave.
Goodhue, MN 55027
e-mail: brian@schaferfarm.com
Phone: (651) 923-5415
Toll-Free: 1-888-226-9210
Fax: (651) 923-5426
Cell: (651) 380-6230
www.schaferfarm.com



MINNESOTA STATE CATTLEMEN'S ASSOC.
3901 Joppa Ave. S. • St. Louis Park, MN 55416-5063
Phone: 952-920-9512 • Web: www.mnsca.org

October 14, 2009

Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North,
St. Paul, MN 55155-4194
Susan.heffron@state.mn.us

Ms. Heffron:

The Minnesota State Cattlemen's Association (MSCA) appreciates the opportunity to comment on streamlining the Environmental Review process. The MSCA asks MPCA to consider the following suggestions.

Recognize fulfillment of the 7020 rules as meeting the EAW requirements. The 7020 rules are thorough and were written to ensure environmental protection. The fact that a producer has to meet and live by all of the 7020 rules should be sufficient as a replacement for filing out an EAW.

Limit the misuse of the process. There are times when the environmental review process is being abused by opposition groups without scientific justification, for the sole purpose of increasing delays and costs to the point of surrender. This tactic adds tremendous expense and uncertainty for farm families with little or no environmental benefit. MSCA supports the following solution to this problem: 1. *Require petitioners to pay for the process.* The MSCA supports a requirement that any person, group or organization filing a petition for an EAW be responsible for the additional costs incurred by the EAW process. This would reduce the use of the EAW as a stall tactic and allow MPCA to recover the costs associated with the additional staff time and labor. 2. *Limit the use of the 25 signature rule.* The current law allows 25 people located anywhere to petition for an EAW. We support either eliminating this law altogether, or limit the law to a reasonable distance – perhaps to within 5 miles of the proposed project.

Eliminate the requirement that project proposers hold early public meetings and have a communication plan as part of the permitting process. These requirements make proposers easy targets for organized opposition groups and will undoubtedly lead to extra costs in the process. We encourage farmers and ranchers to visit with their neighbors individually to answer questions and address concerns before they even apply for a feedlot permit as a way of reducing the potential for local opposition to their project. While a good communication plan is important, it doesn't need to be a requirement.

Eliminate duplication between permitting and environmental review. Reducing or eliminating redundant activities will reduce time, expense and frustration for project proposers. The idea of pre-screening EAW projects to ensure that an EAW gathers or references the necessary information to protect the environment, without needless duplication seems to make sense.

Improve the clarity and consistency of the requirements of the current EAW process. The Environmental Assessment Worksheet is supposed to be a simple worksheet, but all too often the responsible government agency adds an endless list of requirements to an EAW, resulting in added expense and delay. Customizing the EAW forms to sectors seems like a reasonable way to take a step in that direction.

Please consider MSCA's comments on streamlining the environmental review process.

Sincerely,

Brian Schafer
MSCA Legislative Chair

Heffron, Susan B (MPCA)

51

From: David Ward [David.Ward@cooperativenetwork.coop]
Sent: Wednesday, October 14, 2009 9:38 AM
To: Susan.Heffron@state.mn.us
Subject: streamlining the environmental review process
Attachments: MPCA letter.doc

Ms. Heffron:

Cooperative Network appreciates the opportunity to comment on streamlining the environmental review process. Attached are Cooperative Networks comments.

David Ward

Director, Dairy & Government Relations | Cooperative Network
131 West Wilson Street, Suite 400 | Madison, WI 53703
608-258-4414 | cooperativenetwork.coop

***Celebrate October Co-op Month! Wisconsin and Minnesota are the top two cooperative states in the nation.
Please note that my e-mail address has changed!***



131 West Wilson Street, Suite 400, Madison, WI 53703-3269
608.258.4400 fax 608.258.4407
400 Selby Avenue, Suite Y, St. Paul, MN 55102-4520
651.228.0213 fax 651.228.1184
www.cooperativenetwork.coop

October 13, 2009

Ms. Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North,
St. Paul, MN 55155-4194
Susan.heffron@state.mn.us

Ms. Heffron:

Cooperative Network the cooperative trade association representing Minnesota's cooperative community appreciates the opportunity to comment on streamlining the environmental review process and asks MPCA to consider the following.

Streamlining the environmental review process is especially important for Minnesota's animal producers involved in the livestock feedlot permitting process. Minnesota's farm and ranch families live on the land breathe the air and drink the water and it is in their best interests to be responsible stewards of Minnesota's natural resources.

Cooperative Network thinks that environmental standards should be based on science and we are concerned when Environmental Assessment Worksheet (EAW) projects are delayed without scientific justification. These delays cause financial hardship for these farm families and additional costs for MPCA. Therefore Cooperative Network supports requiring petitioners to pay for the process when frivolous petitions are filed.

The EAW is supposed to be a simple worksheet, but too often the responsible government unit continues to add more requirements to an EAW, resulting in the added expense and delay. Cooperative Network has advocated for more certainty in the requirements of an EAW.

Current law allows 25 people located anywhere in the world to petition for an EAW. Cooperative Network supports limiting the petition to those people who live a reasonable distance (2-5 miles) of the proposed project.

Cooperative Network also supports producers who meet the 7020 rules, which were written to protect the environment, as meeting the requirements of the EAW. We feel this will eliminate duplication between the environmental protection and permitting.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "William L. Oemichen". The signature is written in a cursive style.

William L Oemichen
President & CEO

52

Heffron, Susan B (MPCA)

From: Lara Durben [lara@minnesotaturkey.com]
Sent: Wednesday, October 14, 2009 8:49 AM
To: Susan.Heffron@state.mn.us
Cc: steve@minnesotaturkey.com; KLEVLAW@aol.com
Subject: EAW Comments
Attachments: EAW.Comments - MTGA-BEAM 10-14-09.pdf

Ms. Heffron,

Please see attached comments from the Minnesota Turkey Growers Association and Broiler and Egg Association of Minnesota on the EAW process. If you have any questions, please contact me.

Thank you,

Lara Durben



Lara Durben
Communications & Program Director
Minnesota Turkey Growers Association (MTGA)
Minnesota Turkey Research & Promotion Council (MTRPC)
Broiler & Egg Association of Minnesota (BEAM)
Midwest Poultry Federation (MPF)
108 Marty Drive, Buffalo, MN 55313-9338
763-682-2171 / FAX 763-682-5546
lara@minnesotaturkey.com
www.minnesotaturkey.com

Save the dates:
March 16-18, 2010 - Midwest Poultry Federation Convention, St. Paul, MN (visit www.midwestpoultry.com)



Minnesota Turkey Growers Association
Broiler & Egg Association of Minnesota

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October 14, 2009

Ms. Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North,
St. Paul, MN 55155-4194
Susan.heffron@state.mn.us

Ms. Heffron:

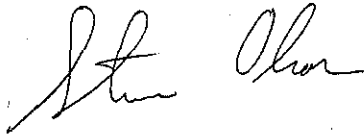
The Minnesota Turkey Growers Association (MTGA) and Broiler & Egg Association of Minnesota (BEAM) appreciate the opportunity to comment on streamlining the environmental review process and ask MPCA to consider the following suggestions:

1. Limit the abuse of the process by opposition groups. Our members tell us there are times when the environmental review process is being abused by opposition groups who hope to delay projects without scientific justification. This stall tactic adds tremendous expense with little or no environmental benefit. There are other legal avenues available for people opposed to a project to use to express their concerns (such as zoning).
2. Remove the open-ended nature of the current process. The Environmental Assessment Worksheet (EAW) is supposed to be a simple worksheet, but too often the responsible government unit continues to add more requirements to an EAW, resulting in the added expense and delay. For years we have advocated for more certainty in the requirements of an EAW rather than getting caught up in an endless and unnecessary cycle of paper chasing.
3. Require petitioners to pay for the process. MTGA and BEAM support a requirement that any person, group or organization filing a petition for an EAW being responsible for the additional costs incurred by the EAW process. This would inhibit the use of the EAW as a stall tactic and allow MPCA to recover the costs associated with the additional staff time and labor.
4. Limit the use of the 25 signature rule. Current law allows 25 people located anywhere in the world to petition for an EAW. We support either eliminating this law, or in the alternative limiting the law to a reasonable distance – perhaps to within 5 or 10 miles of the proposed project.
5. Accept compliance with the 7020 rules as meeting the EAW requirements. The 7020 rules are very complicated and were written to ensure environmental protection. The fact that a producer has to meet and live by all of the 7020 rules should suffice as a replacement for filing out an EAW.

6. Do not require project proposers to hold early public meetings and have a communication plan as part of the permitting process. These requirements could make proposers easy targets for organized opposition groups and will clearly lead to extra costs in the process. We encourage our members to visit with their neighbors individually to answer questions and address concerns before they even apply for a feedlot permit as a way of reducing the potential for local opposition to their project.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven Olson".

Steven H. Olson
Executive Director
Minnesota Turkey Growers Association
Broiler & Egg Association of Minnesota

53

Heffron, Susan

From: Susan Heffron [mailto:Heffron.Susan@state.mn.us]
Sent: Tuesday, October 12, 2009 10:50 AM
To: Susan Heffron [mailto:Heffron.Susan@state.mn.us]
Subject: 09.doc



Minnesota Pork Producers Association
151 Saint Andrews Court, Suite 810, Mankato, MN 56001
Phone: (507) 345-8814 | Fax: (507) 345-8681 | E-mail: mnpork@mnpork.com

Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North
St Paul, MN 55155
Susan.heffron@state.mn.us

Ms. Heffron,

On behalf of the Minnesota Pork Producers Association, Thank You for the opportunity to comment on the Environmental Review process.

