

April 9th, 2021

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Minnesota Environmental Quality Board
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RE: Comments on Draft Recommendations to Integrate Climate Information into MEPA Program Requirements

Dear Ms. Wilson,

Thank you for this opportunity to comment into the Environmental Review (ER) program's proposed changes to incorporate GHG emissions thresholds and assess climate effects. Community Members for Environmental Justice (CMEJ) is a community-based organization, committed to addressing the environmental injustices occurring disproportionately in pollution-burdened neighborhoods. Many of our concerned residents and families live or work in areas of the Twin Cities heavily impacted by the legacy of fossil fuel pollution in the state.

CMEJ is located in North Minneapolis, an environmental justice (EJ) community - a low-income community of color with multiple sources of industrial pollution generating a legacy of environmental health issues. This disproportionate burden of air, soil, and water pollution in this area has been well documented across departments and jurisdictions including by the Minneapolis Health Department, Minnesota Pollution Control Agency, University of Minnesota, Minnesota Department of Health, and the federal Environmental Protection Agency. The area is an environmental justice neighborhood, as acknowledged by the City of Minneapolis' Green Zones policy, comprehensive plan, and the MPCA's environmental justice screening methodology.

It is clear that climate change effects will not be experienced equally by communities, and that legacy pollution exacerbates impacts. Living near toxic waste dumps, freeways and other sources of exposures that are harmful to health is highly correlated with race as well as socioeconomic status. A 2014 University of Minnesota Study showed people of color are exposed to nearly 40 percent more polluted air than whites, and Minnesota is among the top 15 states in the nation with the largest exposure gaps between people of color and whites.¹ Furthermore, some of the most severe climate change-related weather disasters in the U.S. have had a disproportionate impact on low-income communities. Already vulnerable communities pose a unique challenge for mitigating climate change. For this reason, the federal government's Council on Environmental Quality had established as one of its climate adaptation national goals to "(p)rioritize the most vulnerable: adaptation plans should prioritize helping people,

¹ 2 LP Clark, DB Millet, JD Marshall, "National patterns in environmental injustice and inequality: outdoor NO₂ air pollution in the United States," PLOS One, 9(4), e94431, (2014).

places and infrastructure that are most vulnerable to climate impacts and be designed and implemented with meaningful involvement from all parts of society”.²

Given this disproportionate burden of climate change on environmental justice communities, CMEJ is in strong support of state-level programs regulating GHGs and the inclusion of climate information and mitigation within the Environmental Review Process. However, the proposed thresholds, engagement strategy and accountability measures on mitigation must be made stronger to fully protect those most vulnerable in our state. Our recommendations are as follows:

- 1. Establish a robust EJ Engagement Strategy for all Environmental Review processes and proposed rule changes, such as this climate change proposed addition.** We are troubled by the loose language by the EQB around engagement of environmental justice communities. Environmental Review is a critical tool for community accountability and understanding of larger infrastructure and high impact projects. The EQB’s framing of “meaningful engagement” as something that “happens when all participants have the chance to feel heard and understand the basis for decisions, even if they would prefer a different outcome, (pg 5)” is inadequate. Feeling “heard” is not enough. To date, we have not seen a robust EJ community identification and engagement strategy laid out by the EQB in its Environmental Review processes. This is unacceptable given the extreme racial and economic disparities in the state of Minnesota across multiple metrics.

Meaningful engagement first means a definition by the EQB of what an environmental justice community is, a tailored engagement approach to engagement of that impacted geography/population, and EJ communities being given the tools and resources to understand the technical aspects of a project to effectively provide comment and participate. Critically, any meaningful engagement must include outcome, not just process – namely the ability to affect the results positively to the benefit of impacted communities.

Relying on broad surveys and individual spot interviews based on staff’s personal relationships, without a clear articulation of a coherent environmental justice engagement plan, is highly problematic. Bias informs what a “representative sample” of ER participants looks like. What measures are taken to make sure disparately impacted communities, historically marginalized peoples were/are equitably heard from and involved in this process to influence the outcome is important. How were individual interviewees chosen and what measures were taken to ensure fair representation of all Minnesotans, but most importantly representation of those that have been and will be most impacted by climate change? For example, how were transient and unsheltered populations taken into account and involved in the engagement process - how will they be taken into account in the EAW and EIS processes?

