

Commissioner David Frederickson, Chairman
Minnesota Environmental Quality Board
520 Lafayette Road North
Saint Paul, MN 55155

October 17, 2018

Dear Commissioner Frederickson,

The undersigned organizations write to express their concerns with serious deficiencies we find in the recommendations contained in the Environmental Review Advisory Panel's (ERAP) report to the Environmental Quality Board (EQB) and to recommend a reasonable remedy.

We make the following requests:

- 1) that the current ERAP report recommendations be indefinitely shelved pending a more diverse and public interested citizen process evaluating the status of environmental review in Minnesota;
- 2) that the EQB form a standing citizen advisory panel and provide that citizen panel with the resources and staff support to evaluate environmental review; and
- 3) that the EQB make a clear commitment to take leadership and fulfill its legal and ethical responsibility to insist on rigorous environmental review and environmental protection.

The EQB formed this advisory panel to review Minnesota's environmental review program and to recommend ways to "modernize and improve the program's effectiveness and efficiency." The Panel was specifically requested to address climate change, mandatory categories, health impact assessment, alternative forms of review, and environmental justice issues.

We applaud the EQB's initiative to assemble an advisory panel on this important topic. All points of view should be taken into account when conducting a performance evaluation on MEPA (Minnesota Environmental Policy Act). But this group was composed primarily of industry and agency representatives and their usual consultants, and included only a few citizen voices.

We challenge the assumption that such a group could fairly align behind recommendations for "improving the process of environmental review" when the group was never asked to be commonly grounded in the realities of today's scientifically-verifiable environmental challenges. Instead, many panel representatives approached the work of "streamlining" through the lens of the industries and the clients they represent. As a result, the panel did not arrive at recommendations that satisfactorily address today's most pressing environmental, climate and human health concerns.

Our experience with this and previous EQB efforts to “streamline” environmental review (in 2009 and again in 2011) demonstrate that, without a common grounding in scientific realities, reaching consensus between such widely divergent interests is frustrating and largely unproductive. Recommendations flowing from such efforts nearly always suggest major compromises in the process that reduce levels of project scrutiny, apply less scientific rigor or offer other measures that run contrary to those needed to achieve the most important goals in MEPA. We assert that there can only be one paramount interest intended to be served by the MEPA process; that being the broader, long-term public interest for restoring and preserving a healthy livable planet for many generations to come.

We contend that such compromises derived in this manner are unlikely to serve and may actually threaten the achievement of these broader public interests. A poorly drafted Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS) that is forced to compromise on identifying a project’s real impacts or fails to point clear alternative paths toward the more livable planet anticipated in MEPA has potential for doing more harm than good. This is true because weak or shallow environmental review documents that lack scientific rigor can actually be used to justify very unwise decisions.

For example, the ERAP’s emphasis on simply using better bookkeeping methods for a proposed project’s greenhouse gas emissions falls short of MEPA goals unless it is coupled with serious examination of sound energy alternatives, rational carbon sequestration budgets and adequate mitigation and adaptation measures that are commensurate with the known scale and immediacy of the issue.

The disparate debates among panel members disclosed in the report on what environmental review should or should not accomplish on the climate change issue is alarming. The report correctly states that environmental review documents are supposed to guide governmental units on ways to avoid or minimize adverse environmental effects as well as ways to restore and enhance environmental quality. Yet some panel members were allowed to regularly block consensus on such measures by insisting that environmental review was only to “gather information” rather than describe effective alternative solutions to urgent problems like climate change and human health impacts.

The ERAP report demonstrates what the several panels before it have proven, that deliberations among such diverse interests are unlikely to arrive at useful recommendations unless panel members, as a prerequisite, are committed to the long-term public-interest goal of a livable planet rather than to the advancement of special interests. To do this, a recognizable, science-based frame of reference regarding the planet’s current environmental and climate condition should have been established for the panel by experts in their field.

One does not have to research much further than the evening news or daily newspapers to find strong evidence that environmental review is underperforming insofar as achieving goals of “harmony between humans and the natural environment.” Climate change related extreme droughts, floods and forest fires, growing pollinator extinctions,

increased groundwater depletion and contamination, Lake Superior algae blooms and increased incidents of childhood asthma, just to mention just a few, are shocking to the sensibilities for anyone paying attention.