We appreciate the feedlot customized for the EAW's that was developed a few years ago.

Meaningful streamlining, however, has to include an examination of other permitting activity on a project and also the relative risk a project poses to the environment. Meaningful streamlining also allows the state government to focus on projects that are new in technology or in fact could carry increased risk due to weather events outside a farmer's control.

Although the following recommendations would most likely involve changes to statute, they are the only streamlining that will make a difference for livestock producers.

Revisit size thresholds for low risk facilities:

The lowest environmental risk farms are sites that exclude rain water from manure storage or animal holding areas. We propose raising the threshold for a mandatory EAW from the current 1,000 animal units to 2,000 animal units. Sensitive areas can be left the same. This raised threshold should apply to sites that exclude rain water from the manure storage and animal holding area.

If coverage under an NPDES permit is applied for the site should not need an EAW.

The processes are very similar in scope and identify very specific requirements for operation. The new NPDES under public notice right now also includes public review and comment on manure management plans at construction and any time the plan is changed. This is a new feature of the permit previously not mandated.

The NPDES and EAW are now more closely linked. This is a change that now makes even more sense.

Sincerely,

David Preisler,
Executive Director

MINNESOTA
COMMISSION ON
FUTURE
ENERGY
CONSUMPTION

54

Heffron, Susan B (MPCA)

From: MRobert388@aol.com
Sent: Wednesday, October 14, 2009 2:35 PM
To: Susan.Heffron@state.mn.us
Cc: Beth.Lockwood@state.mn.us; Jess.Richards@state.mn.us; Amy.Rudolph@state.mn.us; tkwilas@mnchamber.com
Subject: Chamber Streamlining letter
Attachments: mch10.14.09LetterPCA.EnvRevFinal.pdf

Susan---

Attached is a PDF of the Chamber letter on Environmental Review Streamlining options. I will not be sending a hardcopy unless you request it.

Thanks!

Mike Robertson

October 14, 2009

Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Dear Ms. Heffron:

RE: Environmental Review Streamlining Suggestions

We thank you and all of the Minnesota Pollution Control Agency (MPCA) staff and staff from other departments who prepared and participated in the public information meeting on streamlining the environmental review process on September 29th. This gathering of stakeholders was an important step in developing the Environmental Review Streamlining Report to the legislature.

The directive from the legislature to prepare the streamlining report states that you “shall include options that will reduce the time required to complete environmental review and the cost of the process to responsible governmental units and project proposers while maintaining or improving air, land, and water quality standards”. The Minnesota Chamber of Commerce (Chamber) wholeheartedly endorses this objective. As we listen to Chamber members from across the state, a constant refrain over the years has been that environmental review and permitting is an obstacle to expanding the economy and creating jobs in Minnesota. They tell us that they can get their projects approved faster and at less cost in other competing states.

At this critical time, as our businesses struggle to survive recession, as state government seeks to avoid deficits and promote economic recovery, we believe the time is right to improve the environmental review process.

But to be clear: we do not seek to reduce environmental standards or eliminate the necessary review of environmental impacts from projects. We seek better environmental decisions, not bigger and bulkier environmental documents. Why is it that most proposers try not to do an Environmental Impact Statement (EIS)? Because of the enormous time and expense involved. This defeats the purpose of environmental review, which is to encourage proper planning and consideration of the environment.

We appreciate the time and effort of MPCA staff in developing the streamlining ideas that were presented at the public information meeting on September 29th.

- Undo decision link between Environmental Assessment Worksheet (EAW) and EIS
- Customize EAW forms to specific sectors
- Early public engagement
- Eliminate duplication between environmental review and permitting
- Green-streaming for existing facilities

We believe these ideas are worthy of further discussion and development. Some of them overlap with ideas which we present below. All of these suggestions are general concepts for discussion. If adopted, each would probably have implications for other parts of the rules --- e.g., it might affect appropriate time limits, etc. We are interested in working with MPCA and other stakeholders in evaluating all of the suggestions that you receive and developing a reform package that would be implemented administratively or in legislation. Some of the ideas listed below are included in bills introduced in the 2009 session (SF 1747/HF 1875).

Minnesota Chamber Streamlining Suggestions

1. Let the project proposer prepare the EIS (the first draft of an EIS) for review, modification, or approval from the Responsible Governmental Unit (RGU).

- This would not reduce the RGU's authority. It would make environmental review like: 1) permitting, where the permit applicant submits a detailed application, or 2) the EAW process, where the applicant submits an EAW worksheet, or 3) Superfund, where the Responsible Party does the investigation and develops the cleanup plan, or 4) a compliance plan under a permit where the permittee develops a plan that is reviewed and approved by the MPCA.
- The RGU should still retain authority to find the EIS inadequate and to require changes.
- The National Environmental Policy Act (NEPA) allows federal agencies to adopt documents prepared by others as their own so long as they exercise independent judgment.
- Currently, the RGU spends too much time negotiating contracts with EIS consultants and cost-reimbursement contracts with proposers. Similarly, the RGU consultants often spend too much time learning the details of a project which is not their own.
- If the contours of a project change or new alternatives are identified, while a proposer is preparing an EIS, it can make necessary adjustments in the document before it submits the EIS to the RGU. No need for the proposer and the RGU to negotiate changes.
- Placing the proposer in charge of preparing the EIS would give it greater control over schedule and cost.
- The scoping process would need to be revised in some appropriate way.

2. Either eliminate the need to prepare an EIS on environmental permits, or focus any EIS prepared on environmental permits on those objectives that the normal permitting process cannot accomplish.

- The original purpose of environmental review was to ensure that agencies whose missions were not environmental protection took environmental impacts into account in pursuing projects. There should be no need for such assurance with respect to environmental permitting.
- Environmental permitting processes, like environmental review, include public review and comment.
- NEPA exempts certain major environmental permits --- air permits, reissuance of NPDES permits --- from environmental review. There are case law exemptions for other types of environmental permits under NEPA.
- EIS's for big or multi-permit projects should focus on accomplishing those objectives that a single permit process alone cannot achieve --- a broad description of the proposed project, cumulative effects, etc.
- Under such an approach, EISs might actually be what they were intended to be --- concise and understandable decision making documents, outlining a project's adverse impacts, alternatives, and possible mitigation measures.
- Under this approach, permits probably could not issue within days after an adequacy decision, but the 280-day timeline for EISs could probably be met easily.

3. Provide some templates for EIS subjects that are common to many EISs, so that basic background --- e.g., a discussion of the appropriate regulatory structure --- is always the same and a need to reinvent the wheel is avoided. The EIS can then focus on what is unique and important about the proposed project.

4. Eliminate District Court review of EIS decisions and provide for direct appeal to the Court of Appeals.

- This would be consistent with other statutory changes made to provide such a direct appeal after the establishment of the Court of Appeals.
- Review of EIS decisions is on the record, and thus the District Court essentially functions as a court of appeals anyway. There is no fact-finding or trial.
- When an EIS case is appealed from the District Court the Court of Appeals, the review is de novo, essentially wiping out the District Court review, but adding a year's worth of time.
- The Court of Appeals is more experienced in environmental review cases than many or most District Courts.
- The Court of Appeals also has jurisdiction of environmental permit appeals, and it is appropriate to seek review of an EIS and a related permit in the same court.

5. In the case of an appeal, require that a bond be posted, unless the plaintiff has shown that the claim has sufficient possibility of success on the merits to sustain the burden required for issuance of a temporary restraining order.

- Currently the court may require a bond. Because of the magnitude of costs involved in projects, anyone appealing a decision should be required to post a bond if the burden of proof required to achieve a temporary restraining order cannot be met.

In conclusion, the Minnesota Chamber believes that it is important to move forward as soon as possible with a package of reforms that will streamline the environmental review process. We look forward to working with the MPCA and other stakeholders to achieve this objective.

Thank you for the opportunity to provide our suggestions.

Sincerely,



Mike Robertson
Environment & Natural Resources
Policy Committee

cc: Environment & Natural Resources
Policy Committee

55

Heffron, Susan B (MPCA)

From: Jessica Gunderson [JGunderson@rranow.com]
Sent: Wednesday, October 14, 2009 11:00 AM
To: Susan.Heffron@state.mn.us
Cc: alan.l.braun@xcelenergy.com; carl.michaud@co.hennepin.mn.us; John Sigmond (E-mail); Leigh.lenzmeier@co.stearns.mn.us; Mike Cousino; pdswpao@rea-alp.com; Samantha Werre; Trudy Richter; Wayne Hanson (E-mail); Alan Braun (E-mail); holloway.amanda@mayo.edu; Bill Wilson (E-mail); bschmidt@cityofperham.com; charles.kinney@xcelenergy.com; Dan Carlson (E-mail); heidi.f.benedict@xcelenergy.com; Jeff Huppert (E-mail); jeff.schneider@ci.red-wing.mn.us; helmers.john@co.olmsted.mn.us; John Sigmond (E-mail); kimberickson@comcast.net; Michael Hanan (E-mail); pdswpao@rea-alp.com; rhonda.madsen@rrtmn.com; Rick Moskwa (E-mail); Wayne Hanson (E-mail)
Subject: Environmental Streamlining_public comments MRRA
Attachments: environmental_streamlining_letter_trudy.pdf
Importance: High

Ms. Heffron:

See the attached letter per Trudy Richter

Thank you

Jessica Gunderson

Richardson, Richter & Associates, Inc.
477 Selby Avenue
Saint Paul, MN 55102
651-222-7227 (p)
651-223-5229 (f)
jgunderson@rranow.com



MINNESOTA
RESOURCE
RECOVERY
ASSOCIATION

Ms. Susan Heffron
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-41934

RE: Public Comments on Environmental Review Streamlining

Dear Ms. Heffron:

The Minnesota Resource Recovery Association (MRRA) thanks you for the opportunity to comment on the MPCA's report to the Legislature on Environmental Review Streamlining. The MRRA represents 10 waste to energy facilities in Minnesota that process about 1,200,000 tons of municipal solid waste every year (20% of the total municipal solid waste generated). This waste is converted into a usable form of energy at all facilities including electrical generation as well as process steam for numerous local industries. Because its facilities serve almost 1/3 of Minnesotans, the MRRA has a keen interest in environmental streamlining.

