



MINNESOTA ENVIRONMENTAL QUALITY BOARD

520 Lafayette Road North, Saint Paul, MN 55155 | www.eqb.state.mn.us
Phone: 651-757-2873 | Fax: 651-757-2343

May 1, 2019

Meeting Location: Minnesota Pollution Control Agency
520 Lafayette Rd N
St. Paul, Minnesota
1:00 pm – 4:00 pm

AGENDA

Meeting Time and Location

This month's meeting will take place in the Minnesota Pollution Control Agency at 520 Lafayette Road in St. Paul. The Environmental Quality Board (EQB or Board) meeting is available for live viewing online by visiting our website: www.eqb.state.mn.us

The MPCA building is served by bus routes 64, 53, 860L, 61, and 74 and is accessible by bike. For more information about transit options please see <https://www.pca.state.mn.us/about-mpca/st-paul-office>

The Jupiter Parking Lot is for all day visitors and is located across from the Law Enforcement Center on Grove Street. The Blue Parking Lot is also available for all day visitors and is located off University and Olive Streets.

If you need an accommodation for this event (i.e., sign language interpreter, braille, wheelchair accessibility, etc.), this can be made available upon advance request. This material can be given to you in different forms, like large print, braille, or on a recording. Please contact EQB staff at least one week prior to the event at info.EQB@state.mn.us to arrange an accommodation.

Public Engagement Opportunities at EQB Meetings

EQB encourages public input and appreciates the opportunity to build shared understanding with members of the public. EQB meetings include multiple ways for the public to be involved including either a public input period, community-building time, and in some cases, small group activities. More details about public participation are contained in the agenda and provided at the Board meeting.

Meeting Objectives

- Learn about the history of the Minnesota Environmental Policy Act (MEPA)
- Discuss Environmental Quality Board (EQB), Responsible Governmental Unit (RGU) and EQB Staff authorities, roles and responsibilities for implementing Minnesota's Environmental Review Program
- Share perspectives about Environmental Review Program successes, challenges, and opportunities

I. *Adoption of Consent Agenda & Minutes

Proposed Agenda for May 1, 2019, Board Meeting

March 25, 2019 Meeting Minutes; April 10, 2019 Meeting Minutes

II. EQB Welcome & Introductions

Laura Bishop

EQB Chair; Commissioner

Minnesota Pollution Control Agency

651-757-2014

III. Reflections on History of the Minnesota Environmental Review Program

This panel will provide a historical perspective on the creation of the Environmental Quality Board, the Minnesota Environmental Policy Act (MEPA), and the environmental review program. They will also share recommendations for potential future program changes.

Presenters:

Peter Gove

Governor's Staff, MPCA Commissioner & founding member of EQB

Wendell R. Anderson administration (1971-76)

John Herman

Former Partner at Dayton, Herman & Graham and Faegre Baker Daniels

President, Herman Real Estate Advisors LLC

Charles Dayton

(Retired) Environmental Attorney, formerly with Dayton, Herman & Graham and Leonard, Street, & Deinard

Materials enclosed:

- Protecting Minnesota's Natural Resources in Law – Stephanie Hemphill

** Items requiring discussion may be removed from the Consent Agenda*

IV. Environmental Review Program Overview

A panel of state and local government representatives will provide an overview of Minnesota's Environmental Review Program. They will review Board authorities, discuss responsibilities and share viewpoints from state and local government agencies that implement the program's requirements.

Presenters:

Denise Wilson

Director Environmental Review Program
Environmental Quality Board

Randall Doneen

Environmental Review Unit Supervisor
Department of Natural Resources

Josh Williams

Senior Planner
City of Saint Paul

Materials enclosed:

- EQB Minnesota's Environmental Review Program Fact Sheet
- Environmental Review – 2018 Survey and Monitor Data Report

V. Reflections on Environmental Review and Opportunities for Program Improvements

A panel of environmental review practitioners will share their perspective on challenges and opportunities with the Environmental Review Program and its implementation.

Presenters:

Allen Frechette

(Retired) Environmental Health Manager
Scott County

Scott Strand

Senior Attorney
Environmental Law & Policy Center

Ed Fairbanks

State Program Admin Manager
MN Department of Transportation

Peder Larson

Shareholder
Larkin Hoffman Attorneys

VI. Dialogue on Minnesota's Environmental Review Program

A conversation will be facilitated in consideration of all the information presented from the previous panels. This is an opportunity for members of the public and the Board to discuss the future of Minnesota's Environmental Review Program.

VII. Closing Remarks and Next Steps

**MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES**

March 25, 2019

**Meeting Location: St. James Hotel – Summit Room
406 Main Street
Red Wing, Minnesota
5:30 p.m. – 8:30 p.m.**

EQB Members Present (alphabetical): Margaret Anderson Kelliher, Laura Bishop, Kristin Eide-Tollefson, Alan Forsberg, Julie Goehring, Jan Malcolm, Tom Moibi, Bryan Murdock, Thom Petersen, Alice Roberts-Davis, Sarah Strommen, Joe Sullivan (proxy for Steve Kelley), Gerald Van Amburg, Benjamin Yawakie

EQB Members Absent: Steve Grove

Activity

I. Adoption of Consent: Agenda

II. EQB Welcome & Introductions

III. GEIS Overview

EQB and MPCA staff presented an overview of the GEIS process and discussed the proposed GEIS on nitrate contamination in the karst region. Martin Larsen provided a local perspective considering opportunities and challenges of the process.

IV. Reflections on the GEIS: Opportunities, concerns, and how to move forward

Small group discussions were hosted to gain a perspective on the GEIS. Questions answered included:

- a. What opportunities do you see in doing a GEIS? For example, what information would you like to see be included in the GEIS and how would you use that information?
- b. What concerns do you have about doing a GEIS? Are there ways to address those concerns?
- c. Given everything that you have heard tonight – from EQB, MPCA, and your neighbors at the table – do you recommend that the EQB Board support a GEIS?

In addition to the comments submitted online, a compilation of these reflections will be shared with members of the public and the EQB at a future date before any decision is made on the GEIS.

V. Share Meeting Themes

Themes of the discussions from each of the tables were shared out to all attendees.

VI. Adjourn

**MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES**

April 10, 2019

**Meeting Location: Wilder Center – Amherst H. Wilder Auditorium
451 Lexington Pkwy N
St. Paul, Minnesota
5:30 p.m. – 7:30 p.m.**

EQB Members Present: Margaret Anderson Kelliher, Laura Bishop, Kristin Eide-Tollefson, Jan Malcolm, Tom Moibi, Bryan Murdock, Thom Petersen, Alice Roberts-Davis, Steve Kelley, Benjamin Yawakie

EQB Members Absent: Alan Forsberg, Julie Goehring, Steve Grove, Sarah Strommen, Gerald Van Amburg

Activity	Audio*
I. Adoption of Consent: Agenda	0:00:00
II. Welcome & Introductions	0:02:55
III. EQB Overview Executive Director, Will Seuffert provided an overview of EQB roles, responsibilities, and programs of the EQB.	0:16:40
IV. Reflections on the EQB: Opportunities for Deepening Public Engagement Five panelists discussed previous collaboration with the EQB and recommended areas for the EQB to develop future public engagement efforts.	0:41:00
V. Community Building Open House Time was dedicated during the meeting for questions & answers with board members followed by an informal period for attendees and board members to directly connect.	1:25:00
VI. Adjourn	

* An audio recording of the April 10 meeting resides on our website: www.eqb.state.mn.us



MINNESOTA

ENVIRONMENTAL QUALITY BOARD

April 9
2019

Written Comment Form

Thank you for attending the EQB Board meeting. EQB values your input and appreciates the opportunity to build shared understanding. If you would like to provide written comment at today's meeting, please fill out the form below and present it to an EQB staff member. Written comments will be included in the meeting minutes and circulated in the next Board packet.

Name: Sean Gerszewski Zip code: 55407

Organization (if applicable): Alliance for Sustainability

Topic: Thanks for the great meeting on Fri 4/5
Exploring pathways to economy-wide

Written comment

GHG Emissions with
The Alliance, MEP, Growth + Justice
and U of MN.

next steps

① Following up with Gov work
and Craig McDonald
to explore how they might
UPDATE Mark Dayton's climate
executive order.

② Find ways to engage Agencies, NGOs, U of MN
and communities to sync up on
UPDATING CS&O ADDING city/county
actions

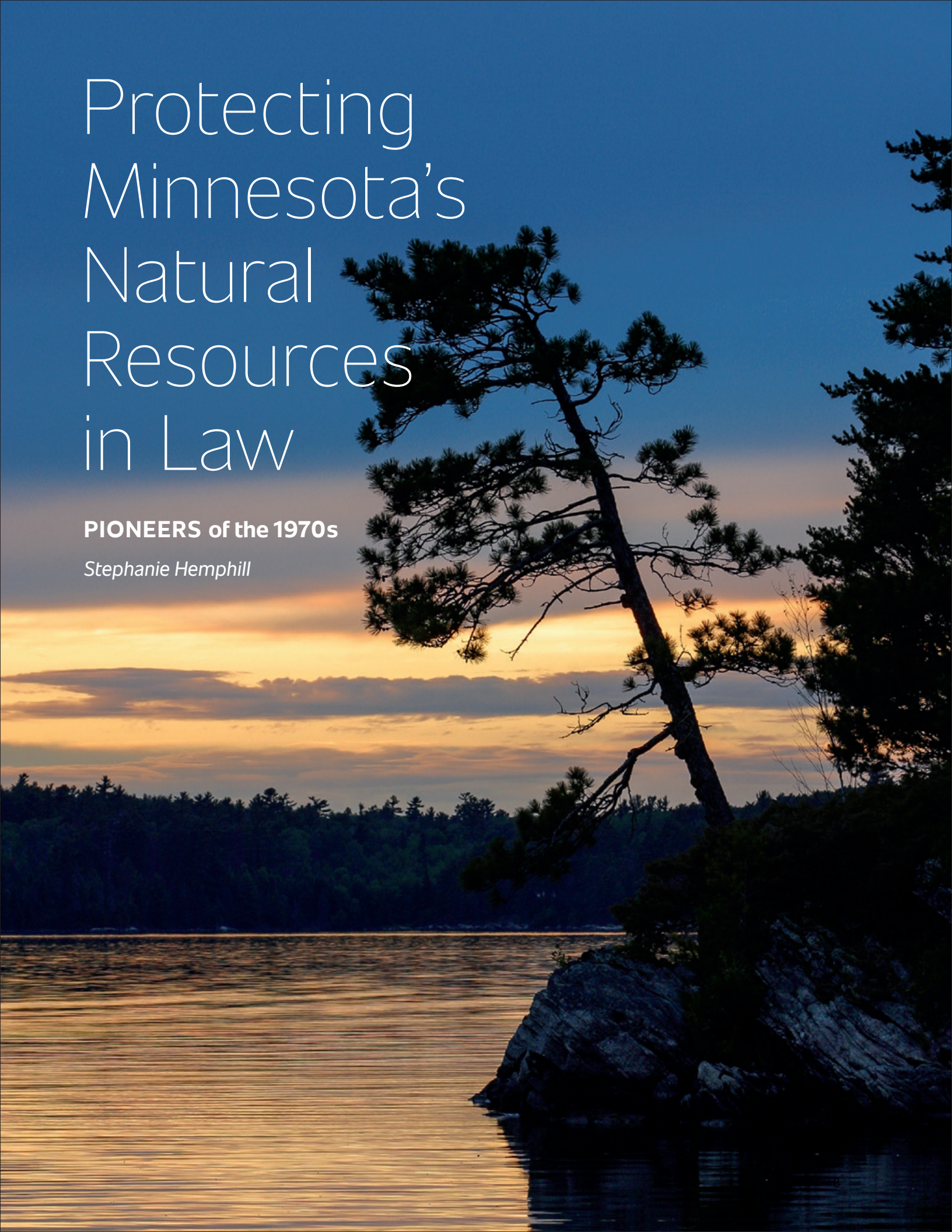
win/win solutions for
economy + equity - executive order
19-1

③ explore
example tool methods/tools to maintain Accountability + communication
INSIGHT Viscan with STATE Agencies, NGOs, U of MN, communities +
insight formation met council → AS we implement CS&O -

Protecting Minnesota's Natural Resources in Law

PIONEERS of the 1970s

Stephanie Hemphill



In the mid-twentieth century, many Americans began to recognize the fragility of planet Earth. Rachel Carson's 1962 bestseller, *Silent Spring*, presented a persuasive new vision of the interconnected web of life. Photos taken by orbiting astronauts showed the Earth as a precious and vulnerable blue home in the vastness of cold, dark space. Mothers marched to protest radioactive fallout from atomic bomb testing, and television news viewers groaned at images of oil-soaked debris burning on Cleveland's Cuyahoga River. Spearheaded by Wisconsin senator Gaylord Nelson, the first Earth Day, in 1970, brought hundreds of thousands of Americans into a new and powerful movement.