Yet this panel, acting without having first been grounded in a prerequisite common frame of reference on the current condition of the climate, the state's ecosystems and human health focused much of its efforts exploring myriad ways to offer exemptions, exceptions and alternatives to the "hard look" scrutiny of conventional EAW's and EIS's. This would suggest that the panel had somehow reached an unspoken consensus that environmental review was actually over-performing at its job of restoring and preserving a livable planet. Let us assure you, it is not.

In fact, even our conventional environmental review documents tend to present rather simplistic and reductive cataloguing of individual types of impacts, rather than a holistic, systems level analysis. There is much room for improvement, modernization, if you will.

The panel's report misses other opportunities to improve the process in nearly all of the key categories it was assigned to study including:

- **Mandatory Categories** – where additional categories may be needed to curb the downward trends in human health, natural capital (ecosystem health) and climate;
- **Health Impact Assessment** – where expert advice from medical professionals and state health officials for Health Impact Assessments was rejected;
- **Alternative forms of review** – where the panel focused on substitute reviews or ways to justify exceptions to review rather than emphasizing specific ways for agencies to assist Responsible Government Units (RGUs) with difficult issues beyond their capabilities in order to "streamline" the review process while maintaining its efficacy;
- **Environmental Justice** – where the panel failed to address the issue at all and;
- **Public Participation** – where the report recommends "best public participation practices" generally but fails to acknowledge the excellent and more specific "best civic engagement practices" already recommended to the EQB by the Human Rights Department this past year.

On this last point, we wish to emphasize here that both Federal and State environmental review processes, (under both NEPA and MEPA) are also intended to be a very transparent process offering exceptional opportunities for citizens to be educated about proposed projects and to meaningfully participate in the decision-making process. In fact, after several decades of experience under the National Environmental Policy Act (NEPA) it was the President's Council on Environmental Quality who concluded that the NEPA environmental review process was the most powerful tool citizens had to hold their government accountable for preserving, restoring and protecting public health and essential ecosystems.

We also concur with EQB staff's observation that while the panel membership reflected a wide range of perspectives, *many* voices were not at the table and there is a *large, unmet demand* for broader, ongoing participation in this discussion. **We contend that if environmental review is to resume its function as citizen's most powerful tool for achieving MEPA goals, it should be citizens themselves that conduct these regular performance evaluations on the program.**

Our Recommendation: A Standing Citizen Panel for Review of MEPA process

To do this, we call on the EQB to form a standing citizen advisory panel to conduct these periodic performance evaluations of the MEPA process. This should not be a panel of "stakeholders" paid to serve private financial interests, but a diverse collection of citizens dedicated to serve the public interest. And that this standing panel has at its disposal an independent panel of experts in such critical fields of ecology, climate change, health impacts, civic engagement, and environmental justice to ground the panels' work in evidence-based environmental, health and social sciences.

We would respectfully request that the ERAP report's other proposals be shelved indefinitely until a more diverse and public interested process is allowed to evaluate environmental review, based on science and the legal and ethical purpose of environmental review. We have experimented long enough with the failed model of eminence-based (as opposed to evidence-based) advice from "stakeholder" panels. It is now time for the Environmental Quality Board to seek evidence-based advice from a well-informed and independent panel of citizens whose long term and demonstrated interests are the health of the planet and their fellow citizens on it.

We offer the assistance of experienced individuals in our memberships to seek out and recruit well-informed, civic-minded people with the credentials and resources to perform these vital functions.

Signed:

Center for Biological Diversity	Minnesota Native Plant Society
Clean Water Action Minnesota	Minnesota Ornithologists Union
Land Stewardship Project	Northeastern Minnesotans for Wilderness
Friends of MN Scientific & Natural Areas	Pollinator Friendly Alliance
Honor the Earth	Renewing the Countryside
Izaak Walton League – Minnesota Division	Save Our Sky Blue Waters
Mankato Area Environmentalists	WaterLegacy
Minnesota Interfaith Power and Light	Wilderness in the City

cc: Governor Mark Dayton
Members of the EQB
Will Seuffert, Executive Director, EQB