Certain MRRA members (Olmsted and Pope Douglas Counties) have had recent experiences with environmental review and permitting. The time for environmental review for new waste to energy units at these two existing, permitted facilities was in excess of 3 years or at a minimum four times the State's median of 228 days. We believe this is largely due to lack of standardization of the EAW/EIS and permit process.

The MRRA would support the following streamlining approaches:

- a) Customize EAW forms to sectors
 - b) Eliminate duplication between environmental review and permitting and any items covered by a permit should not be subject to a decision on significant potential for environmental effect in the EAW but a link should be in the EAW to the permit. (3 option presented by Jeff Richards, MPCA)
 - c) Remove "starts and stops" at MPCA and increase responsiveness of the MPCA (not proposer).
1. Customize EAW forms for WTE
There are 10 waste to energy facilities in the State which have stringent air emission permit standards. There is 20 years of operating history archived at the MPCA from annual performance testing results. There is significant data available and yet the MPCA approaches environmental review and permitting as if it is the first time. WTE facilities should be subject to a standardized environmental review not unlike feedlots. Protecting the environment should be accomplished through a consistently applied set of rules and processes. There is no reason for delay just because there may be more public interest in one project than

another across the State. Presumably, the environmental impacts should be studied to the same extent, rules and regulations applied equally and environmental review processes completed in a consistent manner and timeframe. To delay because of increased public scrutiny is not an acceptable response for any regulator guided by the same rules and regulations for environmental review and permitting. A standardized environmental review process should eliminate such delays. WTE is not a new technology and should not be out of the Agency's comfort zone in properly reviewing and regulating. Emotion does not play a role in the fair application of rules and regulations.

2. Eliminate duplication between environmental review and permitting

At a minimum, environmental review should be streamlined by referencing other documents. Specifically for WTE, reference should be made to the permit (and all regulations should be included in one permit). Ideally, items covered by a permit should not be subject to a decision on "significant potential for environmental effects" but since that change apparently would take a statutory change, the environmental review staff should work closely with the permitting staff and pending such statutory change, commence referencing information in other documents when completing the environmental worksheet.

3. Remove "starts and stops" at MPCA and increase responsiveness of the MPCA (not proposer).

In our experience, WTE facilities during environmental review have been responsive to data needs but those needs and questions are constantly changing depending upon MPCA staff involved and whether or not various divisions at the MPCA or senior level staff need to be consulted. There is no continuity to the process, simple requests from the proposer takes months for a response and delays are some of the most extreme of those experienced by permittees across all sectors in the State. Direction from senior staff needs to be provided to the permit writer from the onset to avoid delays. Not unlike the discussion in number (1) above, emotion should not be a part of environmental review. A standardized, formal, efficient process assuring the same level of concern for the protection of the environment should apply across all permittees.

The MRRA has worked hard to educate all stakeholders about waste to energy. We have cooperated fully over the years with the MPCA through rulemaking, environmental reviews and permitting. We value the outreach we do with the public and the support the public, as a whole, has for WTE and our facilities. We believe that the public is entitled to all the information that is available. We support the MPCA applying their environmental review and permitting processes with fairness and efficiency. MRRA is in full support of more standardization to avoid unnecessary and costly delays. Such standardization will assure that the facts are available to the public and that processes are being guided by the facts in protection of our environment. It is time for the MPCA to stop allowing emotions to cause delay.

Thank you.



Trudy Richter
MRRA
Executive Director

Cc: MRRA Facilities and Board

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TO: Susan Heffron, MPCA FAX (651)297-2343

DATE: October 14, 2009

RE: Environmental Review Streamlining

FROM: Bob P. Bowlin
phone 320-634-5681

Bob P. Bowlin
W

Streamlining in Environmental Review can be accomplished by pre-printing all conditions which might be required to assure that there should be no discharge from a site. But if there happen to be discharges, the conditions would cover investigation, responsibility and remediation costs.

EXAMPLE: If biofilters located on a hog barn are not maintained, conditions would address polluting air stream downwind.

EXAMPLE: If residue antibiotics are found on adjacent land to an animal agricultural operation, conditions and solution would have been addressed at permit time.

At present time a county can only use the *long, slow, expensive legal process* to establish that there is a problem and get a solution in place and probably will have to fund a clean-up. A thorough, pre-printed set of conditions would be fast; the counties could be saved from funding costs related to any animal agricultural problems caused by discharge.

23200 Cobblestone Lane, Glenwood, MN 56334
lzbowlin@aol.com

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Heffron, Susan B (MPCA)

From: Lockwood, Beth
Sent: Monday, October 19, 2009 2:58 PM
To: Heffron, Susan
Subject: FW: Streamlining EAW EIS
Attachments: October 14 (5).docx

Here's another one that seems to have only gone to me.

Beth G. Lockwood
Manager
Environmental Review and Feedlot Section
651-757-2534
General MPCA # 651-296-6300 or 800-657-3864

From: Jan Blevins [mailto:JBlevins@RPU.ORG]
Sent: Wednesday, October 14, 2009 1:17 PM
To: Lockwood, Beth
Subject: Streamlining EAW EIS

Please review my comments and file with appropriate action.
Thank you.

Jan R. Blevins
OC3
1448 110th Ave. SE
Eyota, MN 55934

October 14, 2009

To Whom It May Concern

Subject: Streamlining the Environmental Review Process

It is our understanding that the MPCA (Minnesota Pollution Control Agency) and the EQB (Environmental Quality Board) are reviewing the EAW and EIS process. Changes to this process should demonstrate that they maintain or improve the environment not ignore the environmental impacts in order to promote business because of a political agenda. Business development can be enhanced by looking at all environmental impacts. If I were investing money I would want to know up front what the advantages and disadvantages of the location chosen would be and how it will impact the neighboring community, positive or negative. Citizens and Businesses working together to provide jobs without negative impacts on the environment should be the goal. Leaving the citizens out in the cold with no voice in the process is against the American Way. Public input on EAWs can improve projects and have positive results with site specific information on projects that the blanket EQB Rule categories do not address.

EAWs should potentially lead to an EIS where site specific concerns demonstrate the need for additional study. This is a critical link in the existing process to maintain or improve the environment in specific locations. EAWs should be a short review process; it should not take the place of an EIS. The EIS should be paid for by the applicant not the taxpayer. What has happened in the past it the MPCA produced a 700 or 800 page document which the taxpayers paid for and probably with the hours spent was in the range of \$500,000 to \$800,000? This also cut out the ability for the citizens to explain the quality of life concerns that the EIS does allow. We were told repeatedly that quality of life issues could only come up during the EIS process. Just because an investor has purchased a piece of land it does not make that land suitable for anything he or she wishes to build on it. The MPCA has taken the stance that the staff they have hired to review the application are the only ones that are "in the know" and leave out their Peers in the process. They should involve and request involvement in a manner that is "real", not just because they have to include the citizens. Instead they have their open public hearings, openly arguing for the applicant and not allowing citizens to have input. This has happened in the past and now they are proposing to eliminate any citizen's appeal of the process. This is not right. Make this a better process; listen to scientific data regarding the environment not just the political push big Ag or a political agenda it promoting. One industry they would be ignoring is the tourist industry. If we do not protect our streams, wetlands, waterways, the depletion of these resources will have a major impact on the

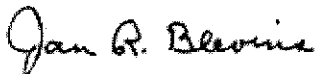
tourist industry. When the DNR works with the MCPA and states that there is no end to our water supply yet they have determined that utilities need to have a water conservation rate built into the rate schedule to promote a sustainable water supply, I question the total disconnect between what is happening in regard to our water resources around the world and the permitting process that DNR is using. A sustainable water supply should be this state's goal so why are we not promoting using waste water streams for some industries rather than using up our pristine drinking water supply. There again citizens should have input on how their drinking water is going to be used and not have it mined and transported to other states.

What the MPCA and EQB should be promoting is an open communication with the citizens from the start up of a project. Citizens that are most impacted should have a place at the table.

The MPCA has all of our email addresses, they know that we have concerns and yet when they conducted a public hearing on this issue, none of us were notified of the public hearing. That tells me they do not want citizen input and if you allow the MPCA and EQB to streamline this process by eliminating the ability for citizens to petition for an EIS you are showing that you do not care about anyone or the environment. Stop this now. Make the EAW a brief document, the applicant should bear the cost when their proposal may not fit the land area.

