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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

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**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

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The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.



### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

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**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

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### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
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These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.



## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

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**Discussion:**

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**Significant Issues:**

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**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
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- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.



Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

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**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

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### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
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These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

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## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
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### **Issue before the Board:**

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### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

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**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

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**Significant Issues:**

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**Staff Recommendation:**

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**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
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1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related



to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

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**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
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- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
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- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
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The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
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### **Staff Recommendation:**

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**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
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### **Issue before the Board:**

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## **IX. Adjourn**





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November 18, 2010

**Meeting Location: MPCA Board Room**  
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TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

---

**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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



**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

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Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

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**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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**General**

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Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

---

**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.



## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
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### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

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**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

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**Staff Recommendation:**

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**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

---

**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.



**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

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**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

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**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

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Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related



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## **IX. Adjourn**



658 Cedar Street  
Room 300  
St. Paul, MN 55155

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Fax (651)296-3698  
TTY: (800)627-3529  
[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

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**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

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Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

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TO: EQB Members

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**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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



**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

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**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

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- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.



## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

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**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
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The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
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These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

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Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.



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These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

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**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

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**Significant Issues:**

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**Staff Recommendation:**

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**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

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1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
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The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.



**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

---

**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
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The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

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### **Staff Recommendation:**

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**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
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**Discussion:**

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**Significant Issues:**

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**





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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

---

**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

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**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

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The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

---

**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.



### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.

Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
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### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

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**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback

**Significant Issues:**

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**Staff Recommendation:**

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**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback.

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

**VIII. Presentation of the DNR Groundwater Technical Workgroup Report – Informational Item**

**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**



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[www.eqb.state.mn.us](http://www.eqb.state.mn.us)

November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
**November 18, 2010 Board Meeting**

---

**General**

This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The meeting will begin at 9:00 a.m. Staff will be available for briefing and questions at 8:30 a.m.

**I. \*Adoption of Consent Agenda**

- Proposed Agenda for **November 18, 2010** meeting
- Minutes for **September 16, 2010** meeting

**II. Chair's Report**

**III. Executive Director's Report**

**IV. Legal Counsel's Report**

**V. EQB Citizens Committee Chair's Report**

A committee composed of the five EQB citizen members was formed at the direction of Chair Hugoson to study and make recommendations on the future activities of the EQB. Three facilitated meetings were held between May and September 2010, which included committee members, EQB technical representatives, and EQB staff. Committee chair Jonathan Bloomberg will brief the board on the committee's progress and coming report.

**VI. Authorization to initiate the formal rulemaking process to amend the Environmental Review program rules to add a mandatory EAW category applicable to greenhouse gas emissions – Action Item**

**Presenters:** Gregg Downing, EQB staff (651-201-2476)  
Jon Larsen, EQB staff (651-201-2477)

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

**Materials Enclosed:**

1. Briefing memo
2. Sample resolution authorizing rulemaking
3. Staff draft of proposed rule amendments
4. Staff draft of Statement of Need and Reasonableness (SONAR)
5. Request for Comments and copies of comments received in response

**Issue before the Board:**

The staff requests authorization to begin the formal rulemaking process to amend the mandatory EAW category for air pollutants to establish a specific threshold number (100,000 tons per year) to apply to greenhouse gas (GHG) emissions. Unless such an amendment is adopted, the existing threshold of 250 tons per year may apply to GHGs due to changes in U.S. EPA regulations that take effect in January 2011. This may force the MPCA to prepare EAWs on perhaps hundreds of relatively small projects that would not otherwise be subject to review.

A staff draft of the proposed amendment and of the supporting document, the Statement of Need and Reasonableness, are included in the packet. The amendment would establish an EAW threshold for greenhouse gas emissions at a more appropriate, higher level. The level proposed is 100,000 tons per year of carbon dioxide equivalents, which corresponds to the primary permitting level established by new EPA regulations.