Like other Americans, Minnesotans embraced this new environmentalism enthusiastically. Their raised consciousness gained expression in part through two landmark pieces of legislation: the Minnesota Environmental Rights Act (MERA) and the Minnesota Environmental Policy Act (MEPA). Enacted in the early 1970s, both acts resulted from extensive discussion, both in public forums and at the capitol, and bipartisan collaboration among legislators rarely seen today. This collaboration enshrined protection of Minnesota's resources in law, thereby establishing the principle that the natural world should be valued equally with the economy. MERA and MEPA continue to provide protections for Minnesota's resources today.¹

MERA was first brought before the state legislature in 1969 by Senator Wendell Anderson. At the time, he also was in the midst of what would be a successful campaign for governor. Anderson's advisor on environmental issues, Grant Merritt, had introduced Anderson to the concept of allowing individuals to sue

for protection of the environment. A descendant of the Merritt family whose iron ore discoveries led to the opening of the Mesabi Range to mining in 1890, Merritt had become involved in politics because he was concerned about Reserve Mining's dumping of taconite waste rock into Lake Superior. The bill Anderson presented was based on a measure under discussion in Michigan, which passed there in 1970. But his bill was introduced too late in the 1969 session to see significant action. Anderson took office as governor in January 1971.

Environmental ideas were swirling around the capitol in St. Paul. Legislators, who then caucused as Conservatives and Liberals (analogous to Republicans and Democrats), were proposing measures on everything from preserving wild and scenic rivers to imposing deposits on bottles, to maintaining open space in the Twin Cities metro area.²

Meanwhile, in Minneapolis a small group of idealistic young attorneys was meeting informally to discuss ways to protect the state's natural resources. One of those young lawyers, Dick Flint, was just beginning his 50-year career with the firm known today as Gray Plant Mooty. He and other young colleagues enjoyed hiking, paddling, and camping together, and they had long conversations about how lucky they were to live in such a beautiful place as Minnesota. The group included John Broeker, Will Hartfeldt, and Chuck Dayton, who was soon to leave Gray Plant Mooty for the Minnesota Public Interest Research Group (MPIRG),

which had recently been established at the University of Minnesota. "We decided maybe we ought to do something to help protect these beautiful outdoors forever," Flint recalled in a 2016 oral history interview. The lawyers met on Saturday mornings at the law office, each of them recruiting other colleagues who might also be interested. "Eventually we had maybe seven or eight lawyers, and at that point we wondered what we should do," Flint said.³

The young lawyers group studied the new law enacted in Michigan, which addressed a perennial stumbling block for citizens trying to get courts to protect the environment. This was the issue of "standing," a legal doctrine that states that in order to bring a lawsuit to prevent or redress harm, a plaintiff had to demonstrate that they were being hurt personally by the issue in question. "Without standing, the judge

"We decided maybe we ought to do something to help protect these beautiful outdoors forever."

would just dismiss the lawsuit," Flint explained, "but Joseph Sax, a law professor at the University of Michigan, had come up with this concept of allowing a person to sue on behalf of the state."⁴

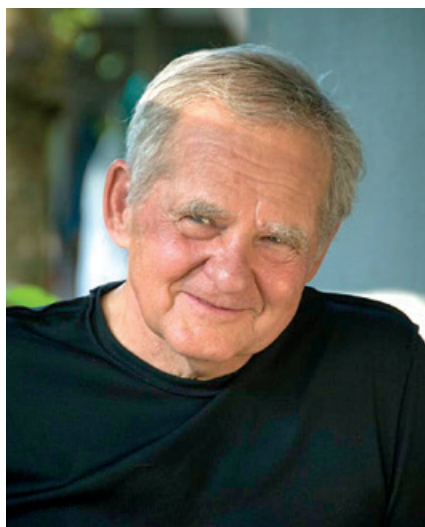
Some of the young lawyers read Sax's book and introduced the concept to others. It seemed like an approach that could have a significant impact, since people all over the state could use it to protect many different resources. Consequently, when they drafted MERA they modeled it on Sax's design. Essentially, the law they authored allows any person to sue the state or a private entity in order to protect the environment. A handful

of other states eventually followed Michigan's lead, but the Minnesota law is regarded by some scholars as more effective than most. "You couldn't pass these laws today," Dayton observed. "You couldn't even get a hearing. But this was a time when everybody wanted to be green."⁵

During the 1971 Minnesota legislative session, Conservatives held the majority in both houses. The lawyers tapped Conservative representative Rolf Nelson of Golden Valley and Conservative senator William Kirchner of Richfield to sponsor their bill in the house and senate, respectively.

Meanwhile, a separate environmental group called the Minnesota Environmental Control Citizens Association (MECCA) offered a competing bill that was more stringent. It included penalties for environmental damage and gave courts the power to set a plan forcing defendants to achieve a standard of non-pollution. That bill was introduced by Liberal representative Paul R. Petrafeso of St. Louis Park in the house and Liberal senator George Conzemius of Cannon Falls in the senate. MECCA's bill was hobbled from the start by being sent first to the House Environment Preservation Committee, chaired by Representative Wallace Gustafson of Willmar, who was a severe critic of the idea of citizen suits. Advocates of the MECCA bill accused the committee of being the "death trap of environmental bills" because Chairman Gustafson sat on their bill for months.⁶

The lawyers' MERA bill, on the other hand, was expertly shepherded by Representative Nelson through the House Judiciary Committee, where a subcommittee held several hearings and considered numerous amendments. Chuck Dayton was the first to testify, and he and the others made sure they showed up every time a committee discussed it. That wasn't always easy. "You never knew in



Chuck Dayton was legal director of the Minnesota Public Interest Research Group (MPIRG) from 1971 to 1973.

advance; you'd get a call at two o'clock saying that at four o'clock there was going to be a hearing," Flint recalled. "You'd hop in your car and go over and try and figure out what you were going to say. Mostly we explained how the law would work. If somebody had a trial that afternoon, obviously they couldn't go." Often after the hearings the lawyers would go to a nearby bar. "It was some of the most enjoyable time I've had in my practice of law," Flint said, "those times when we'd go out together to have a beer and discuss how it went, whether there were changes we should make in the law, or whether it was okay as is, and where do we go from here."⁷

THE DEBATE

Proponents of the stricter MECCA bill, notably attorney Howard Vogel, argued that the lawyers' MERA bill offered only a vague definition of pollution, did not provide penalties for environmental damage, and allowed alleged polluters to defend their actions by arguing that they had no "feasible and prudent alternative" and that projects were "reasonably required for the public health, safety

and welfare." Vogel worried this provision would allow defendants to use economic arguments to avoid enforcement.⁸

The stringency of the MECCA bill probably made it easier for the MERA bill to pass. The young lawyers could position their measure as a middle course between, on one hand, the stricter proposals made by MECCA and, on the other, conservative arguments against both bills made by industry. Among groups supporting the MERA bill were the League of Women Voters, the Izaak Walton League, and the Citizens League. The MECCA bill initially had 11 other supporting groups, but as it remained mired in the House Environment Preservation Committee, its supporters participated in the debates over the MERA bill. Industry critics of both bills included the Minnesota Association of Commerce and Industry (a forerunner of the Chamber of Commerce), the Minnesota Timber Producers Association, and the League of Minnesota Municipalities.⁹

Grant Merritt, named early in the session as Governor Anderson's new director of the Minnesota Pollution Control Agency (MPCA), was a



Grant Merritt, about 1972. He was executive director of the Minnesota Pollution Control Agency (MPCA) from 1971 to 1975.

dogged advocate for MERA. Merritt had been active with MECCA prior to taking the government position, and in general favored the most rigorous approach possible. As it became clear that legislators generally favored the more moderate MERA bill, however, Merritt gave it his strong support.

As the MERA bill made its way through house and senate committees, many amendments were proposed, and some were adopted. Exemptions were made for farmers and people acting on their own land whose actions were unlikely to pollute other land. Odors were specifically exempted in the definition of pollution, another concession to agriculture. Defendants who could show they were abiding by a permit issued by one of four state agencies would be exempted from lawsuits. One amendment provided that individuals could not bring suit or be sued; only companies, organizations, or governments could.

A disagreement that dogged the measure throughout the process was over who should bear the



Governor Wendell Anderson (second from right) with former governors Harold LeVander, Elmer L. Andersen, and Karl Rolvaag and Eighth District Representative John Blatnik (standing) at the passing of the Voyageurs National Park bill, 1971.

while the latter would allow lawsuits on practically any matter that could be described as damaging the environment.¹⁰

Amendments to the senate bill weakened it relative to the house bill. The senate measure only covered existing damage to the environment,

The compromise bill that was negotiated in conference was a strong law without a sunset clause, that allowed individuals to bring suit and to be sued, and that placed the burden of proving there was no harm to the environment on the defendant. Those being accused could successfully defend their actions by showing that they were following existing laws and regulations, or by proving that they had “no feasible and prudent alternative,” although “economic considerations alone” would not constitute a defense. The law also allowed people to challenge the adequacy of state environmental quality standards. In this case, the plaintiff had the burden of proving that the standard is inadequate to protect the resources. And, in a nod to industry concerns, courts were permitted to require a plaintiff to post a bond, up to \$500, to compensate the defendant if a temporary injunction were reversed.¹¹

This bill passed in the senate by 54 to 0 and in the house by 95 to 38, becoming law on June 7, 1971. Those generous margins support Dick Flint’s

In 1971 the environmental movement was so new opponents had not yet organized together to fight such measures.

burden of proof about whether pollution or environmental damage was occurring—the plaintiff or the defendant. Another problem was the definition of pollution, or harm to the environment: Should the term include only violation of an environmental quality standard or rule? Or should it also cover conduct that “materially adversely affects or is likely to materially adversely affect the environment”? The former would limit lawsuits to matters on which the state had enacted rules,

while the house bill included conduct that “is likely to” harm the environment. The senate bill exempted natural persons from suing or being sued under the measure, limiting legal actions to organizations, industries, and government agencies. It restricted the definition of pollution to violation of agency standards, and it imposed a sunset on the legislation after four years. The senate passed its version by 64 to 0. The house passed its version by 98 to 33, with many rural legislators voting against it.

memory that MERA was much easier to pass than measures he worked on later, including the Minnesota Wild and Scenic Rivers Act in 1973 and, at the federal level, the Boundary Waters Canoe Area Wilderness Act of 1978. Flint explained the difference partly by pointing out that in 1971 the environmental movement was so new opponents had not yet organized together to fight such measures.¹²

Several of the young lawyers who worked on MERA were members of the Sierra Club. Flint recalled being invited to a meeting and immediately being elected president. "It goes to show how hard it was to get somebody to lead the Sierra Club: you took him to the meeting on other pretenses and then elected him chair," he said with a chuckle. But the success of MERA helped small groups like the North Star chapter of the national Sierra Club grow. The Minnesota chapter was founded in 1968, and six years later it started a foundation called Project Environment, which later morphed into the Minnesota Center for Environmental Advocacy—now a multimillion-dollar nonprofit addressing hot-button issues such as mining, clean water, transportation, and energy policy. In the old days, Flint recalled, he and the other lawyers worked pro bono; they didn't even get reimbursed for mileage to drive to meetings at the capitol.¹³

It wasn't long before the new law was put to the test. Within weeks after MERA was passed, Bill Bryson, a farmer near Albert Lea, used it to fight a proposed road. Bryson had been working to improve wildlife habitat on his 330-acre farm, and he didn't like Freeborn County's plan to straighten a road by running it through his wetland. The Minnesota Department of Natural Resources (DNR) and the Sierra Club supported Bryson. After an appeal process nearly five years long, the Minnesota



Arlene and Bill Bryson display news clippings in 2010 that document the successful fight to protect a marsh on their land. Their lawsuit was MERA's first court test.