Please consider this carefully. The EPA encourages citizens to be involved, keep a watchful eye on the environment around them and take action. This is a democracy, we have no say in who is hired at the MCPA or placed on the EQB but we have the right to vote and to petition. If you agree to take away the ability for citizens to have input you are going against our rights as Americans. This is a right that we have fought hard and lost many lives over. I ask that you shorten the EAW process that the taxpayer pays for and if the questions cannot be answered with an EAW the project would go to the EIS process that the applicant would then bear the cost and the citizens would have the right to have the impact on their quality of life concerns addressed.

Sincerely,



Jan Blevins, Co-Chairperson

Olmsted County Concerned Citizens

1448 110th Ave. SE

Eyota, MN 55934

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Heffron, Susan

From: Lockwood, Beth
Sent: Monday, October 19, 2009 2:22 PM
To: Heffron, Susan
Subject: FW: Environmental Review process

Sorry if I've already sent these. I'm trying to get through my messages and see if there are any that just went to me. I assume that if they also went to Jess or anyone else on the team then you have them already.
-Beth

From: Jill Johnson [mailto:JJJohnson@Co.Winona.MN.US]
Sent: Wednesday, October 14, 2009 2:07 PM
To: Beth.Lockwood@state.mn.us
Subject: FW: Environmental Review process

From: Jill Johnson
Sent: Wednesday, October 14, 2009 2:06 PM
To: 'Beth.Lockwood@MPCA.state.MN.us'
Subject: Environmental Review process

Beth,

Today I received a PowerPoint regarding potential changes in the Environmental Review process. This is the first I have heard of this and in checking with Winona County's Zoning Administrator, he too, was unaware of the information and comment period.

Since both myself and the Zoning Administrator have just recently attended our respective state association conferences (SWAA & MACPZA), at which many MPCA staff were in attendance, we are both wondering why this information has not been widely distributed.

I would like to request and suggest that the comment period be extended to provide adequate time to review the documents and that the information be provided to local units of government officials, including Planning, Zoning and Solid Waste Administrators.

Thank you for your consideration in this matter.

Jill Johnson, R.S.
Environmental Services Director
Winona County Environmental Services Dept.
225 W. 2nd Street
Winona, MN 55987
Office: 507-457-6405
Fax: 507-457-6465
E-mail: jjohnson@co.winona.mn.us
Website: www.co.winona.mn.us

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Heffron, Susan B (MPCA)

From: Richards, Jess
Sent: Monday, October 19, 2009 10:38 AM
To: Heffron, Susan
Subject: FW: Environmental Review
Attachments: Environmental Review 2009 09 28.doc

Susan -Please add this to the comment letters. This one is from Iron Range Resources.

From: Laureen Hall [mailto:Laureen.Hall@state.mn.us]
Sent: Monday, October 19, 2009 10:12 AM
To: Jess.Richards@state.mn.us
Subject: Environmental Review

See attached.

Laureen Hall
Executive Assistant
Commissioner's Office
Iron Range Resources
4261 Hwy 53 South
P.O. Box 441
Eveleth, MN 55734
(218) 735-3014
(218) 735-3047 FAX
laureen.hall@state.mn.us

RECOMMENDATIONS FOR STREAMLINING ENVIRONMENTAL REVIEW AND PERMITTING IN MINNESOTA

Projects in Minnesota that include new development and will impact the environment must go through a process of environmental review and permitting. Those who have been involved in Minnesota's process commonly acknowledge that some parts of the process are redundant and could be streamlined. Iron Range Resources is concerned that the environmental review process, as it currently stands, is negatively impacting business development and job creation at a time when the state needs to be doing all it can to bolster its economy.

Listed below are some ideas and comments from individuals and businesses that have experience in navigating Minnesota's environmental review and permitting processes.

EIS Preparation

1. The EAW and EIS Scoping processes would benefit if Minnesota Statutes Section 116D.04 was updated to include the following two changes:
 - Minnesota Statutes Section 116D.04, Subd 2a. Change the requirement of preparing an EIS to exempt a Project Proposal that is "subject to any environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit issues by the federal government or by the Pollution Control Agency, Department of Natural Resources, Department of Health, or Department of Agriculture".
 - Minnesota Statutes Section 116D.04, Subd 2a(h). Require that the notice of preparation occur not later than the notice for public comment on the RGU scoping decision.
2. Improve the EIS Scoping Process so project proposers have clear expectations, upfront, on what studies will be required. "Significance" criteria should be defined early on in the scoping phase of the process.
3. Allow the Project Proposer (along with their 3rd party consultants) to write/prepare the Environmental Assessment Worksheet and the Environmental Impact Statement. The State would review the EAW and EIS, with the assistance of 3rd party consultants. Currently, the State hires a 3rd party consultant to write the EIS and the Project Proposer pays for the State's consultant. The results of this change would be to shorten the amount of time needed to write the EIS, to ensure that the people working on the EIS preparation would be "up to speed" on the project, and to improve the quality of the "first draft" (making the State's review process more efficient and economical).
4. The State should hire a Project Manager for each proposed project, especially if the project is large and unique. The Project Manager needs to be someone who can make a decision and get the job done. Consider bringing in an outside, qualified, successful Project Manager from another state agency or from private industry, if necessary.

5. If the changes noted in #3 and #4 are not implemented, the State must exercise tighter control and better scrutiny of consultants hired by the State to write the EIS. The State cannot continue to use the price quotation as the dominant criteria when hiring a consultant to write the EIS. There must be a minimum set of qualifications for a bidder to meet before they can receive a contract, i.e., experience, knowledge, qualified staff, etc.
6. More certainty around costs is needed. The Project Proposer should be required to cover costs for a pre-established point in time, say 280 days. After this deadline, there would be a consequence for the delay in that the Responsible Governmental Unit (RGU) would be required to pay a portion or all of the costs to complete the effort.
7. The Environmental Review Process should be separate from the permitting process. Currently, in Minnesota, environmental review and permitting processes typically move in parallel, but slightly offset. This increases redundancy and duplications of efforts.

EIS Review Process

8. The State should appoint one lead person per agency to oversee the EIS preparation and review processes. Each permitting agency needs one key leader who can make decisions, resolve problems and keep the process moving.
9. Change Minnesota Statutes Section 116D.04, Subd. 2b, to separate construction and operating permits. Other States (i.e. Wisconsin) have a two-step process for air permitting that allows construction to begin after a construction permit is obtained. The operating permit is then largely based on the construction permit; however, unique operating conditions or compliance demonstration issues can then be addressed while construction is taking place. The purpose of this change would be to allow the project proposer to begin work, under a construction permit, at their own risk, prior to receiving an operating permit. The construction season is short in Minnesota and this would allow site preparation, clearing, grubbing, etc. to start when conditions are favorable, at the company's own financial risks.

Permitting

10. The number one improvement suggested for permitting by numerous parties is to eliminate the redundancy between the EIS and permitting processes. The state should consider consolidating permitting staff from all state agencies into one working unit under a manager who is authorized to oversee all aspects of permitting, able to make decisions and keep the process moving. At the very least, that state should not require duplication of work, information, etc. If the information, data, or requested materials are contained in the EIS, the regulator/permit issuer can/should refer to that document and not require resubmission of data/information for permitting.

11. Permitting would be less formidable if deadline for issuance of permits were set. Wisconsin law includes deadlines for issuance of air permits. Minnesota law could be updated to provide the same level of government accountability.
12. Additional changes could improve Minnesota Statutes Section 116D.04, Subd. 11, Failure to act. Failure of RGU to act within a specified time frame results in approval of the action (rather than seeking court order to require action). This issue of meeting deadlines may be better dealt with in Minnesota Statutes Section 116D.04, Subd. 2a(h), where it sets a 280 day time limit for EIS.
13. The State should include an option covering expansions of existing projects which would not automatically require a new, complete EIS. Some business expansions could be handled through permit amendments, when appropriate.
14. As discussed in the prior section, allow the Project Proposer to initiate construction, at the owner's risk, prior to the issuance of operating permits.
15. Under Minnesota Rules, Section 7001.0030, no person required to obtain a permit may "construct, install, modify" or operate the facility until the permit is issued. This applies to all permits. If "construct, install, modify" were deleted, then other rules on air and water permits would apply: Minnesota Rules Section 7001.1030, Subp. 1, states no discharge into water without obtaining National Pollutant Discharge Elimination System (NPDES) permit. Minnesota Rules Section 7001.0150, Subp. 1, states that a person may not construct, modify, reconstruct or operate an air emission facility until a permit is obtained. The Clean Air Act requires the more stringent restrictions, whereas, the Clean Water Act does not. Deleting the more restrictive language in Minnesota Rules Section 7001.0030 would allow construction to begin on wastewater facilities prior to issuance of a permit. No discharge would be allowed until the permit is issued.

Standards, Toxicity, Approved Control Methodology

16. Wisconsin law requires that state air emission standards may not exceed federal standards unless it is determined that the federal standard does not provide adequate protection for public health or welfare and requires specific findings. Minnesota law could be similarly amended and expanded beyond just air standards.
17. The Minnesota Pollution Control Agency (MPCA) should promulgate formal rules for conducting Air Toxics Reviews for air permitting. Once promulgated, the list of chemicals and their respective toxicity values should remain static for some period of time and then be updated periodically. This could be patterned after the state's water quality standards where the standards are formally updated every three years. New toxicity values or updated values should also be made available for public review and comment before being adopted. This would eliminate a moving target during the permitting effort.