- 2. EQB must have a strong definition of Environmental Justice to inform its engagement processes and criteria for EAWs and EISs.** Environmental Justice is the right to a clean, safe, and healthy quality of life for people of all races, incomes, and cultures, including Black, Native, and people of color. Environmental justice emphasizes accountability, democratic practices, remedying the historical impact of environmental racism, just and equitable treatment, and self-determination. How EJ areas are identified for the purpose of analysis should rely on the latest cumulative impacts

² White House Council on Environmental Quality. 2010. Progress Report of the Interagency Climate Change Adaptation Task Force: Recommended Actions in Support of a National Climate Change Adaptation Strategy.

data, as is emerging from the US EPA EJ Screen, MPCA MNRisk modeling, and MDH health disparities data.

3. **Stricter criteria in the revised ER rule for assessing potential climate effects in EJ defined communities.** It is clear that EJ communities are on the frontlines of climate change and will be disproportionately effected. Climate change will not be experienced evenly across Minnesota communities. That said, any assessment of climate effects must take into the account where the proposed project is being conducted and the population being impacted. The EQB should require projects to use tools such as EPA's EJScreen, MPCA's MNRisk cumulative pollution modeling, and MDH health data, along with localized community knowledge in assessing and getting a full picture of these impacts.
4. **Any GHG mitigation plans for projects must have meaningful engagement, transparency, accountability and benefit to communities where projects are located.** It is not enough for a project proposer to have a general plan to mitigate its GHG impacts. Communities where the proposed project is located must benefit from any proposed mitigation, and a project should be able to quantify and demonstrate that community benefit. Too often mitigation plans are negotiated between the state and project developers, with communities most impacted having no say or engagement in terms of what they see as a benefit. Emission reductions/benefit must occur where the pollution impacts are. Offsets and other mitigative measures in other locations are fundamentally unjust, as they inherently increase the pollution burden within an already impacted community. This is particularly the case for overburdened EJ communities, as GHG emissions are not emitted in isolation – they also include other toxic pollutant emissions, adding to the overall cumulative pollution burden.
5. **True Cost Accounting of GHG lifetime emissions with estimations on a yearly basis.** The inventory of emissions should project lifetime emissions with estimations on an annual basis. True Cost Accounting should be standard, including loss of traditional plant medicines and ecological/traditional value as well as the full environmental footprint as determined through life-cycle analysis methods. This would include emissions from extraction, transportation, and raw materials used in project construction. For example, a facility constructed using concrete will account for the emissions from mining, processing, and transportation of concrete. This is important to account for even when it happens outside the State of Minnesota as the climate of the earth as a system will still impact us in Minnesota.
6. **Lower the GHG baseline de Minimus threshold and reduce over time to account for cumulative impact of GHG emissions, best science and 1 degree change by 2050.** It is unclear to us how the 25,000 TY was determined as the threshold. Given we are past the tipping point scientists identified of 350ppm CO2 in the atmosphere, the threshold should be lower (10,000 TY). The threshold of 100,000 tons per year should also decrease every few years to account for the cumulative impacts to the climate as time goes on.
7. **RGU conflict of interests should be resolved.** The RGU or acting authority over the MEPA process for projects needs to not have a vested interested, or a real or perceived conflict of interest. For example, a City government should not be the RGU for its own City project. This is a conflict of interest and should be accounted for in the ER rules.

8. **Anti-racism training by state employees and EQB board members working on Environmental Review should be required.** State employees and others such as board members working on the environmental review process should be required to take annual and ongoing anti-racism development courses. This should be a preventative measure to ensure the full extent of impacts to and input from Black, Native, and people of color are considered when going through rule-making and ER. The full insidiousness of systemic racism will not be addressed if people don't know where and how to look for it in both process and actions.

EQB's authority to conduct comprehensive environmental review is a powerful tool for protecting human health and the environment for all Minnesotans in our state. We look forward to seeing the final revision having a stronger EJ plan and integration.

Sincerely,

Shalini Gupta and Roxxanne O'Brien
On behalf of
Community Members for Environmental Justice (CMEJ)