Supreme Court upheld the law in 1976, and Bryson prevailed in his suit, setting a precedent that continues to influence court cases today. In the decision, supreme court justice Lawrence Yetka cited the "legislative intent to subordinate the county's interest in highways to the state's paramount concern for the protection of natural resources" and ended with a poetic endorsement of the value of marshes:

To some of our citizens, a swamp or marshland is physically unattractive, an inconvenience to cross by foot and an obstacle to road construction or improvement. However, to an increasing number of our citizens . . . a swamp or marsh is a thing of beauty. To one who is willing to risk wet feet to walk through it, a marsh frequently contains a springy soft moss, vegetation of many varieties, and wildlife not normally seen on higher ground. It is quiet and peaceful, the most ancient of cathedrals antedating the oldest of manmade structures.

More than that, it acts as nature's sponge, holding heavy moisture to prevent flooding during heavy rainfalls and slowly releasing the moisture and maintaining the water tables during dry cycles. In short, marshes and swamps are something to protect and preserve.¹⁴

A WATERSHED LEGISLATIVE SESSION

The election of 1972 set the stage for passage of further environmental legislation in Minnesota. The Democratic-Farmer-Labor Party (DFL) swept the fall elections and took control of both houses of the state legislature in 1973, winning a majority in the senate for the first time in more than 70 years. (Traditional party designations were returning to Minnesota politics as this time.) DFL governor Wendell Anderson was eager to fight for environmental and other reforms.¹⁵

The 1973 session proved to be a high-water mark for environmental legislation. Some of the proposed

laws championed natural resources by protecting wild and scenic rivers and "critical areas" and by requiring the DNR to scrutinize all wetland drainage proposals. Other bills strengthened state authority over power plant siting, mine-land reclamation, and groundwater resources. Still others addressed long-running water pollution problems by tightening sewage treatment standards and by providing money to build and upgrade sewage treatment plants. And a state budget proposal funded ambitious new recycling programs. But not all these environmental bills enjoyed clear sailing. The legislature weakened some of Anderson's proposals, and several key bills were rejected outright, including a proposed moratorium on nuclear power plants and mandatory deposits on beverage containers. The latter continues to provide fodder for legislative debate, most recently in 2014.¹⁶

One bill made its way through the legislative process with far less

trouble and press attention than its later impact would have justified. The Minnesota Environmental Policy Act (MEPA) established a broad policy elevating environmental concerns during routine governmental actions such as approving projects and granting permits; required study of environmental harms before government actions; and reduced fragmented decision-making by requiring state agencies to coordinate their work.

During the 1973 session, Anderson had two key staffers working to get his natural resources priorities passed: Ron Way, who had been an environmental reporter for the *Minneapolis Tribune* and had worked for Wisconsin senator Gaylord Nelson and for the US Department of the Interior in Washington, DC, and Peter Gove, who shortly would direct the Minnesota Pollution Control Agency.

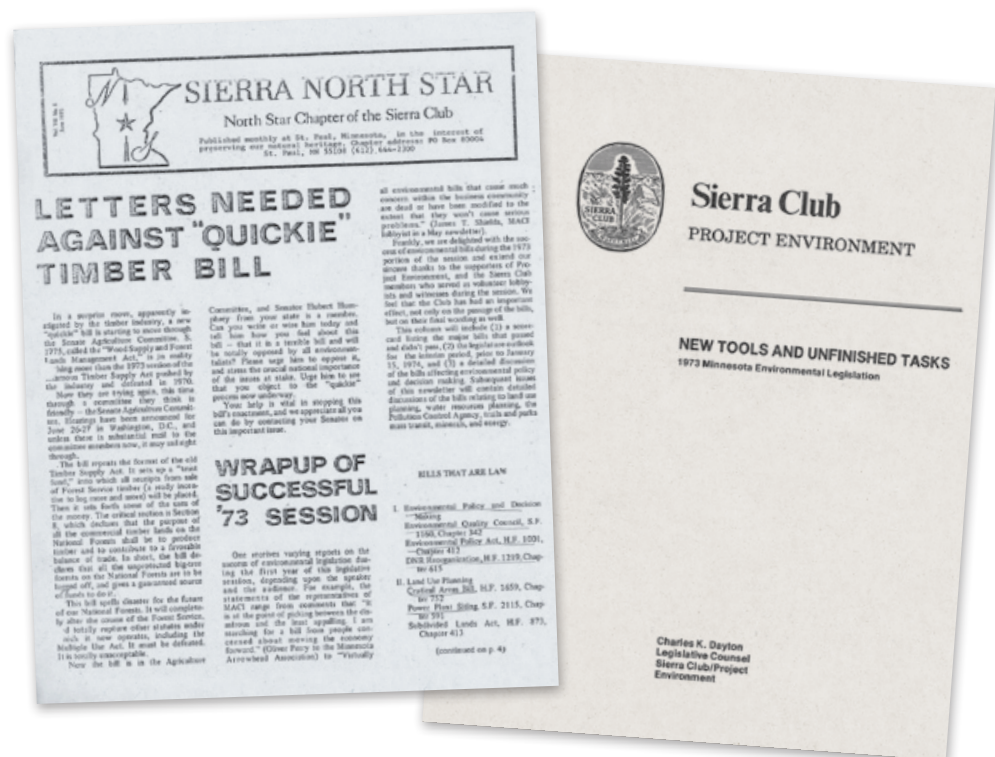
In the early 1970s, according to an oral history interview with Way, power in the House was concentrated



Peter Gove succeeded Grant Merritt as executive director of the MPCA, seen here about 1975.

in committee heads. Of these, one of the most powerful was Democrat Willard Munger of Duluth, who chaired the Environment and Natural Resources Committee. "Whatever Willard wanted, Willard got," Way noted. "In lobbying anything through the house, you'd go see Willard Munger and if he liked it you got it, and if he didn't like it, you didn't." Way said Munger had "an uncanny way of getting along with everybody. He was very strong, very firm, but he could get along with people." People who opposed Munger often misjudged him, according to Way. "They thought he mumbled too much, he didn't articulate his thoughts very well. But Munger was effective at what you have to be effective at: talking with people throughout the legislative pathways. He was very effective behind the scenes."¹⁷

The senate was more fractured, with different power centers. Although many of the Democratic senators were strong, Way's go-to person turned out to be Republican senator Bob Dunn. "As with Munger, through the power of his personality he could move legislation through, and he was very easy to work with,"



Sierra Club newsletters referring to legislation in the 1973 session.

Way recalled. "Governor Anderson insisted that any piece of legislation had to have at least one Republican author, so we had to work with the Republican side, but guys like Bob Dunn made it easy."¹⁸

Dunn had championed environmental causes since his election to the house in 1964. During the months before the beginning of the 1973 session, Dunn and other legislators held a series of hearings to get expert and citizen input on a range of environmental challenges. The meetings, along with timely reports from the Citizens League, advocacy groups, and religious organizations, raised public awareness and moved legislators toward political agreement on key environmental issues. Particularly influential was an April 1972 report from the University of Minnesota's Water Resources Research Center, directed by William Walton. The report focused on the fragmentation of decision-making in a multitude of state, local, and federal offices; called for consolidation



Democrat Willard Munger of Duluth was the powerful chair of the House Environment and Natural Resources Committee.

three dozen environmental measures. Usually legislators from the majority party, in this case the Democrats, introduce bills, but Dunn had worked so hard to promote a broad environmental policy bill during the 1971 session and during the interim that the Democrats allowed him to introduce MEPA in the senate. "Here

for succeeding generations," and pointed out the need to "practice thrift in the use of energy . . . , preserve important existing natural habitats . . . , reduce wasteful practices which generate solid wastes . . . , [and] minimize wasteful and unnecessary depletion of non-renewable resources." One significant passage affirmed: "Environmental amenities and values, whether quantified or not, will be given at least equal consideration in decision-making along with economic and technical considerations."²¹

Major actions, public and private, that would significantly affect the quality of the environment were to be preceded by a detailed environmental study, and the proposed law included substantial detail on what these studies should cover. Echoing MERA, the basic requirement was: "No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit . . . be granted . . . [that] is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources . . . so long as there is a feasible and prudent alternative. . . . Economic considerations alone shall not justify such conduct."²²

It's hard to imagine a bill containing such aspirational language passing today. But in the 1970s, environmentalism was a nonpartisan issue. Dunn said there was no serious opposition to his bill, although he recalled, "I did have one southern Minnesota Republican in the legislature come up to me and say, 'I'd like to vote for your bill but I'm against the environment!' How could that ever be? I had a hard time suppressing my laughter."²³

The policy bill easily survived such mild opposition. Lawyers Chuck Dayton (representing the Sierra Club) and John Herman (representing MPIRG) worked closely with Ted

In stirring language, MEPA promised that the state would encourage "productive and enjoyable harmony between man and his environment."

of major functions in the DNR; and pressed the need for "a comprehensive environmental policy." Another university-based committee, chaired by Dean Abrahamson, associate professor of public affairs, reported to the governor on needs for environmental legislation.¹⁹

As the 1973 session got underway, Governor Anderson and other Democrats were poised to promote an ambitious agenda, including labor and consumer protection, increased education funding, and more than

I was, a Republican, carrying this bill and working very hard on it," Dunn recalled, "and Majority Leader Nick Coleman let me go ahead with it."²⁰

That's how Bob Dunn, a Republican, became the chief author of MEPA in a Democratic-run senate. In stirring language, the act promised that the state would encourage "productive and enjoyable harmony between man and his environment," spoke of the imperative to "fulfill the responsibilities of each generation as trustee of the environment



Republican Robert G. Dunn was chief author of MEPA in a Democratic-run senate; 1970 view.

Shields, lobbyist for the Minnesota Association of Commerce and Industry. “We would say to Ted, ‘What are your problems? What don’t you like? How could we do this differently?’” recalled Herman. “In many cases the laws were going to pass, because everybody wanted to pass environmental laws. But we absolutely worked with him and tried to come up with compromises.” The measure appealed to legislators and others who complained that Minnesota’s environmental oversight was fragmented and confusing. The senate passed MEPA on May 8, 1973, with 60 votes in favor and none opposed. The next day the house passed the bill by 119 to 7.²⁴

The main controversy about MERA centered on the makeup of the Environmental Quality Council (later renamed the Environmental Quality Board, EQB)—the body designated to guide the achievement of the lofty goals proposed in MEPA. The fight over makeup of the EQB went on for weeks. Dunn wanted a small board composed of just three strong, independent, knowledgeable, and experienced citizens, who would

be appointed by the governor and advised by relevant agency heads, such as the Pollution Control Agency, the Health Department, the Agriculture Department, and others.

“Some of the people who headed the agencies weren’t very pleased with that,” Dunn recalled. The agency heads, the governor, and the Minnesota Association of Commerce and Industry’s Ted Shields all wanted to put agency heads in charge of the council. But for the activists pushing the legislation, that would be like putting the fox in charge of the henhouse. In the end, the players arrived at a compromise, with the board including both agency heads and citizen members.²⁵

According to Gregg Downing, who later supervised environmental reviews at the EQB, the activists’ worry about putting agency heads on the board was not unfounded. “We called it ‘circling the wagons,’” he explained. Occasionally after an agency decision on whether to do an environmental review, for example, the EQB would consider overturning it, but Downing said EQB commissioners were very reluctant to vote against a colleague at another agency.