A sample resolution using standard “boilerplate” language for the authorization of rulemaking is provided. By authorizing rulemaking, the Board is not committing itself to adopting the amendment proposed, but merely to initiate the formal rulemaking process under state law. Up until the time the Board actually adopts final rules the Board may withdraw the amendment, or may modify the amendments prior to adoption (within certain limits). The staff proposes to use the “dual notice” process for rulemaking; in that process a hearing before an Administrative Law Judge is scheduled and noticed but the notice also indicates that the hearing will be cancelled unless at least 25 people submit a written request to hold the hearing.

**Background:**

The need for this rulemaking need is described in detail in the Briefing Memo in the packet. In simplest terms, the need arises from the fact that “air pollutant” is not defined in the EQB’s rules, and developments in the application of the federal Clean Air Act to GHGs that begin to go into effect in January 2011 raise the question of whether GHGs should be considered air pollutants and thus subject to the existing EAW threshold of 250 tons per year. The problem with this is that numerous small projects would exceed the 250 ton threshold, due merely to carbon dioxide emissions from furnaces and boilers, and the MPCA would be required to prepare EAWs for all of them. This could mean hundreds of additional EAWs required per year, creating a major burden on the MPCA and developers (with little environmental benefit).

To avoid this situation from occurring, the EQB staff is proposing to adopt a separate EAW threshold for GHGs that is much higher and that would apply only to major GHG emission sources, such as power generation facilities and petroleum refineries. The number proposed is 100,000 tons per year of all GHG combined expressed as “carbon dioxide equivalents,” (a standard method used to account for the differences in the warming potentials of the six different GHGs). This threshold corresponds to the primary threshold established in the new EPA regulations at which GHG emission sources will be required to obtain Clean Air Act permits.

### Summary of public comments received in response to the Request for Comments.

A preliminary Request for Comments appeared in the September 20, 2010 issue of the State Register (see notice). During the comment period thirteen comments were received from the following entities:

- Minnesota Asphalt Paving Association and Aggregate & Ready Mix Association
- Centerpoint Energy
- Cliffs Natural Resources, Inc.
- Xcel Energy
- Great River Energy
- Metropolitan Airports Commission
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota Resource Recovery Association
- Minnesota Rural Electric Association
- Pope/Douglas Solid Waste Management
- Rochester Public Utilities
- Southeastern Minnesotans for Environmental Protection

The range of opinions expressed across all comments was quite broad with regard to a number of individual issues raised within the comments (see comment letters). While one group of commenters argued for exclusion/exemption of GHGs from addition to or definition of Air Pollutant as the mandatory category currently exists, other commenters argued equally strongly for inclusion of GHGs. Staff assessment of the positions outlined here is that, while the most sensible course of action is to take the “dual notice” approach to the rulemaking process, the likelihood is that it will be necessary to go through the hearing process to complete the rule amendment.

### **Significant Issues:**

If it is possible to make generalizations at all about the issues addressed across the comments received, the following are noteworthy:

1. Whether commenters took a primary position arguing for or against inclusion of GHGs to this category, they also almost universally endorsed adopting the EPA “tailoring” thresholds of 75,000 tons and 100,000 tons if GHGs are to be added to this EQB environmental review category by this rule amendment. Comments generally cited the EPA process as the appropriate basis for determination of a GHG threshold for the EQB as well, if one is to be chosen; one commenter going to far as to quote the EPA characterization of the need for these thresholds to avoid “absurd results”. Most comments opted for 100,000 tons if only one number is to be chosen.
2. Only one commenter, MCEA, suggested any other threshold number as the basis for requiring an EAW, i.e. 10,000 metric tons; a fraction of the larger EPA number, arguing that the “basis for concern” begins at this much lower level.
3. A number of collateral issues of a lesser nature were raised; distinguishing between fossil-based fuels and other sources; mobile sources vs. stationary sources; accounting for GHG impacts other than fuel or “direct” emissions; and treating GHGs only in conjunction with other air pollutants.

These issues may be dealt with at hearing, but not necessarily result in criteria adopted in rule.