18. The MPCA should clarify when and where sulfate limits apply for the (NPDES) water permit discharges. MPCA should review scientific reports on sulfate levels in receiving waters and consider revising the sulfate standard. Minnesota should define in Minnesota Rules a single list of "Wild Rice Water bodies" for which sulfate limit considerations would apply. Once the rule is established it should remain static and then be updated on a triennial basis similar to other water quality standards. Again, this would eliminate a moving target during the permitting effort.

Legal Issues

19. Document management is critically important. RGUs and other agencies need to set and follow a policy on document management. Specifically, should the RGU or other cooperating agency release a draft document to an outside party, which might cause unnecessary delays in the process? Works in progress should have limited distribution.
20. The role of Cooperating Agencies involvement in environmental review needs clarification. Make sure this is well defined and that expectations are understood up front. Tighter control should be sought on setting a deadline for organizations to become cooperating; Parties should not be able to join at the 11th hour and expect to have standing. This could be specified in the Memorandum of Understanding (MOU) between the State and Federal government agencies. It is usual for the major projects to execute a MOU for a joint Federal and State EIS. The MOU could set a mutually agreed upon deadline for all cooperating agencies to join the process. If parties fail to meet the deadline, they could petition to join with restrictions and limitations pertaining to revisions that had already been agreed upon.
21. In an Environmental Rights Act civil action, Minnesota Statutes Section 116B.06, states that posting a bond is discretionary with the court. The proposed amendment would require a bond "under section 562.02 unless at the time of the hearing on the application for bond, the plaintiff has shown that the claim has sufficient possibility of success on the merits to sustain the burden required for issuance of a temporary injunction". The \$500 limit on the bond should be removed.
22. Change Minnesota Statutes Section 116D.04, Subd. 10, and move judicial review from district court to court of appeals and require a bond unless the plaintiff can show sufficient possibility for success on merits to issue a temporary injunction.
23. The Large Scale Project Manager should give strong consideration to involving the RGU attorney at the outset. The RGU's attorney must begin involvement at the EIS scoping stage in order to have a solid base and background regarding the proposed project. According to some proposers, the DNR has seemed reluctant to involve their assistant attorneys general until late in the process.

24. The Minnesota Pollution Control Agency (MPCA) internal structure needs to be improved so that sound science is the ultimate authority during the permitting process. The "Agency" is now the board unless a statute specifically states that the power or duty is held by the commissioner. The amendment would make the commissioner the person who implements MPCA powers and duties, except that the citizens' board would retain the rulemaking power. The politics of the board sometimes weighs too heavily in the final decision at the expense of sound science. The permitting of projects in Minnesota must be based on sound science, not politics, in order to both protect our environment and allow responsible, sustainable development and use of our natural resources.

Heffron, Susan

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From: Lockwood, Beth
Sent: Friday, October 16, 2009 12:46 PM
To: Heffron, Susan
Cc: Richards, Jess
Subject: FW: MPCA Proposal to Streamline Commercial Development

Another comment letter Susan.

Beth G. Lockwood
Manager
Environmental Review and Feedlot Section
651-757-2534
General MPCA # 651-296-6300 or 800-657-3864

From: Fran Sauer [mailto:efsauer@mchsi.com]
Sent: Friday, October 16, 2009 10:55 AM
To: Lockwood, Beth; Richards, Jess; Haugstad, Mel
Subject: MPCA Proposal to Streamline Commercial Development

Mel - I will be glad to forward this to Beth Lockwood and Jess Richards for you. Hope you are feeling better. Fran

----- Original Message -----

From: Mel Haugstad
To: [Jon Larsen](#) ; [Jess Richards](#) ; [Gregg Downing](#) ; [Beth Lockwood](#)
Cc: [Sharon Ropes](#)
Sent: Wednesday, October 14, 2009 2:53 PM
Subject: MPCA Proposal to Streamline Commercial Development

Dear Public Servants,

This email is about the MPCA proposal to make it easier for commercial developers to stomp on the public's natural resources. As a former DNR Fisheries Biologist and Area Fisheries Manager for 32 1/2 years and creator of the MN Trout Association, INC, I have seen a lot of the greedy ones stomping on our stream resources because there was no legal way to stop it except by going to court.

The EAW has been kind of a joke since most of the information in it is provided by the applicant instead of neutral parties. Consequently, you have had the fox guarding the chicken coup. Instead of streamlining the EAW to make it easier for applicants to get permits, some of them need more hoops to jump through before getting their permit. I know many of those cases have seemed a bit ridiculous for an applicant to go through the EAW process because obviously the project would not be harmful, and I had many of those cross my desk, but every once in a while there is that surefire bad one that needs an EAW so thorough that it leads to an EIS being needed. You don't want to water down this EAW process so much that concerned and negatively affected citizens can't resolve it in the courts.

I have the following other comments:

1/ If you are going to change this EAW process, then consider Number 1 priority to be, " Will the public interests be protected as much or will it just allow applicants an easier road to stomp on the resources? Extensive public input is very important where their environment might be compromised.

2/ You want to be sure that the EAW provides an easy road to the EIS if there are any red flags that show up in the proposal---not a more difficult or impossible road.

3/ I think there should be different classes of EAW's, some minor projects that could be processed quickly and some that need extensive input and review. I recall that EAW's moved through my desk in a hurry if the proposer was on the ball letting us know exactly what was planned but some of them did not want you to exactly know the extent of the project so it took time to find out. Of course that seemed like an unnecessary delay to the proposer.

Sincerely,
Mel Haugstad
Fisheries Biologist/ Fisheries Manager/Retired
Vice President, MN Trout Association, Inc.

Melford C Haugstad
300 Washington Street NW
Preston, MN 55965

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Heffron, Susan B (MPCA)

From: awolf [awolf@mncenter.org]
Sent: Monday, November 02, 2009 9:37 AM
To: Heffron, Susan
Subject: MCEA Streamlining Environmental Review.doc
Attachments: MCEA Streamlining Environmental Review.doc

Dear Susan,

Attached please find MCEA's comments on the PCA's Streamlining Environmental Review report. We are pleased to have the opportunity to comment on this critical issue.

Note that this lacks a couple of citations, and an attachment, but I wanted to get it to you this morning. I will forward the additional material tomorrow.

Please let me know if you have any questions. We would be more than happy to discuss this issue with you or others at PCA at any time.

Allison Wolf
Legislative Director
MCEA
612 750 5449

Heffron, Susan B (MPCA)

From: awolf [awolf@mncenter.org]
Sent: Wednesday, November 04, 2009 3:20 PM
To: Heffron, Susan
Subject: MCEA Comments on Streamlining Environmental Review
Attachments: MCEA Comments Streamlining Environmental Review.doc

Importance: High

Hi Susan,

Since I have been having some computer issues, I am not certain whether this got to you on Monday. I am sending it again with the citations cleaned up a bit. Please get in touch with any questions you may have.

Allison Wolf
MCEA

Dear Ms. Heffron:

This letter sets out the comments of the Minnesota Center for Environmental Advocacy (MCEA) responding to the presentations by staff of the Minnesota Pollution Control Agency (MPCA) at the public information meeting to consider options for streamlining environmental review held on September 29, 2009. These comments reflect MCEA's history in helping to establish environmental review and more than 30 years of experience taking part in all forms of environmental review at all levels of government.

In directing MPCA to study and report on environmental review, the Legislature seems to have latched onto a solution in search of a problem. The Legislature's charge to MPCA assumes that the number and length of environmental reviews is unreasonable and must be reduced. As a staff of environmental professionals, MPCA needs to help the Legislature understand the context in which environmental review is performed before laying out options for how the process can or should be streamlined. In addition, MPCA should acknowledge that arguments for streamlining the process of environmental review are often intended to eliminate the substance of long-standing, fundamental environmental protections.

In presenting options to the Legislature, the MPCA must clearly document any existing problem with the current environmental review law, describe how its proposed "streamlining" options will solve the documented problem, and explicitly address the effect of the options on existing environmental protections.

Number of EAWs and EISs: Incomplete Data

MPCA presented information on the number of environmental assessment worksheets that were completed by all units of government in 2008 and 2009 and noted the length of time it took for environmental review to be completed by state agencies. Particularly for the Legislature, it is important that MPCA puts the numbers of Environmental Assessment Worksheets (EAWs) in context. In this regard, it seems to be conventional wisdom that nearly every turn of a shovel requires environmental review. This is manifestly mistaken. The rules established by the Environmental Quality Board (EQB) set thresholds for EAWs and environmental impact statements (EISs) at very high levels. For the most part, then, environmental review is limited to substantial projects or those that present direct environmental threats.

For example, the Minnesota Department of Transportation and the Federal Highway Administration have estimated that 90% of their projects are categorically exempt from environmental review, 5-7% are subject to EAWs, and only the remaining 3-5% require EISs. [FHWA, *Evaluating the Performance of Environmental Streamlining: Phase II* (2004); Minnesota Department of Transportation Report to the Minnesota Legislature on *Environmental Streamlining for Transportation Related Projects* (2003)]. It should be noted that the construction of the new 35W Bridge did not require environmental review because the reconstruction of an existing bridge, even if it is being expanded, is categorically exempt.