“I suppose they were thinking, ‘This time it’s the DNR in the hot seat but it might be my agency next time; maybe I don’t want to get the DNR commissioner angry at me today, so I’ll vote with him and hope that next time he’ll vote with me.’” Downing saw this scratch-my-back attitude as a brake on the effectiveness of the EQB. “Certainly that was one impediment to the board doing some fairly aggressive things,” he said. In 2018, the EQB was made up of nine agency heads, five citizen members, and a representative of the Metropolitan Council.²⁶

In a 2017 interview, Peter Gove, who had been Governor Anderson’s assistant, said he believed the board makeup was a good compromise. “Environmental decisions have an economic impact,” he noted, “so there’s always been a desire to involve citizens who are broadly representative of major sectors in society, to try to get a consensus on things.” As executive director of the MPCA, Gove was a member of the EQB from 1973 to 1976. “Very rarely did you have a split vote between the agency heads and the public members of the board,” he said. “Of course, they were all appointed by the governor.”²⁷

NERA AND MEPA IN THE COURTS

Legal experts rate Minnesota’s environmental rights and policy acts as among the broadest and most effective such laws in the country. One reason is the clear and specific definitions provided in the original language: definitions of natural resources, which have encouraged courts to rule that the laws can be used to protect scenic views, quietude, and historic buildings; definitions of who can sue and be sued under the law, which have prompted generous interpretations of standing; and definitions of “pollution,

impairment, or destruction” which go far beyond exceeding rules or standards to include “any conduct which materially adversely affects or is likely to materially adversely affect the environment.”²⁸

Citizens have used these laws to fight environmental degradation in court at least 70 times in the nearly five decades since they were enacted. Many of the cases focus on disputes over the level of environmental review required before projects are allowed to proceed. MEPA lays out a two-stage environmental review process: initially, the Environmental Assessment Worksheet (EAW) provides a quick checklist to determine if a project has the potential to harm the environment. If it does, the much more detailed Environmental Impact Statement (EIS) is required.²⁹

Courts have varied in their interpretation of these requirements. During the bitter fights over routing of high-voltage power lines in the late 1970s, the Minnesota Supreme Court held state agencies to a high standard of thorough and public environmental review in a 1978 case, *People for Environmental Enlightenment and Responsibility (PEER), Inc., v. Minnesota Environmental Quality Council (EQC)*. The court ruled that the EIS was inadequate because it did not describe in sufficient detail the chosen route for a power line.³⁰

Another case, *Trout Unlimited v. Minnesota Department of Agriculture* (1995), prompted the court of appeals to overturn a trial court’s ruling that an irrigation project in Becker County could go ahead on the basis of an Environmental Assessment Worksheet prepared by the Department of Agriculture. The EAW concluded that possible erosion and nutrient pollution could be mitigated by “ongoing public regulatory authority.” Trout Unlimited argued the more thorough EIS should have been prepared. The



Governor Wendell Anderson surrounded by framers of historic environmental legislation of the early 1970s. From left: environmental lobbyists Chuck Dayton and John Herman; Rep. Willard Munger; Jackie Rosholt, aide to Munger; and Peter Gove, Anderson’s environmental aide and later, director of the MPCA.

appeals court judges agreed, saying the purpose of an EIS is “to determine the potential for significant environmental effects before they occur.”³¹

Courts have also been firm in upholding the laws’ insistence that environmental protection should take precedence over financial concerns, that “economic considerations alone” cannot justify environmentally damaging conduct. For example, Ramsey County District Court ruled in 1974 that the state must issue the city of White Bear Lake a permit for a road to cross part of Birch Lake, because this route was the most effective traffic bypass among seven alternatives and “no other feasible, economical or prudent alternate route” existed. In 1976 the Minnesota Supreme Court reversed this decision, having determined that at least two alternate routes were both feasible and less environmentally damaging.³²

A year later, the Minnesota Supreme Court underscored the pri-

macy of environmental protection over economic considerations by prohibiting operation of a trap-and-skeet-shooting facility because the noise would impair the quietude of the area in Washington County, and the lead shot falling into wetlands would poison wildlife. In a much-cited case, *Minnesota Public Interest Group v. White Bear Rod and Gun Club* (1977), the court recognized the owner’s substantial investment in the shooting range but said it could suitably operate in a different location.³³

Two cases in which courts affirmed broad interpretations of the state’s responsibility for environmental protection were *State of Minnesota by Powderly v. Erickson* (1979), in which the supreme court confirmed that row houses in Red Wing could be historical resources worthy of protection, and *Drabik v. Martz* (1990), in which the court of appeals confirmed the state’s refusal to allow construction of a radio tower on private land

because it could damage the scenic and aesthetic resources of adjacent public land.³⁴

Other court rulings have reflected more conservative views. Plaintiffs have frequently been frustrated by the propensity of judges to defer to the expertise of government agencies.

Trying to balance environmental protection with development has been a hallmark of court decisions during most of the life of the MERA and MEPA laws.

In a different power line fight, *No Power Line v. Minnesota Environmental Quality Council* (1977), plaintiffs asserted that an EIS should have been done earlier in the approval process for a high-voltage transmission line. The supreme court admitted that it “would have been preferable” to do the EIS earlier, but since plaintiffs could not show that the EIS was “untrue, inaccurate, or misleading . . .

we are not persuaded that the EIS was fatally defective.”³⁵

In another case in which plaintiffs challenged the adequacy of environmental review, the court of appeals ruled that St. Louis County correctly decided that an EIS was not required for construction of the Giants Ridge

position seemed to ignore the administrative rule that when information is lacking but can be reasonably obtained, the government should either conduct an EIS to include the missing information or postpone a decision for up to 30 days to obtain the information. Further, the court allowed the county to rely on permit controls to mitigate the use of herbicides and pesticides rather than study their possible impacts in advance of construction.³⁶

In a 1993 case, *State of Minnesota v. Brunkow Hardwood Corporation*, the court of appeals imposed a four-factor test designed to help courts determine what actions “materially adversely affect” the environment. These include: (1) whether the natural resource involved is rare, unique, or endangered or has historical significance; (2) whether the resource is easily replaceable; (3) whether the proposed action will have any significant consequential effect on other natural resources; and (4) whether the direct or consequential impact

Golf Course near Biwabik. In *Iron Rangers for Responsible Ridge Action v. Iron Range Resources* (1995), plaintiffs argued the project could harm migrating bird populations and risked damaging several rare plants and both surface water and groundwater. The court acknowledged that information was lacking on some of these questions, calling this deficiency a “technical uncertainty.” This



Minneapolis Armory, photographed in 2006. Built in 1935, the WPA moderne-style building was saved from demolition by the State Historic Preservation Office's use of the Minnesota Environmental Rights Act (MERA) in 1993.

on animals or vegetation will affect a critical number of these resources. Some advocates say this formulation improperly limits judicial consideration to only the most highly valuable, rare, and endangered resources. But subsequent courts have used it as a yardstick to determine whether an action would have a “materially adverse effect on the environment.”³⁷

This approach of trying to balance environmental protection with development has been a hallmark of court decisions during most of the life of the MERA and MEPA laws. Judges have assumed considerable leeway in interpreting what environmental harms should be allowed and how much attention should be given to the state’s “paramount concern” for protecting the environment.³⁸

An overarching frustration of those who work for environmental protection is the fact that so few full-blown EISs are conducted. The ratio

of EISs to EAWs changes from year to year and has historically ranged from 7 to 30 shorter EAW assessments for each EIS conducted. In two recent years, for example, there were 67 EAWs and 4 EISs in 2016; and 85 EAWs and 3 EISs in 2017. Overwhelmingly, state agencies and local governments approve increasingly complex projects based on just EAWs.³⁹

A key difference between the EAW and the EIS is that the more thorough review requires agencies to analyze possible alternatives to the proposed project, including a “no-build” alternative. Attorney Chuck Dayton and many other observers call this step the “heart” of the review process. “It requires you to ask how the goal of the project could be accomplished without having the adverse environmental impacts,” he said. “It doesn’t do you much good to look at just the impact without looking at how you could change it, how you could make it better.”⁴⁰



John Herman was an attorney for MPIRG in the early 1970s.

Dayton colleague John Herman agreed that looking at alternatives is key, but in the long term he said the emphasis on examining alternatives has had a positive influence on many aspects of public policy. He pointed to the state’s decision to favor recycling over landfilling waste; the move to renewables in energy; and the analysis of multiple routes for construction of roads, pipelines, and transmission lines. “It doesn’t mean everyone arrives at a consensus on what’s the least environmentally harmful option,” Herman explained. “But at least we’ve embodied in pretty much everything that we do now much more of an alternative analysis than previously, when we’d say, ‘We’ve got to get from A to B, what’s the straightest line?’”⁴¹

It took more than 10 years, from 2004 to 2015, to prepare the EIS for the proposed PolyMet copper-nickel mine in northeastern Minnesota. But such a lengthy, complicated process is not what the framers envisioned, according to Herman. “None of us conceptualized this as something that would stop everything; we thought of it as a law that would be pretty effective, and streamlined, and would help make decisions better,” he recalled.⁴²



*In 1980 the Minnesota Supreme Court ruled that MERA and MEPA required the Minnesota Department of Transportation to protect the environment by routing Interstate 35 around Blackhawk Lake in Eagan instead of crossing the lake on a bridge. The decision in *Urban Council on Mobility v. Minnesota DNR* capped 20 years of planning and litigation.*

The days of enthusiastic bipartisan support for legislation to protect the environment appear to be gone, at least for now. Passage of the Legacy Amendment in 2008 and results of public opinion surveys are evidence that most Minnesotans expect government and industry to treat natural resources with respect, and advocates continue to use MERA and MEPA, two key laws enacted nearly 50 years ago to achieve that goal.⁴³ □

Notes

The author wishes to thank Pat Maus and Aimee Brown, Archives and Special Collections librarians at the Kathryn A. Martin Library at the University of Minnesota Duluth, as well as the staff at the Legislative Reference Library in St. Paul, for their help in grounding the Oral History Project. Staff at the Gale Family Library at the Minnesota History Center also contributed expertise. Special thanks go to the people who enthusiastically participated in the oral history project, and to Susan Taylor, who provided expert transcription services.

1. This article draws from interviews conducted as part of the Minnesota Foundational Environmental Laws Oral History Project, housed at the Kathryn A. Martin Library at the University of Minnesota Duluth (hereinafter Oral History Project), <https://lib.d.umn.edu/mn-foundational-environmental>. The project was made possible in part by the people of Minnesota through a grant funded by an appropriation to the Minnesota Historical Society from the Minnesota Arts and Cultural Heritage Fund. Quoted remarks from Dick Flint, Chuck Dayton, Bob Dunn, John Herman, Ron Way, Peter Gove, and Gregg Downing were recorded as part of this project during 2016 and 2017.

2. Editorial, "The Governor's Environmental Message," *Minneapolis Tribune*, Apr. 3, 1971. From 1879 to 1972 the Minnesota legislature met in alternate years. In 1973, it moved to a "flexible biennial session," a single legislative session spread over both years of the biennium.

3. Flint interview, Oral History Project, 2, 3.

4. Flint interview, Oral History Project, 3; Joseph L. Sax, "The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention," *Michigan Law Review* 68 (1969): 471. This influential article argued that natural resources are a public trust requiring protection. Sax's classic *Defending the Environment: A Strategy for Citizen Action* (New York: Knopf, 1971) served as the model for laws in several US states and other countries.

5. Andrew J. Piela, "A Tale of Two Statutes: Twenty Year Judicial Interpretation of the Citizen Suit Provision in the Connecticut Environmental Protection Act and the Minnesota Environmental Rights Act," *Boston College Environmental Affairs Law Review* 21, no. 2 (1994): 402, 424-27, <http://lawdigitalcommons.bc.edu/ealr/vol21/iss2/12>; Dayton interview, Oral History Project, 7.

6. Jack Erwin, "Quirin: Chairman Delaying Environmental Rights Bill," *Rochester Post-Bulletin*, Apr. 1, 1971; "Spannaus for Action on Environment Bill," *St. Paul Pioneer Press*, May 1, 1971; Robert Whereatt, "Environment Committee Attacked," *St. Paul Dispatch*, May 10, 1971.