### **Staff Recommendation:**

The staff recommends that the Board adopt the enclosed sample resolution that would authorize the start of formal rulemaking and direct the Chair, Executive Director, and staff to take the necessary logistical steps for the “dual notice” rulemaking process.

## **VII. Adoption of 2010 Minnesota Water Plan – Action Item**

**Presenter:** Princesa VanBuren Hansen, EQB staff (651-201-2478)

### **Materials Enclosed:**

1. Draft *2010 Minnesota Water Plan* (note, appendix materials available on EQB website)
2. Sample resolution adopting draft state water plan
3. Compilation of public comments received

### **Issue before the Board:**

*Minnesota Statutes*, section 103B.151, directs the Environmental Quality Board to coordinate the development of a comprehensive long-range water resources plan for the state every ten years. The board will be asked to consider approval of the draft *2010 Minnesota Water Plan* for this purpose.

### **Background:**

The Environmental Quality Board is charged with coordinating comprehensive long-range water resources planning and policy through a Minnesota Water Plan every ten years. The plan also presents information on the status of the state's water resources. The *2010 Minnesota Water Plan* brings together in a single place the recent work of state water agencies and articulates targeted strategies for the future. While the law requires the EQB to develop a state water plan each decade, and while the plan should guide state activities during the decade, the planning horizon of the plan should be viewed as long term and not limited to a 10-year period.

This plan does not set out to touch on every water issue challenging the state. Rather, the goal is to inform state agency programs that are responsible for addressing the multitude of water topics facing Minnesotans, and to communicate to the Legislature and public the commitment of the agencies to work toward sustainable water management. This document strives to outline the framework that will be implemented in coming years to improve water management and the delivery of water-related information. This report is not all-inclusive, but is designed to help set priorities and inform decision-making. Readers of this report are also encouraged to review the appendices for greater detail on the status of Minnesota's water resources and programs designed to monitor and manage them.

The water plan has three main parts:

- *Reflecting on the Past* summarizes key points from past decadal planning efforts and presents significant issues and events that have influenced our understanding of natural resource priorities.
- *Evaluating the Status Minnesota's Water Resources in the Present* provides an overview of the status of the state's groundwater and surface water resources, as well as monitoring efforts and trends.
- *Charting a Roadmap for the Future – Implementation Principles and Strategies* is the foundation of the water plan, identifying key strategies and principles for achieving the vision of sustainable water resource management.

Planning, reporting and stakeholder involvement activities regarding Minnesota's water resource management needs and challenges contributed to the foundation of this plan. In the last five years alone, coordination and planning efforts at all levels have called on the expertise of hundreds of state professionals and thousands of engaged citizens. The results of these efforts helped provide the ideas for an improved future identified in this plan.



Looking forward, the EQB and its member agencies recognize the need to continue to improve coordination of efforts, adapt programs to new information, and communicate initiatives and successes to the public. The plan identifies nine strategies for guiding water management in the state. In addition, seven principles define how the work of the strategies will be implemented.

### Implementation Principles

The following principles define how state agencies must work together with local and federal partners to ensure effective progress.

1. Optimized coordination – Coordination of efforts must be optimized across local, state and federal entities to maximize the benefits of combined actions.
2. Prioritized resources – Priorities must be set to most effectively target resources and maximize opportunities.
3. Comprehensive land and water management – Sustainable water resources can be achieved when land and water are managed as a holistic system.
4. Adaptive management – Adaptive management must be employed to support informed decision-making while supporting the collection of information to improve future management.
5. Goals and measures – A system to define targets and measure progress must be in place to determine whether water management strategies are achieving desired outcomes.
6. Education and outreach – Effective water resource management efforts must bring together both science education and outreach.
7. Shared, long-term vision – Application of the Minnesota Water Plan vision to achieve sustainable water management can unite people into cooperative action, inspiring them to work together for a common future.

### Strategies

These strategies identify critical activities that state agencies have set out to accomplish in the coming 10 years, and beyond.