By assessing the information that is available about the total number of projects that could be subject to environmental review and comparing them to EQB's thresholds for EAWs, MPCA should be able to reach a judgment that environmental review is reserved for only the most substantial projects or those that directly threaten specific environmental protections. For example, EQB prepared the attached list of all EAWs in 2008. It identifies a total of 13 EAWs for commercial/industrial/institutional projects and projects including mixed uses. By way of comparison, the Metropolitan Council annually reports on commercial, industrial and public construction in the 7-county Twin Cities region. The report for 2008 is contained in the Council's September 2009 edition of MetroStats. It lists a total of 365 commercial projects, including mixed uses, industrial projects, and religious, medical, and educational projects that could be considered institutional. Even if it is assumed that all of the commercial/industrial/institutional and mixed use EAWs reported by EQB related to projects located in the Twin Cities, they would have represented only slightly more than 1% of all such projects in the 7-county region.

Similarly, EQB identified a total of 12 residential projects in 2008 for which an EAW was performed. By way of comparison, the Metropolitan Council annually reports on residential construction in the Twin Cities region and the report for 2008 is contained in the Council's February 2009 edition of MetroStats. Unfortunately, the information is reported by the number of permitted residential units rather than the number of residential projects for which permits are issued. Even so, the numbers can be assessed in the context of the thresholds for residential EAWs established by EQB. The threshold for a mandatory EAW on a residential project in the Twin Cities region is 250 unattached units or 375 attached units. The Council reports that 162 local units of government issued permits in 2008 for a total of 4,458 residential units. However, none of them reported sufficient unattached or attached units to trip the threshold for a mandatory EAW even it is assumed that all such units in the jurisdiction of a local government represented a single project. If the threshold for an EAW isn't tripped by any project in the Twin Cities region, it is reasonable to assume that the 12 residential EAWs were either substantial projects beyond the Twin Cities region or projects that ran into some direct conflict with existing environmental protections.

Inadequate Data on Delays

MPCA reported that the cycle time for EAWs ranged from 44 days to 1825 days with a median of 228 days or about 7 1/2 months. Again, the factual context must be considered in evaluating these summary figures.

First, as MPCA acknowledged, the numbers apply to EAWs completed by state agencies which were responsible for only 35% of all EAWs. In addition, MPCA admitted that good information does not exist on the length of EAWs performed by local governments which were responsible for 65% of all EAWs. However, the information it has on the length of time between EQB notice and a decision on local government EAWs strongly suggests that the total time for such EAWs is much less than that for state agency EAWs.

Second, the information reported by MPCA showed that the length of environmental review by state agencies is skewed by EAWs performed by the Minnesota Department of Transportation on federal transportation projects on which the time from EQB notice to EAW decision is almost three times the length of its non-federal transportation projects. If information about local government EAWs was available and if only MNDOT's non-federal EAWs are included, the length of environmental review required by state law would certainly be much less than MPCA presented.

The fact that environmental review has been reserved for substantial projects or projects that present direct conflicts with existing environmental protections suggests that it is entirely reasonable to spend some time, even 7 1/2 months, to sort out whether a project has the potential for significant adverse environmental effects. Certainly, MPCA did not present any information to suggest that this length of time is either good, bad, or indifferent. Comparing Minnesota statistics to those in other states could be useful. However, there is no information on the length of environmental review in other states that have mini-NEPAs similar to Minnesota's. Without any context of this kind, MPCA simply isn't in the position, like Goldilocks, to tell if the porridge is too hot, too, cold, or just right. Once again, the factual context necessary to evaluate the raw numbers is simply absent.

The information about MNDOT's federal EAWs does suggest some context for assessing the length of environmental review reported by MPCA. The information showed that the time between EQB notice and decision on the EAW for MNDOT's federal EAWs was almost three times that for its non-federal EAWs. This is consistent with studies from the Federal Highway Administration (FHWA) on the length of environmental review of federal transportation projects. In 1998, FHWA estimated that transportation-related EAWs were completed in 18 months. In 2001, FHWA found that in the 30 years since NEPA's inception transportation-related EISs have been completed in 3.6 years with most taking between 1.2-6.0 years. The most recent average is about 5 years for FHWA to complete EISs. The report also found that the mean time for project completion was 13.1 years and that environmental review represented 27% of total project delivery time and that environmental review "only accounts for a relatively small portion of total variation in length of the project development process." [Federal Highway Administration: Evaluating the Performance of Environmental Streamlining.]

In this context, Minnesota's experience with a mean time of 7 1/2 months to complete state agency EAWs seems very reasonable particularly, again, when it is acknowledged that environmental review has been limited to substantial projects or projects that present a direct conflict with existing environmental protections. In any event, MPCA did not show evidence of any kind to support the conclusion that a mean time of 228 days was too much or too little or to back up the assumption implied in the Legislature's charge that 'less is more' in environmental review.

Streamlining Options

We raise three issues concerning the options identified by MPCA staff. First, the options are recycled ideas that have proven unworkable in the past. Second, they inappropriately focus on reducing the time for environmental review without evaluating the impact on environmental protection. We especially note with disappointment the fact that these options are presented without evidence that any of them would, as the Legislature directed, maintain or improve the substance of existing environmental protections. Finally, the options presented do not effectively address the delay issue to the extent that it exists.

The options suggested by MPCA are not new; they have been discussed at length in a number of rulemakings and other processes by EQB. While there may be some value in reviewing previous efforts to identify possible improvements in the environmental review process and determine their viability, it is also inevitable that the effort to “streamline” the process will encounter similar obstacles. These include the complexity of the current system, incomplete understanding of environmental review, and a willingness among some environmental review opponents to present the issue without context in order to justify dismantling long-standing and fundamental environmental protections.

The MPCA’s options for “streamlining” present the possibility of reducing the time needed to complete the process of environmental review. In fact, the likelihood is that most of the options would result in an abbreviation of environmental review. Indeed, past history suggests that politically motivated changes in environmental review—those undertaken without a full consideration of environmental context—result in increased environmental harm. An example of this is the reduction in environmental protection seen in the political manipulation of animal feedlot EAWs. The feedlot-impaired waters connection suggests the Legislature should be paying attention to environmental results. Policymakers addressing this issue need to fully understand the connection between the narrowing of environmental review for feedlots and Minnesota’s growing list of impaired waters and the escalating costs of their remediation.

Finally, even if one assumes that delay is a major issue to be addressed, the options considered by MPCA do not match up well with the common causes of delay that MPCA identified. If the starting point is the reasons for delay, the options should be based more on providing assistance to RGUs to deal with proposed projects, engaging the public earlier in the process, and including all considerations of environmental review in one document. In this sense, the option of better public engagement is probably the best direction for improving environmental review but it also is the least likely to in fact reduce the length of time needed to complete environmental review.

In conclusion, we submit that the MPCA should provide far greater factual context to the Legislature in making its report on this subject. The statistics regarding the number of EAWs and EISs being prepared under current law, and the time needed to complete them, must be fully and factually presented and explained. Proposed options should be linked to identified and documented problems. Moreover, the MPCA should explicitly address the effect of any proposed “streamlining” options on existing environmental protections, as directed by the Legislature.

Respectfully Submitted,

James Erkel
Attorney and Program Director, Land Use and Transportation
Minnesota Center for Environmental Advocacy
651 223 5969

October 29, 2009

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Heffron, Susan

From: Christine Frank [christinefrank@visi.com]
Sent: Friday, October 30, 2009 4:18 PM
To: Heffron, Susan; Gregg Downing
Cc: Bobby Champion; Linda Higgins
Subject: 3CTC's Opposition to the Streamlining of the Environmental Review Process

Dear Ms. Heffron and Mr. Downing:

The Climate Crisis Coalition of the Twin Cities wishes to express its vehement opposition to current attempts by the Minnesota Legislature and Pollution Control Agency to "streamline" the environmental review process.

NO CURTAILMENT OF DEMOCRATIC RIGHTS

The environmental review process is an important avenue for concerned, environmentally-conscious citizens to have their voice heard on issues relating to the health of our ecosystems and the quality of our air, soil, water and biota, including human lives. Corporate enterprises do not have the prerogative to curtail the democratic right to citizen input—input that is vital to protecting the health and safety of both the environment as well as people's physical and spiritual well-being.

HUMAN & ENVIRONMENTAL HEALTH BEFORE PROFITS

It would appear once again that the legislature and state agencies assigned to protect Minnesota's environment are succumbing to pressure from monied interests who want to have their way in continuing with business as usual—a scenario that is causing the planet to warm, its climate to change dramatically and natural regimes and systems to degrade because of gross industrial pollution, wanton destruction and overdevelopment. The legislature and MN PCA should be less concerned with the commercial exploitation of our land and natural resources and more concerned over their sustainable use within a green economy.

DECISIONS BASED UPON SOUND SCIENCE NOT CORPORATE SPIN

Further study of a proposal and environmental impact statements are necessary to ensure that sound ecological science is the basis for every decision as opposed to the bottom line and private profits always being put first while glossing over the harmful effects of a development. Citizen's rights to petition for an EIS must be upheld at all costs. Corporate hype designed to manipulate public opinion should not be a consideration in rubber stamping project proposals. Both private industries and their political friends are guilty of throwing the false dichotomy of jobs versus the environment in the public's face and forcing it to choose between employment in a dirty industry or environmental protection and conservation. There should be no conflict as long as projects are truly green, clean and sustainable.