7. Flint interview, Oral History Project, 6, 8.

8. "Report of the House Judiciary Subcommittee on H.F. 284" (House Report), vol. 19, F3, minutes of House Judiciary Committee, Apr. 5, 1971, Committee Books 1971; "The Minnesota Environmental Rights Act," *Minnesota Law Review* 56 (1972): 575-87; Gerry Nelson, "Environmental Rights Act Gains Approval in House Subcommittee," *Rochester Post-Bulletin*, Mar. 24, 1971; Robert Whereatt, "Environmental Bill Diluted, Advanced," *St. Paul Dispatch*, May 4, 1971; Associated Press, "Environmental Bill of Rights' Trimmed, Then Sent [to] House Floor," *Winona Daily News*, May 5, 1971; Jim Talle, "House Toughens Senate Ecology Bill, Passes It," *Minneapolis Star*, May 21, 1971. The debates are detailed in house and senate committee records in the Gale Family Library at MNHS.

9. House Report, 5; Nelson, "Environmental Rights Act Gains Approval."

10. House Report.

11. Minnesota Environmental Rights Act, Chap. 116B.07.

12. Details of bill passage at <https://www.revisor.mn.gov/laws/1971/0/Session+Law>

/Chapter/952/pdf/; Flint interview, Oral History Project, 14.

13. Flint interview, Oral History Project, 13.

14. Editorial, "Environment Law Test," *St. Paul Dispatch*, Aug. 6, 1971; Bob Golligorski, "Road or Pond? Court to Decide," *St. Paul Pioneer Press*, Aug. 13, 1971; Associated Press, "Farmer Wins First Round in Environment Law Case," *The Forum*, Aug. 13, 1971; Associated Press, "Freeborn Marsh Suit Resumes," *St. Paul Pioneer Press*, Oct. 5, 1971; William Bryson, with comments by Arlene Bryson, interviewed by Margaret Robertson, MNHS, Feb. 29, 1988, <http://collections.mnhs.org/cms/web5/media.php?pdf=1&irn=10215229>. Justice Yetka's ruling can be found at *Justia US Law, County of Freeborn by Tuveson v. Bryson*, <https://law.justia.com/cases/minnesota/supreme-court/1976/45601-2-0.html>.

15. Wendell R. Anderson, "Special Message: Securing a Quality Environment in Minnesota," to the 68th Minnesota legislative session, Feb. 14, 1973, <https://www.leg.state.mn.us/docs/pre2003/other/l690.pdf>.

16. Gregory Gordon, "Anderson Mollifies Most Factions by Passage of Environmental Bills," *St. Cloud Daily Times*, May 22, 1973; Dee DePass, "State Considers 10-Cent Deposits on Recyclable Beverage Containers," *Minneapolis Star Tribune*, Jan. 13, 2014, <http://www.startribune.com/jan-9-minn-considers-dime-fee-on-some-recyclables/239476461/>; Elizabeth Dunbar, "Lawmakers Look for Ways to Increase Recycling, as Bottle Deposit Bill Is Taken Off the Table," *Minnesota Public Radio News*, Feb. 5, 2014, <https://www.mprnews.org/story/2014/02/05/recycling-bottle-deposit-minnesota>.

17. Way interview, Oral History Project, 7, 12.

18. Way interview, Oral History Project, 11.

19. "Minnesota 'Needs Environment Policy,'"



A loaded shelf at the Duluth Public Library holds the multi-volume Environmental Impact Statement (EIS) prepared to examine possible impacts of the proposed PolyMet (Northmet) copper-nickel mine in northeastern Minnesota. The document took 10 years to complete.

St. Paul Pioneer Press, Jan. 26, 1972; Dayton interview, Oral History Project, 16; William C. Walton, "Water Resources Administration in Minnesota, 1972," University of Minnesota, <https://conservancy.umn.edu/handle/11299/92223>.

20. Dunn interview, Oral History Project, 5.

21. Minnesota Environmental Policy Act, Chap. 116D.02.Subd.1 and 116D.03.Subd.2(3).

22. Minnesota Environmental Policy Act, Chap. 116D.04.Subd.6.

23. Dunn interview, Oral History Project, 8; Herman interview, Oral History Project, 10.

24. Herman interview, Oral History Project, 12; Bob Goligoski, "State Environmental Policies 'Confusing,'" St. Paul Pioneer Press, Mar. 8, 1972; "LaVoy Bill Urges Umbrella Agency on Environment," Duluth Herald, Mar. 22, 1973.

25. Dunn interview, Oral History Project, 5.

26. Downing interview, Oral History Project, 14; "11 Selected as EQC Advisers," Sunday Pioneer Press, Aug. 5, 1973.

27. Gove interview, Oral History Project, 11.

28. Alexandra B. Klass, "The Public Trust Doctrine in the Shadow of State Environmental Rights Laws: A Case Study," *Environmental Law* 45, no. 431 (2015): 434, 436, 441, 456; Piela, "A Tale of Two Statutes," 417, 421, 434; Jeffrey T. Renz, "The Coming of Age of State Environmental Policy Acts," *Public Land and Resources Law Review* 5, no. 31 (1984): 50; Office of the Legislative Auditor, "Evaluation Report on Environmental Review and Permitting," 2011, <https://www.auditor.leg.state.mn.us/ped/pedrep/envir.pdf>.

29. Klass, "The Public Trust Doctrine," 434, 436, 441, 456.

30. *People for Environmental Enlightenment and Responsibility (PEER), Inc., v. Minnesota Environmental Quality Council*, 266 N.W.2d 858m 863 (1978), <https://law.justia.com/cases/minnesota/supreme-court/1978/47911-1.html>. The Minnesota Supreme Court held the final EIS inadequate for failure to discuss, circulate, and receive comments on the selected alternative.

31. *Trout Unlimited v. Minnesota Department of Agriculture*, 528 N.W.2d 903 (1995), <https://law.justia.com/cases/minnesota/court-of-appeals/1995/c3-94-1900.html>. The court of appeals ruled that the DNR erred in failing to consider comments, failing to consider potential cumulative effects, and relying on future permitting to control or redress potential problems.

32. The supreme court ruled that the DNR was not required to permit an environmentally damaging road because alternatives were available. See <https://law.justia.com/cases/minnesota/supreme-court/1976/46058-1.html>; "In the matter of the Application of the City of White Bear Lake, Minnesota, for a permit to encroach upon a bay of Birch Lake as part of the 9th Street Extension Project," Ramsey County District Court Case #401419, 6/4/1975.

33. *Minnesota Public Interest Research Group v. White Bear Rod and Gun Club*, 257 N.W. 2d 762 (1977), <https://law.justia.com/cases/minnesota/supreme-court/1977/46951-1.html>. The supreme

court ruled that "the gun club's economic considerations alone do not constitute a defense sufficient to rebut plaintiff's prima facie showing."

34. *State of Minnesota by Powderly v. Erickson*, 285 N.W.2d 84, 87-89 (1979), <https://law.justia.com/cases/minnesota/supreme-court/1979/49708-1.html>; *Drabik v. Martz*, 451 N.W.2d 893, 896-98 (1990), <https://law.justia.com/cases/minnesota/court-of-appeals/1990/c6-89-1620.html>. In *Powderly* the supreme court held that row houses were historical resources protected by MERA and the defendant did not sustain the burden of proving there was no feasible and prudent alternative to demolition. In *Drabik* the court of appeals ruled that MERA precluded a radio tower on privately owned land near the BWCA. Action on private land that affects the scenic value of government land is actionable.

35. *No Power Line v. Minnesota Environmental Quality Council*, 262 N.W.2d 312 (1977), <https://www.courtlistener.com/opinion/1284866/no-power-line-v-minn-environmental-quality/>. The supreme court said the "fullest extent practicable" standard of MEPA gave agencies discretion not to do an EIS at the earliest possible stage.

36. *Iron Rangers for Responsible Ridge Action v. Iron Range Resources*, 531 N.W.2d 874 (1995), <https://www.courtlistener.com/opinion/1347927/iron-rangers-ridge-action-v-resources/>; Minnesota Administrative Rules, 4410.1700, Decision on Need for EIS, <https://www.revisor.mn.gov/rules/4410.1700/>. In *Iron Rangers* the court of appeals ruled the agency's action was based on "substantial evidence in the record and was not arbitrary and capricious." According to state administrative rules, "If the RGU [responsible governmental unit] determines that information necessary to a reasoned decision about the potential for, or significance of, one or more possible environmental impacts is lacking, but could be reasonably obtained, the RGU shall either: A. make a positive declaration and include within the scope of the EIS appropriate studies to obtain the lacking information; or B. postpone the decision on the need for an EIS, for not more than 30 days or such other period of time as agreed upon by the RGU and proposer, in order to obtain the lacking information."

37. *State of Minnesota, ex rel. Wacouta Township, v. Brunkow Hardwood Corporation*, 510 N.W.2d 27 (1993), <https://law.justia.com/cases/minnesota/court-of-appeals/1993/c1-93-1349.html>. "Ex rel." (meaning "upon information" or "upon being related") indicates that the state brought the case on behalf of Wacouta Township. The court of appeals found that bald eagles and trees in which they roost are "natural resources" under MERA. It also borrowed a four-factor test used in Michigan to help determine whether the action in question "is likely to affect the environment so as to justify judicial intervention." In a 1997 case, *Schaller v. County of Blue Earth*, 563 N.W.2d 260, the supreme court modified the four-factor test, offering a fifth factor, and ruled that the test did not unreasonably limit implementation of MERA, emphasizing

that "these factors are not exclusive and that each factor need not be met in order to find a materially adverse effect. Rather, the factors are intended as a flexible guideline for consideration as may be appropriate based on the facts of each case." See <https://www.courtlistener.com/opinion/1876945/state-by-schaller-v-county-of-blue-earth/>.

38. MERA, 116B.02 Subd.5; MEPA 116D.04 Subd.6.

39. Office of the Legislative Auditor, "Evaluation Report," 2011; Dan L. Risnes, Joen M. Schaefer, William S. Seeley, "Research Project: An Assessment of the Minnesota Environmental Impact Statement Process," *Hamline Law Review* 3, no. 63 (1980): 83. From 2007 to 2010, 229 EAWs were initiated, while 7 EISs were begun; between 1973 and September 1979, EQB ordered 72 EISs from approximately 503 proposed actions reviewed. Denise Wilson, director, Environmental Review Program, EQB, personal correspondence with author, Aug. 17, 2018.

40. John H. Herman and Charles K. Dayton, "Environmental Review: An Unfulfilled Promise," *Bench & Bar of Minnesota* (July 1990): 31; Kevin Reuther, "MEPA at 36: Perspectives on Minnesota's Little NEPA," *Environmental Law Reporter* 39, no. 7 (July 2009): 39 ELR 10663; Peder Larson and Julie Perrus, "Reforming Environmental Review," *Bench & Bar of Minnesota* 67, no. 1 (Jan. 2010), <http://mnbenchbar.com/2010/01/reforming-environmental-review/>; MPCA, "Environmental Review Streamlining: A Summary of Past Efforts, Current Ideas, and Stakeholder Input," Dec. 2009, <https://www.leg.state.mn.us/docs/2010/mandated/100007.pdf>; Dayton interview, Oral History Project, 18.

41. Herman interview, Oral History Project, 4.

42. PolyMet Mining, Environmental Review and Permits Timeline, <http://polymetmining.com/project-status/environmental-review/>; Herman interview, Oral History Project, 11.

43. Minnesota Environmental Partnership, "Minnesota Voters' Environmental Priorities in 2017," <https://www.mepartnership.org/wp-content/uploads/2017/03/MEP-Poll-Public-Release-3.1.17.pdf>. In 2008, Minnesota voters imposed a three-eighths of one percent tax on themselves for 25 years, until 2034, in the name of cleaner water, healthier habitat, better parks and trails, and sustaining arts and cultural heritage. By 2018, the tax had generated more than \$2 billion for Legacy projects, <https://www.legacy.mn.gov/arts-cultural-heritage-fund>.

Photo on p. 164 copyright iStock.com/mega-squib, 173, Wikimedia Commons; p. 166 (top) provided by Chuck Dayton; 166 (bottom), 167, 169 (top), 170, 171, 172, MNHS Collections; p. 168, photo of Bill Bryson and his wife, Arlene, Minnesota Public Radio News. © 2010 Minnesota Public Radio®. Used with permission. All rights reserved; p. 169 (bottom), 174 (top), p. 175, Stephanie Hemphill; p. 174 (bottom) Google Earth.



