

EQB Advisory Panel

Meeting Summary

July 17, 2017

9:00 am - 12:00 pm

Minnesota Pollution Control Agency

General MAD observations

- Panel members offered a mix of things that are working well and things that can be improved, with a tilt to what can be improved.
- Most comments were at the state and federal level; after prodding more discussion about the local level.
- No one said nothing needs to change and that ER is a perfect process but panel members disagreed about the level and extent of change necessary.
- Some panel members suggested it should be easier to substitute the work of one process into the other and not just the information.
- The panel had some discussion around definitions, such as “the public,” “as necessary.”
- Some of the panel members’ comments seemed to be more about good communication by EQB and other state agencies and transparency of the process and the purpose of the process than the rules or tools themselves.
 - For instance, there might be the perception among proposers that data they collect is not used by that state while the DNR says it is actually using it.
- Multiple panel members made comments about public engagement in the early stages of planning, before details of the project are decided, such as routing of pipelines or transportation lines.

Project types that came up during the discussion

- Mining, pipelines, stream diversion, light rail, energy, feedlots.
- Some examples around project types included:
 - For light rail project, every decision point is transparent as is the data. Feds require that alternative analysis include public input; this is not true at the state level (e.g. for the pipeline).
 - Energy: companies decide pipeline route and then go to through public process. The process could be flipped to be more like LRT.

Use of Info for ER and Permitting

- ER requires information not needed for permitting at all (all other categories)
 - True for all categories
 - Ability to scope an EAW
- Not arguing for an exemption but certain types should not be a mandatory category if already a lot of permitting (related to previous bullet)

- If impacts of a type of project are understood, does EQB need to make a company duplicate research/assessment?

Tools Discussion

- Expand tools:
 - Local ordinances/efforts that create information – can they be used by the state?
 - Can this substitute the ER process?
- Exemption (off-ramp) by rule: if local RGU has done something (e.g., public input; mitigation project selected by Engineering Corps; wetland management plan at local level), then...
 - EAW not needed/threshold changed
 - Let local governments decide to skip ER
 - But what are the criteria for that?
- Off-ramp on resource-base rather than project type
- Need more time to discuss this topic
- Has the EQB engaged the general public on this? Could poll people who commented on RGU work
 - They do have a chance to comment on permits now.
- Document existing public engagement innovations, like hearings on tribal lands discussed earlier
- Public doesn't know how to engage: the structure of meetings can deter them from participation (e.g., the court reporter). Too prescriptive or not enough structure?
- Public comment is different than public engagement. The public needs dialogue or they won't feel like it was a true process.
- RGUs and proposers who are experienced get more out of the review process; the public is more satisfied. Train RGUs and proposers – enhance guidance documents and training.
 - Some RGUs don't have the resources to do it well. Don't know what we don't know.
 - RGUs like giving controversial projects to the state.
 - But local RGUs have to trust/understand the state EIS or they may not use it fully
- Areas without aggregate resources: locals can struggle.
 - Counties can say we want to waive EAW, could be industry specific.
- Look combining/coordinating state/local environmental review. Can do rule change.
- Off-ramps: where county aggregate, demonstrate that it meets requirements so they don't have to do the full process.
 - Concern with discretionary off-ramps: they may not be used. Proposer may try to convince the RGU to off-ramp, but there are legal and time and cost risks. EAW more known, so even if have discretionary off-ramps, may not be used.
- The public expects ER to say yes/no but it doesn't. The RGU makes the decision.
- Like local RGU being able to scope to local needs, pass on to state/feds. Use the info they get back.
- Applicants see ER as a minefield. Some see it as a way to stop the project. It should be a meaningful process of engagement for a project.
- If aggregate area, know the impacts, why do we need to go through the process? Tolls are made to be efficient, not to help the environment (?)
- Could have generic EIS that lays out mitigation like AUAR. Lay out how can do it, rely on EIS. If it does a good enough job to satisfy ER.

Other Comments

- EQB: look at how other states do it.
- Correct the mining jobs numbers from the last meeting minutes
- Plan scaled ER? If use plans as off-ramps. Look at models like California?
- Off-ramp doesn't mean doing less ER; just make sure it doesn't stack up. But if do county wetland plan, this can help RGU make decisions.

Public Comments

- Commenter #1 (Ron H., Red River Watershed Management): reduce redundancy, increase efficiency, increase transparency. Value to resource decision making. Concern current rules are 20+ years old. Don't match expanded permits. Not provided what intended because permit supplanted some of ER. Like the discussion of 401, 404, local plans. Lots of public engagement. Don't want off-ramps to replace elimination or reduction of thresholds on mandatory categories. Remember there's always discretion. This group does not give enough public transparency/input. At the last meeting, the environment enhancement – what does that mean? Agency expertise may have bias; have technical people come together on methodologies. Don't lessen external expertise.
- Commenter #2 (Bob, Soudan): Commerce says the GNP of Minnesota is \$335 billion, and mining is \$2 billion of that. DEED says MN has 3 million jobs, and mining/logging has ~6,000. Don't think they can claim mining is key part of the state economy.
- Commenter #3 (Kristin): Interested in relationship between permitting/planning/ER. Encourage to keep exploring right relationship. Interested in state-local joint review – locals may need technical assistance. Tie to resources? What are barriers to public input at the design level?
 - There are very innovative mapping tools that are underutilized during ER. Can use to bring together expertise and make it public.