NO EXEMPTIONS OR SPECIAL TREATMENT FOR POLLUTING INDUSTRIES

Polluters should be paying for the crimes they commit against Nature and humanity not rewarded. Instead, they have been not only escaping essential environmental reviews but are having a convenient blind eye turned upon their dirty dealings after their enterprises are given the go ahead. This has been true for polluting ethanol plants, animal feedlots, harmful transmission lines, toxic garbage incinerators, biomass burners and chemical plants. If violators are caught, they barely receive a slap on the wrist and rarely have to clean up their acts. Therefore, there can be no "green-streamlining" for existing facilities". Please, spare us the bucket of greenwash! Instead, they should be prosecuted to the maximum extent of the law!

NO SECRET DEALS

Transparency and openness in dealings between the state and affected citizenry are absolutely essential. Wasting the public's time by allowing greedy, unscrupulous developers to stall in coming forth with pertinent information or worse yet, to cover up the real potential impact of harmful projects cannot be allowed. People have the right to know the truth about development plans that will detrimentally affect them as well as future generations.

NO TAMPERING WITH THE ENVIRONMENTAL REVIEW PROCESS

The Climate Crisis Coalition strongly urges you to maintain, for what it is worth, the environmental review process as it is currently constituted and do nothing to diminish citizen rights to speak out and present their views on proposed projects.

Comment periods should allow adequate time for citizen input on important issues without rushing things through to escape public scrutiny. They should also be seriously considered in the decision-making process instead of brazenly ignored as in the case of the Schoolcraft River ATV/OHV Trail, in which the overwhelming majority of comments were opposed to the abominable trail, yet were deliberately discounted. The reason cited was that the trail will be located in "a working forest", where apparently anything goes when it comes to the exploitation of Nature, according to DNR policy.

Consequently, ecological considerations can be damned! Given this travesty of justice, if anything, the environmental review process should be strengthened, not weakened so that when grassroots activists speak out and bear witness to environmental destruction that is wrought, their voice is actually heard and weighed honestly without the greasy finger tipping the scale to the other side. With that in mind, 3CTC again strongly urges you to scrap all so-called streamlining efforts to revamp Minnesota's environmental review process in favor of corporate interests and to keep grassroots citizen rights intact.

Respectfully Submitted,
Christine Frank, Volunteer Coordinator
Climate Crisis Coalition of the Twin Cities

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Heffron, Susan B (MPCA)

From: Nan and Dave Tank [davenan@wisper-wireless.com]
Sent: Friday, October 30, 2009 3:18 PM
To: Heffron, Susan
Subject: EAW comment
Attachments: EAW open comment letter..doc

Dear Susan

Attached is my letter for the open comment on the EAW process. Please enter it into the record.

Thank you.

Sincerely,

Nancy Tank
13871 NE Amelia Dr.
Villard, MN 56385

October 30, 2009

Susan Heffron
MPCA

I was successful at using the citizen's right to petition for an EAW on a project that I felt showed potential for pollution and environmental damage to the area. I drew up my letter stating what the project was and why and how I felt it could damage the environment. I spent a Saturday afternoon getting the required signatures. I prepared the documents necessary and turned it in to the EQB. My request was approved by the Board.

The producer was given the request for the EAW. With a lake, one of over 200 in our county, less than ½ mile from the proposed open land 1200 cattle feedlot site I feel that after reading the documents, it was apparent there was significant potential for pollution because the producer did not proceed with the project.

I had never heard of an EAW prior to this. I was very grateful that the Director of Environmental Services had suggested the EAW process to me. It was very easy to complete and it took less than a week to do the EAW petition.

If you have any questions, feel free to contact me anytime.

Nancy Tank
13871 NE Amelia Dr.
Villard, MN 56385

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Heffron, Susan

From: nathanlind@gmail.com [minneapolisishouse@gmail.com]
Sent: Thursday, October 29, 2009 3:19 PM
To: Heffron, Susan; gregg.downing@state.mn.us; Torres-Ray Senator; Davnie Jim; Schiff Gary; Colvin Roy Sandra K
Subject: Oppose weakening Environmental Assessment Worksheets (EAWs) and Environmental Impact Statements (EISs)

Please oppose any efforts to weaken environmental protections for citizens. Oppose "streamlining" the process in favor of developers, energy producers, and polluters.
Thank you!
Nathan

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Heffron, Susan

From: Renée Lepreau [renee.lepreau@gmail.com]
Sent: Thursday, October 29, 2009 1:17 PM
To: Heffron, Susan; gregg.downing@state.mn.us; rep.erin.murphy@house.mn
Subject: Comments on Proposal for streamlining the environmental review process

I object to any proposals to weaken or streamline the Minnesota environmental review process. Any changes to the environmental review process should be based in the evidence that they will maintain or improve the environment and not in the desire to make it easier or faster for developers.

The public should be presented with statistics about the causes for delays in project development. If the state thinks that the process needs to change because developers are hampered by the public input portion, the state should prove where the delays in the process are coming from. What percent of the time are delays caused by developers submitting incomplete or inaccurate information?

The public should also be presented with statistics about what changes or improvements were made in projects that were delayed. Did these delays have a beneficial impact on the environment by resulting in tighter environmental restrictions?

Also, the proposal for streamlining itself has been moving too fast with too little public input. If this is a taste of how developments will be handled under the proposed changes, then we've seen enough and it isn't democratic.

Sincerely,
Renee Lepreau
1815 Ashland Ave Apt 4
Saint Paul MN 55104

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Heffron, Susan

From: matthew.johansen@ubs.com
Sent: Thursday, October 29, 2009 12:03 PM
To: Heffron, Susan
Cc: gregg.downing@state.mn.us; rep.joyce.peppin@house.mn; sen.warren.limmer@senate.mn
Subject: NO streamlining of MN EIS's and environmental reviews!

- 1) Changes to the review process must demonstrate that they maintain or improve the environment - not merely result from developer political pressure to eliminate or reduce environmental review;
- 2) Public input on EAWs can improve projects and have positive results with site specific information on projects that the blanket EQB Rule categories do not address;
- 3) EAWs should potentially lead to EISs where site specific concerns demonstrate the need for additional study. This is a critical link in the existing process to maintain or improve the environment in specific locations;
- 4) Delays in project development often result more from the developer's slow turn around on submitting information or initially submitting incomplete/inaccurate information than from the public input portion of the process.
- 5) Please include my comments verbatim in the MPCA report to the Legislature.

Keep Minnesotan's right to stay involved in the environmental process.

Matt Johansen
Investment Associate
HSJ Investment Consulting
UBS Financial Services Inc
Advisory and Brokerage Services
681 East Lake Street- Suite 354
Wayzata, MN 55391
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Heffron, Susan

From: beverly ferguson [bevferguson@mac.com]
Sent: Wednesday, October 28, 2009 1:11 PM
To: Heffron, Susan
Subject: Do Not weaken the Environmental Review Process

We need stronger citizen involvement, not less. Please do not weaken the Environmental Review Process.

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Heffron, Susan B (MPCA)

From: Nancy Hone [phonehone@igc.org]
Sent: Wednesday, October 21, 2009 5:30 PM
To: Susan.Heffron@state.mn.us
Subject: please put me on the list--NEIGHBORS AGAINST THE BURNER

Hello Susan,
Please put Neighbors Against the Burner on your email list as I see below.
The below email was forwarded to me.
NAB was absolutely shocked that we were not informed about the Sept. 28 meeting and that we had to SLEUTH to find out about it!!!
NAB has made a huge presence with the MPCA fighting incineration.
NAB put in a 2 inch thick petition to request an EAW for the HERC expansion.

The waste stakeholders group ignored us despite a huge outcry of being stakeholders on the waste discussion last year.

What is with the MPCA that we are not considered players??

What is it going to take?

NAB is thousands of people strong, not only in St. Paul and Minnesota but statewide and is also participating on a state and federal legislative level.

Please oh please put NAB on the email list.

Please do not take this personally. Everyone in my sphere that has talked to you say what a good person you are. It just puzzles NAB that they are never included.

We ARE Stakeholders in the waste and incineration conversations.
We ARE players in the fields of waste and incineration.

Thanks for listening.
Very respectfully,
Nancy Hone
founder /coordinator
Neighbors Against the Burner
neighborsagainsttheburner.org

Begin forwarded message:
From: "Heffron, Susan" <Susan.Heffron@state.mn.us>
Date: October 21, 2009 2:12:49 PM CDT
To: susan heffron <Susan.Heffron@state.mn.us>
Subject: Environmental Review Legislative Report Information

Good Afternoon Everyone,
This email is twofold. First, you have been put on an email distribution list to receive information on the report to the legislature on environmental review. If you do NOT want to be on this list, please reply to this message and let me know.

Second, here is a link to the MPCA website where you can read all the comments/suggestions received thus far as well as the notice in the EQB Monitor and the handouts from the September 29th meeting.
http://www.pca.state.mn.us/programs/envr_p.html

You are welcome to continue to send ideas to us through the end of October. You do not have to use the comment sheet on the website, but we provide it for additional guidance. Our goal is to bring the final report to EQB Board meeting on November 19th as an information item. Through this email distribution, I will keep you informed about that.

If you would like to receive the EQB Monitor via email, please follow the link below to the Environmental Quality Board's website. The EQB Monitor is published every two weeks.