Copyright of **Minnesota History** is the property of the Minnesota Historical Society, and its content may not be copied or emailed to multiple sites or users or posted to a listserv without the copyright holder's express written permission: [contact us](#).

Individuals may print or download articles for personal use.

To request permission for educational or commercial use, [contact us](#). Include the author's name and article title in the body of your message. But first--

If you think you may need permission, here are some guidelines:

Students and researchers

- You **do not** need permission to quote or paraphrase portions of an article, as long as your work falls within the fair use provision of copyright law. Using information from an article to develop an argument is fair use. Quoting brief pieces of text in an unpublished paper or thesis is fair use. Even quoting in a work to be published can be fair use, depending on the amount quoted. Read about fair use here: <http://www.copyright.gov/fls/fl102.html>
- You **should**, however, always credit the article as a source for your work.

Teachers

- You **do not** need permission to incorporate parts of an article into a lesson.
- You **do** need permission to assign an article, either by downloading multiple copies or by sending students to the online pdf. There is a small per-copy use fee for assigned reading. [Contact us](#) for more information.

About Illustrations

- **Minnesota History** credits the sources for illustrations at the end of each article. **Minnesota History** itself does not hold copyright on images and therefore cannot grant permission to reproduce them.
- For information on using illustrations owned by the Minnesota Historical Society, see [MHS Library FAQ](#).

Minnesota's Environmental Review Program

Objectives (Minnesota Rules chapter 4410.0300)

Environmental
effects of a
project

Public access to
decision
makers

Delegate
authority to
the RGU

Eliminate
duplication

Reduce delay
and
uncertainty

Roles and Responsibilities

EQB



- Oversees the Rules
- Provides technical assistance
- Continuous improvement

RGU



- Applies the Rules
- Decision maker

Project Proposer



- Provides project details to RGU

Public



- Provides local knowledge
- Participates in decision-making process

When is environmental review required?

- Project types that exceed mandatory category thresholds in MN Rules chapter 4410.

Mandatory



- Initiated by RGU (including citizen petition), EQB, or project proposer.

Discretionary



- Some types of projects are exempt from environmental review requirements.

Exemptions



Commonly Used Acronyms

Acronym	Meaning
RGU	Responsible Governmental Unit. The governmental unit with the most approval authority and expertise. Includes state and local government agencies with designated responsibility for preparing and approving environmental documents.
EAW	Environmental Assessment Worksheet. An EQB form used by the RGU to answer 20 project-related questions that provide information used in determining if a proposed project has the potential for significant environmental effects.
EIS	Environmental Impact Statement. A more extensive review than described in an EAW for projects with the potential for significant environmental effects; includes an analysis of alternatives as well as social and economic impacts.
AUAR	Alternative Urban Areawide Review. An AUAR is an EQB approved alternative to project-specific environmental review. The AUAR is a way to review environmental concerns before a major development occurs in an area. It is also a way to use the information from the review to guide local planning and zoning decisions.

Helpful Definitions

- **Citizen Petition:** The opportunity for a group of citizens to petition the need for environmental review if a project does not fall under mandatory categories.
- **Comment Period:** Depending on the environmental review process either a 30 or 10-day period when citizens, LGUs, state governments, and others can provide input on the environmental document.
- **Connected Action:** Two projects are "connected actions" if one project would directly induce the other; one project is a prerequisite for the other and the prerequisite project is not justified by itself; or neither project is justified by itself.
- **Cumulative impact:** The impact on the environment that results from incremental effects of the project in addition to other past, present, and reasonably foreseeable future projects regardless of what person undertakes the other projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.
- **EQB Monitor:** The weekly electronic newsletter by the EQB that serves as the official notice of environmental review documents and starts comment periods. The RGUs submit notices using the online submission form.
- **Mandatory category:** A specific requirement for an environmental review that is stated in Minnesota Rules 4410.1100 (for EAWs) or 4410.2000 (for EISs).
Phased action: Two or more projects to be undertaken by the same proposer and will have environmental effects on the same geographic area; and are substantially certain to be undertaken sequentially over a limited period of time.

Contact us

- Web address: www.eqb.state.mn.us/review.html
 - Or www.eqb.state.mn.us, then select 'Environmental Review' on the menu
- EQB Hotline: 651.757.2873
- Environmental Review Email: Env.Review@state.mn.us

m MINNESOTA

ENVIRONMENTAL QUALITY BOARD

Environmental Review – 2018 Survey and Monitor Data Report

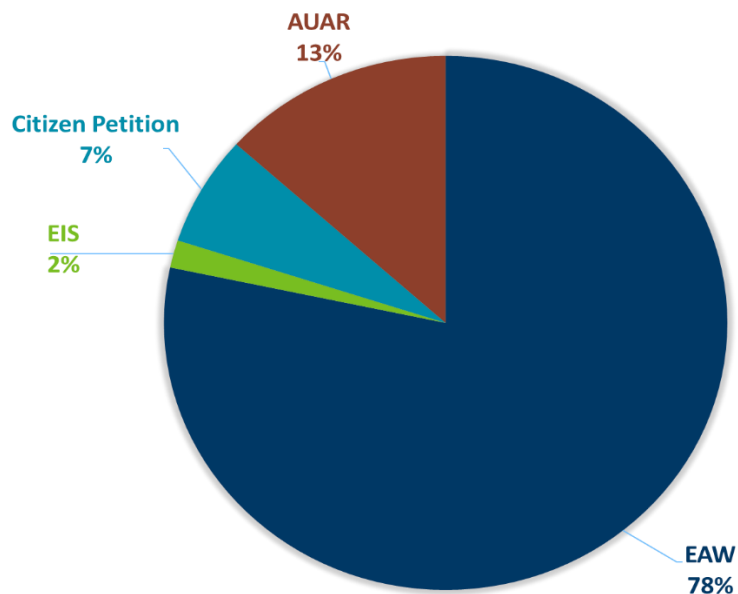
Overview

The Environmental Quality Board (EQB) is responsible for monitoring and taking steps to improve the effectiveness of Minnesota's Environmental Review Program under Minnesota Rules 4410. The EQB also provides assistance to all parties involved in environmental review including citizens, project proposers, and state and local government. To that end, EQB staff collect data to better understand the implementation of environmental review across the state and to help identify areas for program improvement. The 2018 data included in this report was collected by gathering project information in *The Monitor* submission form and conducting surveys of Responsible Governmental Units (RGUs), Project Proposers and citizens. For informational purposes, a small sample of projects are highlighted in this memo to illustrate the types of review completed in 2018.

Environmental Reviews Completed in 2018

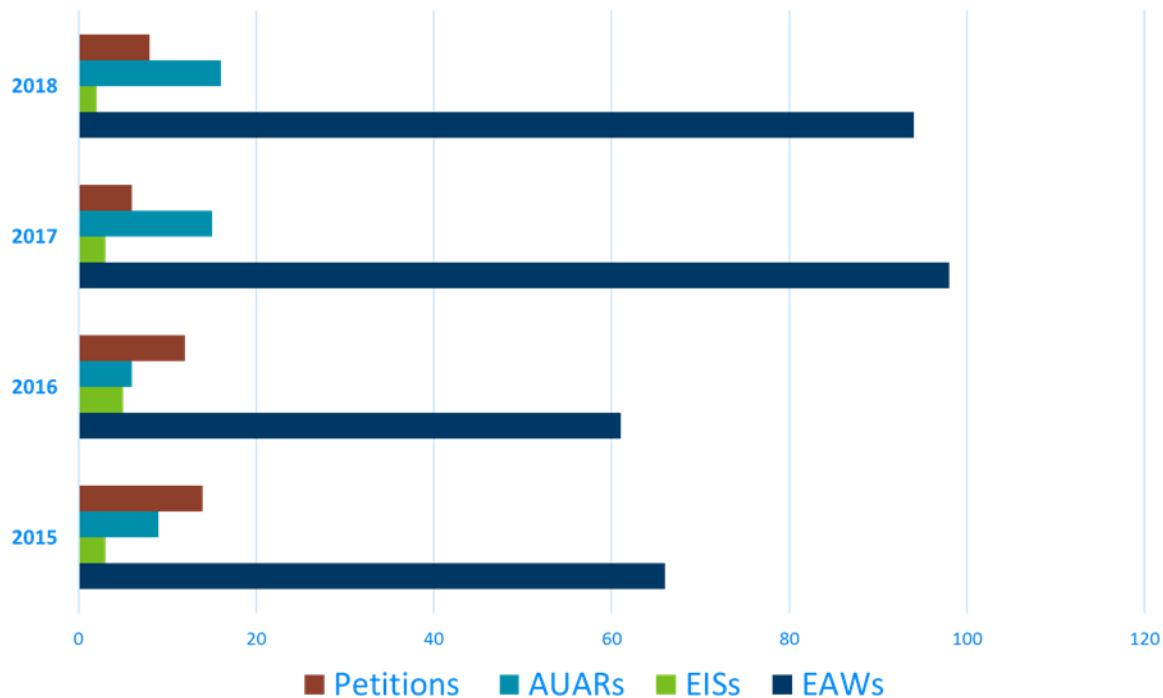
The EQB's environmental review duties are directed by Minnesota Statutes 116D.04 and implemented based on Minnesota Rules 4410. In 2018, 120 environmental review documents were completed, including 94 Environmental Assessment Worksheets (EAWs), 16 Alternative Urban Areawide Reviews (AUARs), 8 Citizen Petitions, and 2 Environmental Impact Statements (EISs). See Figure 1 for a summary of environmental review documents completed by document type.

Figure 1: 2018 Environmental Reviews Completed by Type



These results are typical compared to submissions received in recent years. The most frequent environmental review documents completed have historically been Environmental Assessment Worksheets. Environmental Impact Statements are the least frequently completed environmental review documents (Figure 2).

Figure 2: Environmental Review Types by Year



Depending on the type of project, different state agencies or local governments are designated to complete environmental reviews. Of the submissions received in 2018, local governments completed 69% of environmental reviews, and state agencies completed 31% (Figure 3).

Environmental review is required for a project if they meet one of the Mandatory Category thresholds described in Minnesota Rules 4410.4300 and 4410.4400. In 2018, a total of 80 EAWs were completed based on meeting the threshold for review outlined in a Mandatory Category. See

Figure 3: 2018 Responsible Governmental Units Conducting Environmental Review

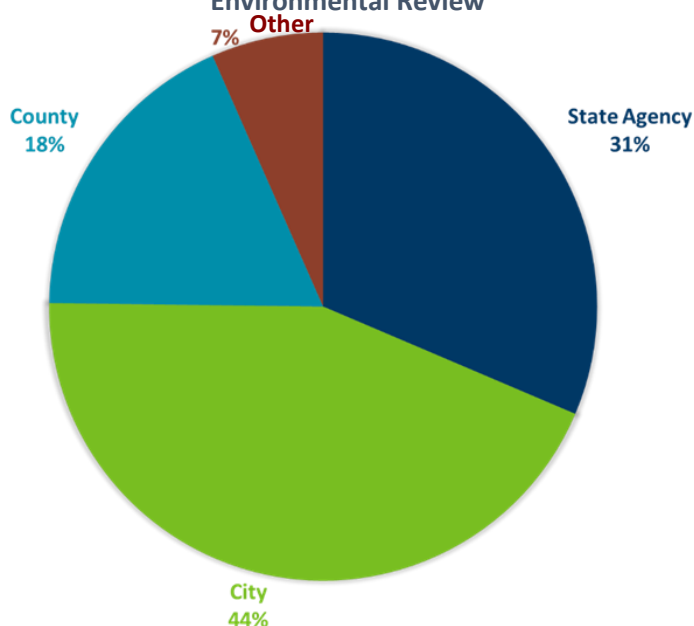


Table 1 for a list of the total number of EAWs completed by each Mandatory Category. If the threshold for environmental review is not met under a Mandatory Category, environmental review can also be completed at the discretion of an RGU or requested by a Project Proposer, so long as the project is not exempt from review under environmental review rules. EAWs that are completed as a result of a Citizen Petition are also considered discretionary EAWs.