1. Increase protection efforts – Groundwater and surface water supplies are protected from depletion and degradation, recognizing that protection is often more feasible and cost effective than restoration.
2. Promote wise and efficient use of water – Water quality degradation and water quantity conflicts are minimized through the promotion of wise and efficient use of water.
3. Restore and enhance local capacity – Recognition and support for local capacity and actions is increased.
4. Employ water resource management units – State-level water resource management activities are improved by defining water resource management units for coordinating a systems approach to management.
5. Collect information necessary for water management decisions – Information necessary to support sustainable water management decisions is collected efficiently and collaboratively.
6. Improve access to environmental data – Decision-makers and the public have ready access to environmental data to support sound management decisions.
7. Provide current implementation tools – Water resource concerns are addressed through the use of an adaptive approach to updating management tools.
8. Employ a targeted approach for protection and restoration – Land management projects are targeted to high risk areas to protect and restore water resources.
9. Apply a systematic approach for emerging threats – A systematic approach is developed for identifying, assessing and responding to emerging threats.

**Discussion:**

The draft report was assembled with the assistance of staff from the Department of Agriculture, the Board of Water and Soil Resources, Department of Health, Metropolitan Council, Department of Natural Resources, and Pollution Control Agency.

The draft report was available for public comment from September 1 to October 1, 2010. The draft report and online submission form were posted on the EQB website and a solicitation for comment was emailed to agency members and other EQB customers. Additionally, the EQB discussed the plan and solicited public comment at its September 16, 2010 board meeting. The EQB received comments from the Minnesota Farm Bureau, the Corn Growers Association, the Clean Water Council and four private citizens. The interagency team considered each public comment received and incorporated edits to improve the final report based on that feedback

**Significant Issues:**

The staff does not believe that significant issues remain regarding the draft final report. An extensive agency and public review period provided thoughtful comments that significantly improved the final report. Public comments that were not able to be addressed during the editing process were largely because they were beyond the scope of the state water plan, but should be considered in future agency water planning efforts.

**Staff Recommendation:**

The EQB staff recommends approval of the draft report and submission to the Governor and Legislature after incorporation of any needed changes and publication.

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**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

**Materials Enclosed:**

1. *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*

**Background:**

In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

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## **IX. Adjourn**



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November 18, 2010

**Meeting Location: MPCA Board Room**  
**St. Paul, Minnesota**

TO: EQB Members

RE: **ANNOTATED AGENDA FOR**  
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**Discussion:**

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**Presenter:** Dr. Jeannette Leete, Department of Natural Resources (651-259-5687)

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In 2008 the Environmental Quality Board established an interagency working group to consider water availability issues in Minnesota, devising a broader framework in which the state might evaluate current and future water uses. The EQB adopted its report, *Managing for Water Sustainability: A Report of the EQB Water Availability Project*, on November 20, 2008. Also at this meeting, the EQB directed the DNR to help begin to implement some of the board's recommendations by taking the lead to evaluate models and tools to assess water availability and sustainability.

Over the past 20 months, DNR staff, in coordination with EQB staff, engaged a team of expert hydrologists to evaluate models and tools needed for managing groundwater sustainably. This Groundwater Technical Workgroup prepared a report, *Evaluation of Models and Tools for Assessing Groundwater Availability and Sustainability: Priorities for Investment*, the next step in the state's ongoing dedication to advancing water management.

Dr. Leete will provide the EQB with an overview of the report findings and recommendations for investments. The information in the report needs to be utilized for water supply planning at the local level to be effective long-term. Additionally, there is need for an education and outreach effort and an ongoing consortium that can provide quality technical assistance and interpretation in utilizing the report and its tenets effectively. DNR staff encourage the EQB to consider the report when evaluating next steps related

to the state water plan, the University framework and other water reports. Formalization of an implementation plan for practical application and use of the report can help to move decision-makers toward sustainable use and protection of the state's aquifers.

## **IX. Adjourn**