<http://www.eqb.state.mn.us/monitor.html>

Thank you for all your participation so far. -Susan

Susan Heffron
Minnesota Pollution Control Agency
My new phone number is 651-757-2417

Heffron, Susan B (MPCA)

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From: Lois Norrgard [lnorrgard@lnmn10.com]
Sent: Monday, November 02, 2009 9:24 AM
To: Susan.Heffron@state.mn.us
Subject: PCA Streamlining process

Hello Susan,

I am interested in being on the list for further information regarding the process for streamlining the EQB process. I am involved with both Audubon - chapter level and on the state Environment Issues Committee, as well as Sierra Club - Chair of the Forests Committee and on the Executive Committee.

Unfortunately I've only heard about this process now, and will need to get up to speed on the Report and information so far. If you have something you've forwarded to your list prior to now I would certainly like to get a copy if not too late.

Thanks!
Lois Norrgard
952-881-7282

Heffron, Susan B (MPCA)

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From: Alan Muller [amuller@dca.net]
Sent: Tuesday, November 03, 2009 4:48 PM
To: Heffron, Susan
Cc: Gregg Downing; rep.jean.wagenius@house.mn
Subject: Comments on environmental review "streamlining" "options" report to legislature

Ms. Susan Heffron
MPCA

Dear Susan:

Thank you for the opportunity to submit comments in this matter.

I've briefly reviewed the legislative directive, the underlying legislation (Minnesota Environmental Policy Act), several dozen comments posted, some information you provided me directly, and a number of internal PCA emails you provided to Mark Sulander under a Data Practices Act request.

Clearly, while some special interests want the Minnesota environmental review process "streamlined," most Minnesotans do not. Rather, they want it kept as is or strengthened.

Unfortunately, the directive from the Legislature to the PCA was one-sided, asking the PCA to provide "streamlining" "options" but not specifically asking it to identify countervailing options for strengthening environmental review.

The process you and your colleagues have followed seems to have partially complied with the legislative directive. The historical information, and information on environmental review practices in other states, is helpful.

The Legislative directive includes these words "...while maintaining or improving air, land, and water quality standards." The meaning of this seems unclear. "Standards" could be taken to refer to compliance with established ambient concentration limits, which could lead to the argument that the reference is essentially to permitting and not to environmental review. Or, as I think more likely, the statement is intended to mean that changes in the environmental review program should not lead to any compromises in environmental quality. I recommend that the PCA use the second, broader, more protective, interpretation.

Many if not all of the "options" identified are inconsistent with this preferred interpretation. As such, they should not be included in the final report. Only "options" consistent with the stated intent of the Minnesota Environmental Policy Act (below) should be included.

As a number of comments mentioned, the degree of outreach to, or "consultation" with, the public, has not been sufficient so far. This has lead to some bad feelings towards the PCA.

"Streamlining" is inherently undesirable because the public needs a process slow enough to give adequate opportunity for awareness to develop.

Fortunately, many of the several dozen comments do contain suggestions for strengthening the environmental review process.

I suggest the following course of action:

- (1) The PCA to promptly post additional comments as received;
- (2) the PCA to summarize the suggestions for strengthening/improving environmental review, as well as the suggestions for "streamlining" contained in comments received so far;
- (3) the PCA to hold additional public meetings; at least one in the metro area and one on the Iron Range. In doing this, the PCA should seek input as to what people see as the limitations of the present environmental review program and how it might be strengthened to meet needs emerging since the MEPA was enacted in 1973;
- (4) based on this input, a draft report should be submitted for public review and comment. Only "options" consistent with the stated intent of the Minnesota Environmental Policy Act (below) should be included.

As the report is not due to the Legislature until February 15th, sufficient time is available.

Others more familiar with how things are done in Minnesota will probably have some better suggestions.

Below are a few more detailed comments.

Yours very truly,

Alan Muller

The PCA PowerPoint presentations on this matter I've seen are helpful in some ways and indicate two things:

- (1) Many attempts to alter the Minnesota environmental review process have yielded relatively small results. This seems unsurprising because there is fundamental conflict between the desire of citizens for more involvement, more information, and better protection of their health and the environment, on the one hand, and the desire of industrial and developer interests for more freedom of action regardless of the broader consequences. These differences are substantial and fundamental. They aren't likely to be resolved by extended discussion, "consensus building" exercises, and the like.

- (2) The data presented indicate that excessive delays are not typical of the Minnesota environmental process. Therefore "streamlining" is uncalled for.

The charge given the MPCA by the legislature in HF 2123 is unfortunate in several ways:

- (1) The legislature effectively took sides against the public interest and the mission of the MPCA by directing it to report on "*options to streamline*" environmental review. The MPCA should better not have been put in this position.

- (2) The instruction that "*In preparing the report, the commissioner shall consult with state agencies, local government units, and business, agriculture, and environmental advocacy organizations with an interest in the environmental review process.*" seems vague and inadequate. As you have noted in emails: "*This is not technically a formal comment period since there is no rule, permit, etc to look at to make a decision on. Therefore we will not be formally extending the comment date*" *A matter as important as this should not be handled in a casual, informal way.*

The September 29th "informational meeting" was the totality of the public "consultation." This is inadequate.

The MPCA has an often-stated commitment to transparency and public participation. It has a staff of communications professionals, many mailing lists, web pages, and other publications. It has the ability to hold press conferences, place articles in mainstream publications, and so on. It is not clear that these capabilities have so far been used to "consult" with the public about this. Even absent formal direction to do so from the Legislature, the agency should recognize this as a very serious matter and exert itself to ensure public awareness

and participation.

The statutory basis of environmental review in Minnesota is the Minnesota Environmental Policy Act of 1973 (MEPA) Minnesota Statutes Chapter 116D . Therefore, changes to environmental review should be evaluated in light of this Chapter, and particularly in light of:

116D.02 DECLARATION OF STATE ENVIRONMENTAL POLICY.

Subdivision 1. Policy.

The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high density urbanization, industrial expansion, resources exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of human beings, declares that it is the continuing policy of the state government, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which human beings and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state's people.

Subd. 2. State responsibilities.

In order to carry out the policy set forth in Laws 1973, chapter 412, it is the continuing responsibility of the state government to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state plans, functions, programs and resources to the end that the state may:

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;*
- (2) assure for all people of the state safe, healthful, productive, and aesthetically and culturally pleasing surroundings;*
- (3) discourage ecologically unsound aspects of population, economic and technological growth, and develop and implement a policy such that growth occurs only in an environmentally acceptable manner;*
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever practicable, an environment that supports diversity, and variety of individual choice;*
- (5) encourage, through education, a better understanding of natural resources management principles that will develop attitudes and styles of living that minimize environmental degradation;*
- (6) develop and implement land use and environmental policies, plans, and standards for the state as a whole and for major regions thereof through a coordinated program of planning and land use control;*
- (7) define, designate, and protect environmentally sensitive areas;*
- (8) establish and maintain statewide environmental information systems sufficient to gauge environmental conditions;*
- (9) practice thrift in the use of energy and maximize the use of energy efficient systems for the utilization of energy, and minimize the environmental impact from energy production and use;*
- (10) preserve important existing natural habitats of rare and endangered species of plants, wildlife, and fish, and provide for the wise use of our remaining areas of natural habitation, including necessary protective measures where appropriate;*
- (11) reduce wasteful practices which generate solid wastes;*
- (12) minimize wasteful and unnecessary depletion of nonrenewable resources;*
- (13) conserve natural resources and minimize environmental impact by encouraging extension of product lifetime, by reducing the number of unnecessary and wasteful materials practices, and by recycling materials to conserve both materials and energy;*

- (14) improve management of renewable resources in a manner compatible with environmental protection;
- (15) provide for reclamation of mined lands and assure that any mining is accomplished in a manner compatible with environmental protection;
- (16) reduce the deleterious impact on air and water quality from all sources, including the deleterious environmental impact due to operation of vehicles with internal combustion engines in urbanized areas;
- (17) minimize noise, particularly in urban areas;
- (18) prohibit, where appropriate, flood plain development in urban and rural areas; and
- (19) encourage advanced waste treatment in abating water pollution.

Only changes that further these stated purposes should be considered.

Since passage of MEPA in 1973, many changes have occurred that suggest a need for strengthening environmental review. These include:

- (1) Increase in population of Minnesota and surrounding areas;
- (2) Increase in knowledge of harmful effects of pollution, such, for example, as ultrafine particle air pollution;
- (3) Increase in number of chemicals in commerce, by many millions;
- (4) Awareness of new environmental constraints such as the need to abate carbon emissions to control global warming;
- (5) Spread of economically attractive but unsustainable practices such as feedlots.

The point is, of course, that we need to become more, rather than less, careful in considering the consequences of governmental actions in advance. Environmental review need to be broader and deeper, rather than narrower and shallower.

The characterizations of "NIMBY" behavior in the PCA presentation (Part IV, slide 6, by Jess Richards) by are unhelpful, insulting and uncalled for. ("*...there will always be instances where the NIMBY approach takes effect. In these cases the public may use the ER process to create delays and to stall the RGU's decision making process. In these cases, no answer by the proposer or RGU is adequate in their eyes and they will use all possible options to slow or stop the project. This situation can cause significant delay. This situation can sometimes be mitigated by a strong public engagement effort by the proposer.*")

It is understandable that project developers would like their opponents to restrict themselves to ineffectual methods. But if similar values prevail in the MPCA something is seriously wrong.

am

Alan Muller
Energy & Environmental Consulting
Red Wing, MN
Port Penn, DE

302.299.6783
alan@grendel.org