Table1: EAW Mandatory Categories	
Subp. 12, Nonmetallic mineral mining	10
Subp. 14, Industrial, commercial, and institutional facilities	3
Subp. 17, Solid waste	2
Subp. 19, Residential Development	16
Subp. 21, Airport projects	1
Subp. 22, Highway Projects	8
Subp. 26, Stream diversion	5
Subp. 27, Wetlands and Public Waters	11
Subp. 29, Animal feedlots	13
Subp. 31, Historical Places	2
Subp. 32, Mixed residential and industrial-commercial projects	4
Subp. 36, Land use conversion, including golf courses	1
Subp. 37, Recreational trails	4

In 2018, 12 Discretionary EAWs were completed (Table 2). EQB Rules also allow for the creation of joint state and federal environmental review documents for project that require both. In 2018, one joint state-federal document was completed. In 2018, one discretionary EIS and one mandatory EIS were completed (Table 3).

Table 2: Discretionary and Other EAWs	
Discretionary EAW - RGU	9
Discretionary EAW - Project Proposer	2
Discretionary EAW - Citizen Petition	1
Joint EA/EAW	1

Table 3: Reason for EIS	
Discretionary	1
Mandatory - Subp. 18, Water appropriation and impoundments.	1

Survey Respondent Overview

In 2018, the EQB sent surveys to RGUs and Project Proposers upon completion of the environmental review process. A survey was also made available on the EQB website for citizens who participated in any Minnesota environmental review process type. These surveys included questions designed to measure the outcomes and effectiveness of the Environmental Review Program, and quality of EQB technical support materials.

Surveys were completed by 33 RGUs (27.5% response rate), and 14 Project Proposers (21.5% response rate). Additionally, a total of 76 citizens responded to the environmental review survey available on the EQB website.

Environmental Review Outcomes and Effectiveness

RGUs and Project Proposers were asked to provide information on whether the process provided them with useable information, if mitigation for environmental effects were identified, if those mitigation measures were likely to be implemented, if a consultant was hired, and cost estimates of completing environmental review.

The Environmental Review Program is designed to provide information about potential environmental effects of a project. Of the RGUs who responded to the survey, 82% agreed that the process provided them with usable information about potential environmental effects of the proposed project. Additionally, since they are responsible for completing environmental review and collecting public input on proposed projects, RGUs were also asked if the process provided usable information for Project Proposers and citizens. Of the RGUs that responded, 82% agreed that the process provided usable information for Project Proposers, and 64% agreed that the process provided usable information to citizens. Of the Project Proposers surveyed, 58% agreed that the process provided usable information to them about the potential environmental effects of a project. Of citizens who were surveyed, 60% agreed that the process provided useable information to them regarding the proposed project's potential environmental effects (Table 4).

Decisions to approve or deny a project are made through permits and other governmental approvals. The environmental review process provides information about potential environmental effects that can be used to inform those decisions. Of those that responded, 56% of RGUs and 28% of Project Proposers agreed that the environmental review process identified useful measures to mitigate the potential for environmental effects of the proposed project. Respondents were also asked if the design of the project was changed to reduce the potential negative environmental effects of the project identified during the environmental review process. 22% of RGUs and 29% of Project Proposers agreed that the design of a project was changed to reduce identified impacts. Of the RGUs that identified mitigation measures, 87% agreed that it was likely that mitigation measures identified in the environmental review process would be included in required governmental approvals, including permits, for the proposed project. Additionally, 36% of Project Proposers agreed that they intended to voluntarily implement the mitigation measures identified through the environmental review process that are not required by permits (Table 5).

Of the RGUs that responded, 9 (36%) hired a consultant to help complete the review process while 16 (64%) did not. Out of the Project Proposers that responded, 13 (93%) hired a consultant to help complete the environmental review process, only one Project Proposer did not hire a consultant. Only 8 RGU respondents provided a cost estimate of completing environmental review. The cost of completing review for RGUs ranged from \$947 – \$46,475. Only 5 Project Proposer respondents provided a cost estimate of completing environmental review. The cost to Project Proposers ranged from \$5,000 - \$197,000.

Table 4: Environmental Review Process Providing Usable Information	
<i>The ER process as whole provided usable information to governmental units regarding the proposed project's potential environmental effects.</i>	
	RGUs
<i>Strongly agree</i>	32%
<i>Somewhat agree</i>	50%
<i>Neutral</i>	4%
<i>Somewhat disagree</i>	14%
<i>Strongly disagree</i>	0%
<i>The ER process as whole provided usable information to the project proposer regarding the proposed project's potential environmental effects.</i>	
	RGUs
<i>Strongly agree</i>	27%
<i>Somewhat agree</i>	55%
<i>Neutral</i>	9%
<i>Somewhat disagree</i>	9%
<i>Strongly disagree</i>	0%
<i>The ER process as whole provided usable information to citizens regarding the proposed project's potential environmental effects.</i>	
	RGUs
<i>Strongly agree</i>	28%
<i>Somewhat agree</i>	36%
<i>Neutral</i>	28%
<i>Somewhat disagree</i>	8%
<i>Very unlikely</i>	0%
<i>The Environmental Review process as a whole provided usable information to me (the project proposer) regarding the projects potential environmental effects.</i>	
	Project Proposers
<i>Strongly agree</i>	22%
<i>Somewhat agree</i>	36%
<i>Neutral</i>	21%
<i>Somewhat disagree</i>	7%
<i>Strongly disagree</i>	14%
<i>The ER process as a whole provided usable information to me regarding the proposed project's potential environmental effects.</i>	
	Citizens
<i>Strongly agree</i>	28%
<i>Somewhat agree</i>	32%
<i>Neutral</i>	7%
<i>Somewhat disagree</i>	23%
<i>Strongly disagree</i>	10%

Table 5: Environmental Review Outcomes and Effectiveness		
<i>The ER process identified useful mitigation measures for potential environmental effects resulting from the proposed project.</i>		
	RGUs	Project Proposers
<i>Strongly agree</i>	17%	7%
<i>Somewhat agree</i>	38%	21%
<i>Neutral</i>	8	57%
<i>Somewhat disagree</i>	33%	7%
<i>Strongly disagree</i>	4%	7%
<i>Don't know</i>	0%	0%
<i>Due to the ER process, the design of the proposed project changed to reduce the potential negative environmental effects.</i>		
	RGUs	Project Proposers
<i>Strongly agree</i>	18%	0%
<i>Somewhat agree</i>	4%	29%
<i>Neutral</i>	26%	50%
<i>Somewhat disagree</i>	48%	7%
<i>Strongly disagree</i>	4%	0%
<i>Don't know</i>	0%	14%
<i>I (the project proposer) plan to voluntarily implement the mitigation measures identified through the ER process that are not required by permits.</i>		
		Project Proposers
<i>Strongly agree</i>		0%
<i>Somewhat agree</i>		36%
<i>Neutral</i>		50%
<i>Somewhat disagree</i>		0%
<i>Strongly disagree</i>		0%
<i>Don't know</i>		14%
<i>How likely is it that the mitigation measures identified in the previous question will be included in required governmental approvals, including permits, for the proposed project?</i>		
	RGUs	
<i>Very likely</i>	50%	
<i>Somewhat likely</i>	37%	
<i>Neutral</i>	13%	
<i>Somewhat unlikely</i>	0%	
<i>Very unlikely</i>	0%	

Citizen Participation in Environmental Review

Citizen participation is an important part of environmental review. In 2018, the EQB started a survey that was made available on the EQB website, advertised in the *EQB Monitor*, and shared via social media. The survey was used to gather information on citizens' involvement in, and attitudes towards, environmental review in Minnesota. A total of 76 citizens responded. The survey results show that

citizens participate in environmental review in a variety of ways, but most often participate by reviewing project documents, attending public meetings, sending comments to RGUs, and contacting RGU staff or elected officials (Table 6).

Table 6: Citizen Participation in Environmental Review	
<i>As a citizen, how were you involved in the environmental review process? Select all that apply.</i>	
<i>Reviewed document</i>	57%
<i>Attended public meeting(s)</i>	51%
<i>Wrote comment(s) to the RGU</i>	49%
<i>Contacted EQB staff</i>	13%
<i>Contacted RGU staff and/or elected official</i>	39%
<i>Contacted Project Proposer staff</i>	14%
<i>Participated in collecting information for a Petition</i>	14%
<i>Signed a Citizen Petition</i>	20%
<i>Submitted a Petition</i>	14%

Citizens were also asked how they found out about the environmental review process. Most often, citizens found out about review directly from the RGU, however, they also reported getting information from other outlets like local media, Project Proposers, friends, advocacy groups, and in The *EQB Monitor* publication (Table 7).

Table 7: Awareness of Environmental Review Process	
<i>How were you made aware about the Environmental Review process? Select all that apply.</i>	
Local media (newspaper, radio, TV, etc.)	22%
RGU correspondence (email listserv, newsletter, website, etc.)	38%
Project Proposer (signage, website, etc.)	24%
Family, co-worker, friend, neighbor, etc.	18%
Advocacy organization (email, newsletter, phone call, etc.)	25%
EQB Monitor	26%
Other	12%

Additionally, citizens were asked questions about their attitudes towards the Environmental Review Program and if they felt like their participation had an impact on the proposed project outcome (Table 8). Most citizens felt like they understood the purpose of environmental review (87%) and that they understood their role and how to participate in the process (77%). Most citizens felt there were ample opportunities to participate in the process (63%), however only about a third felt their concerns were heard and considered (32%). 44% of citizens who participated in environmental review felt that their involvement directly influenced the proposed project outcome.

Table 8: Citizen Attitudes Towards Environmental Review Program Process and Outcomes	
<i>I understood the purpose of Environmental Review</i>	
<i>Strongly agree</i>	51%
<i>Somewhat agree</i>	35%
<i>Neutral</i>	5%
<i>Somewhat disagree</i>	2%
<i>Strongly disagree</i>	5%
<i>Not applicable</i>	2%
<i>I understood my role in the Environmental Review process and how to effectively participate in the process.</i>	
<i>Strongly agree</i>	43%
<i>Somewhat agree</i>	34%
<i>Neutral</i>	9%
<i>Somewhat disagree</i>	7%
<i>Strongly disagree</i>	5%
<i>Not applicable</i>	2%
<i>There were ample opportunities to participate in the process.</i>	
<i>Strongly agree</i>	40%
<i>Somewhat agree</i>	23%
<i>Neutral</i>	14%
<i>Somewhat disagree</i>	9%
<i>Strongly disagree</i>	12%
<i>Not applicable</i>	2%
<i>I felt that my concerns and/or feedback were heard and considered.</i>	
<i>Strongly agree</i>	14%
<i>Somewhat agree</i>	18%
<i>Neutral</i>	19%
<i>Somewhat disagree</i>	11%
<i>Very unlikely</i>	33%
<i>Not applicable</i>	5%
<i>I felt that I influenced the proposed project outcome.</i>	
<i>Strongly agree</i>	18%
<i>Somewhat agree</i>	26%
<i>Neutral</i>	16%
<i>Somewhat disagree</i>	10%
<i>Strongly disagree</i>	23%
<i>Not applicable</i>	7%

Environmental Quality Board Resources

The EQB provides a range of technical support resources to RGUs and Project Proposers to facilitate their implementation of the Environmental Review Program. Overall, RGUs and Project Proposers indicated that they are satisfied with the technical support available to them through the EQB in the form of guidance documents, web content, and phone and email conversations with staff (Table 9).

Table 9: Project Proposer and RGU satisfaction with EQB Technical Support Resources		
<i>Please indicate your level of satisfaction with EQB guidance documents</i>		
	RGUs	Project Proposers
<i>Very satisfied</i>	27%	21%
<i>Somewhat satisfied</i>	58%	50%
<i>Neutral</i>	9%	21%
<i>Somewhat dissatisfied</i>	0%	7%
<i>Very dissatisfied</i>	3%	0%
<i>Not applicable</i>	3%	0%
<i>Please indicate your level of satisfaction with the current EQB Website content</i>		
	RGUs	Project Proposers
<i>Very satisfied</i>	27%	21%
<i>Somewhat satisfied</i>	55%	43%
<i>Neutral</i>	9%	29%
<i>Somewhat dissatisfied</i>	3%	0%
<i>Very dissatisfied</i>	3%	0%
<i>Not applicable</i>	3%	0%
<i>Please indicate your level of satisfaction with phone conversations with EQB Staff</i>		
	RGUs	Project Proposers
<i>Very satisfied</i>	42%	21%
<i>Somewhat satisfied</i>	29%	29%
<i>Neutral</i>	21%	21%
<i>Somewhat dissatisfied</i>	0%	0%
<i>Very dissatisfied</i>	4%	0%
<i>Not applicable</i>	4%	29%
<i>Please indicate your level of satisfaction with email conversations with EQB Staff</i>		
	RGUs	Project Proposers
<i>Very satisfied</i>	37%	21%
<i>Somewhat satisfied</i>	36%	14%
<i>Neutral</i>	9%	21%
<i>Somewhat dissatisfied</i>	0%	0%
<i>Very dissatisfied</i>	3%	0%
<i>Not applicable</i>	15%	43%

The EQB also supports citizen participation in the Environmental Review Program. Most of citizens that responded reported using EQB resources in the past (83%). The EQB website, and guidance documents on the EAW and EIS processes, were the most commonly used resources (Table 10). Citizens who indicated using EQB resources also reported high rates of satisfaction with the support provided directly to them by EQB staff (Table 11).

Table 10: Citizen Use of EQB Resources	
<i>Which EQB resources have you utilized in the past? (Select all the apply)</i>	
<i>EQB Website</i>	59%
<i>Specific guidance documents on the Environmental Assessment Worksheet Process</i>	46%
<i>Specific guidance documents on the Environmental Impact Statement Process</i>	37%
<i>Specific guidance documents on the Alternative Urban Areawide Review Process</i>	9%
<i>Specific guidance documents on the Citizen Petition Process</i>	17%
<i>Watched the Environmental Review Overview Guidance Video</i>	8%
<i>Watched the EAW Guidance Video</i>	7%
<i>Watched the Citizen Petition Guidance Video</i>	4%
<i>Called or Emailed Environmental Review staff at the EQB</i>	25%
<i>I have not utilized any EQB resources</i>	0%

Table 11: Citizen satisfaction with EQB Staff Support	
<i>EQB staff were responsive and punctual</i>	
<i>Very satisfied</i>	53%
<i>Somewhat satisfied</i>	29%
<i>Neutral</i>	12%
<i>Somewhat dissatisfied</i>	6%
<i>Very dissatisfied</i>	0%
<i>EQB staff were courteous and professional</i>	
<i>Very satisfied</i>	70%
<i>Somewhat satisfied</i>	18%
<i>Neutral</i>	6%
<i>Somewhat dissatisfied</i>	6%
<i>Very dissatisfied</i>	0%
<i>EQB staff were knowledgeable on the topic</i>	
<i>Very satisfied</i>	47%
<i>Somewhat satisfied</i>	35%
<i>Neutral</i>	12%
<i>Somewhat dissatisfied</i>	0%
<i>Very dissatisfied</i>	6%

2018 Environmental Review Highlights

The following provide brief overviews of the kinds of environmental review documents noticed in 2018:

Melrose CSAH 13 Bridge Relocation and Sauk River Realignment EAW

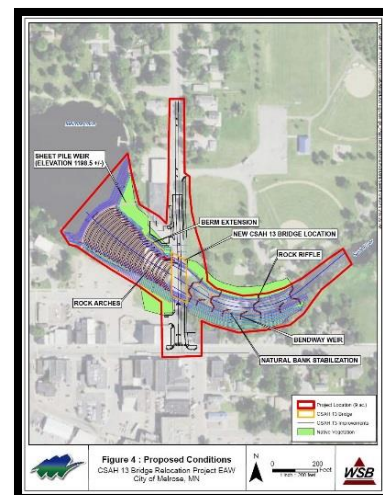
RGU: City of Melrose

Mandatory Category: 4410.4300 subp. 26 Stream diversion

Location: City of Melrose

Environmental Issues of Concern: Removal of the Sauk River dam and relocation of County State Aid Highway (CSAH) 13 bridge which includes stream realignment, installation of rock arches and bendway weirs, shoreline grading and stabilization, and new bridge construction. Total project linear length is 1,150 feet of impact to stream and 680 feet impact to CSAH 13 roadway.

Beneficial Outcomes: The project will result in a functional bridge crossing, restored stream function and environmental benefits such as reduced erosion and sedimentation, and increased visual appeal of a natural feature located in an urban setting. Fish and wildlife will benefit from a newly constructed wildlife passage bench under the new bridge and travel capabilities between Melrose Lake and the Sauk River. This will also allow for paddler recreation connectivity. These benefits were addressed in the initial project design.



Melrose CSAH 13 Bridge Relocation and Sauk River Realignment proposed conditions. Source: WSB

Anderson/Helmin Gravel Pit EAW

RGU: Benton County

Mandatory Category: 4410.4300 subp.

12B Non-metallic mineral mining

Location: Glendorado Township, Benton County

Environmental Issues of Concern: The expansion of a 39-acre aggregate mining operation into a 90-acre operation, incorporating mostly farmed land with 8 acres of trees. Noise, increase truck hauling, and the typical gravel operation concerns exist.

Beneficial Outcomes: Required permits (NPDES and Interim Use Permit) will incorporate needed conditions to address noise, hauling, erosion and sediment pollution, and restoration requirements.



Anderson/Helmin Gravel Pit custom soil resource report for the current and proposed expansion site. Source: NRCS

Gateway Mixed-Use Development EAW

RGU: City of Minneapolis

Mandatory Category: 4410.4300, subp. 32 Mixed residential and industrial-commercial projects

Location: City of Minneapolis, Hennepin County

Environmental Issues of Concern: A redevelopment of existing surface parking lot and bus shelter with some site contamination identified in a Phase II Environmental Site Investigation. Traffic changes will occur due to the project.

Beneficial Outcomes: The proposed project anticipated either of two scenarios which were both evaluated in the EAW and provided the information necessary to select the correct design and move forward with the approval processes.



Gateway Mixed-Use Development concept design. Source: Smallwood, Reynolds, Stewart & Associates, Inc.

Moorhead East Growth Area AUAR

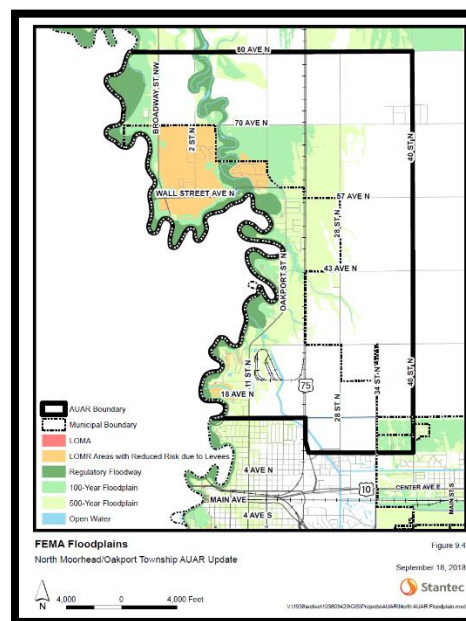
RGU: City of Moorhead

Mandatory Category: Not mandatory – RGU initiated

Location: City of Moorhead, Clay County

Environmental Issues of Concern: Over the past decade, the City of Moorhead has experienced an increase in development activity that has led to the need to plan for future growth. The City of Moorhead recognized the need for more detailed land use planning that would facilitate the development of multiple parcels in a cohesive manner and ensure that the public infrastructure needed to support development is planned appropriately. This AUAR is being prepared to evaluate the potential future growth and its associated impacts on a cumulative basis rather than on a piecemeal basis as individual projects require or conduct environmental reviews. The total area reviewed was 10,253.19 acres.

Beneficial Outcomes: The AUAR reviewed two scenarios: no further build and maximum development. The review identified areas of potential impact due to flooding of the Red River and identified locations, mitigation measures, and regulation requirements for these areas. The review also identified and addressed differences between the city's Growth Area Plan and the Comprehensive Plan. The AUAR incorporated comments from the MPCA to include the Watershed Restoration and Protection Strategy (WRAP) which identifies restoration strategies that developers should utilize with any construction projects. In addition, the limited water supply system was acknowledged and will require upgrades for any anticipated water demands for the built-out scenario. Finally, as a result of a comment from the DNR, the AUAR addressed the Fargo-Moorhead Diversion Project which is a "reasonably foreseeable project that may interact with the environmental effects of the" growth area.



Moorhead East Growth Area AUAR FEMA floodplain map. Source: Stantec

Northern Metals, LLC – Becker EAW

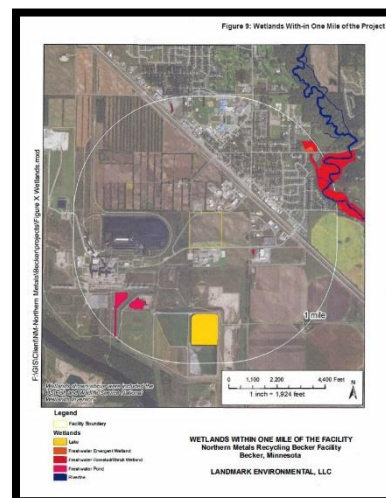
RGU: Minnesota Pollution Control Agency (MPCA)

Mandatory Category: Not mandatory – proposer initiated

Location: City of Becker, Sherburne County

Environmental Issues of Concern: Northern Metals proposed a scrap metal recycling center in the general industrial area in the City of Becker. The Project consists of an enclosed metal shredder, an enclosed metal recovery plant, an end of life vehicle process, and a Community Recycling Center (CRC). The issues of concern include air quality and waste management.

Beneficial Outcomes: Following the comment period, the company elected to make a major change in its proposed project by moving the whole operation from its original site to a different site within the industrial site. During the comment period for the environmental assessment worksheet (EAW) a neighboring company expressed concerns about the proposed location and impacts it might have on its operation from dust. The EAW was updated to reflect the new location and re-noticed for comment.



Northern Metals, LLC – Becker EAW wetlands within 1-mile of the facility. Source: Landmark Environmental, LLC

Huntley to Wilmarth 345 kV Transmission Line Project EIS

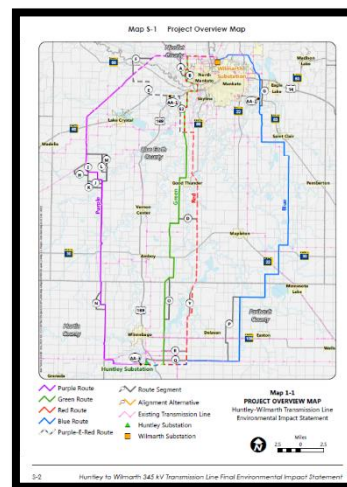
RGU: Public Utilities Commission (environmental review is conducted by the MN Department of Commerce on behalf of the PUC)

Mandatory Category:

Location: Nicollet, Blue Earth, Faribault, and Martin Counties (From cities of Huntley to Mankato)

Environmental Issues of Concern: Potential impacts to planned land use and development in the cities of Mankato and North Mankato as well as impacts to agriculture along the routes. There are potential aesthetic impacts and concerns with trees and forest vegetation associated with project construction and maintenance.

Beneficial Outcomes: The EIS scoping process enlarged the number of routing options for the project. The project was proposed with four possible routes and six route segment alternatives. The routes were analyzed in the EIS with five possible routes and nineteen route segment alternatives. The scoping process clarified the types and extent of natural resources at a proposed crossing of the Watonwan River. It also revealed the extent of Waterfowl Production Areas managed by the U.S. Fish and Wildlife Service in the project area and potential impacts to this habitat and to waterfowl. The EIS clarified the extent to which agricultural impacts could be mitigated by the choice of transmission line structure, configuration, and placement. Comments on the draft EIS revealed that some routing options were not permissible by the U.S. Fish and Wildlife Service and identified the need for a vegetation management plan for a possible crossing through a state park.



Huntley-Wilmarth Transmission Line EIS project overview map. Source: Minnesota Department of Commerce