



Mapping MEPA:

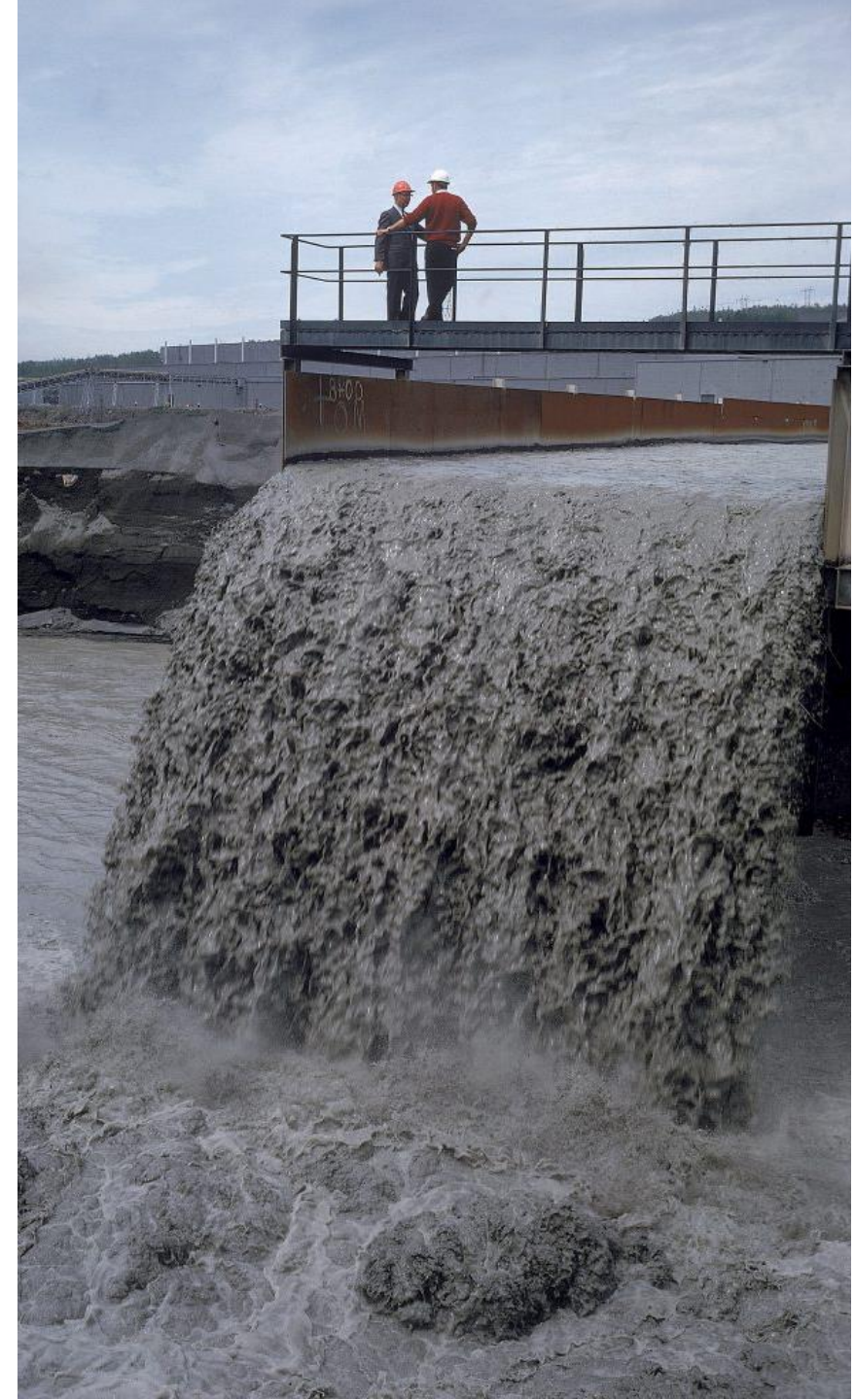
How to Engage in MN Environmental Review

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Minnesota Environmental Policy Act

- Enacted in 1973 with other environmental legislation
- Must study environmental impacts before governmental decisions on certain types of decisions
- Bars state action causing pollution, impairment, or destruction of natural resources as long as there is a feasible and prudent alternative

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Two types of review:

Shorter Environmental Assessment Worksheet (EAW)

- Specific types of projects set out in rule
- Citizen petition establishes potential for significant environmental effects
- RGU determined by rule based on type of project

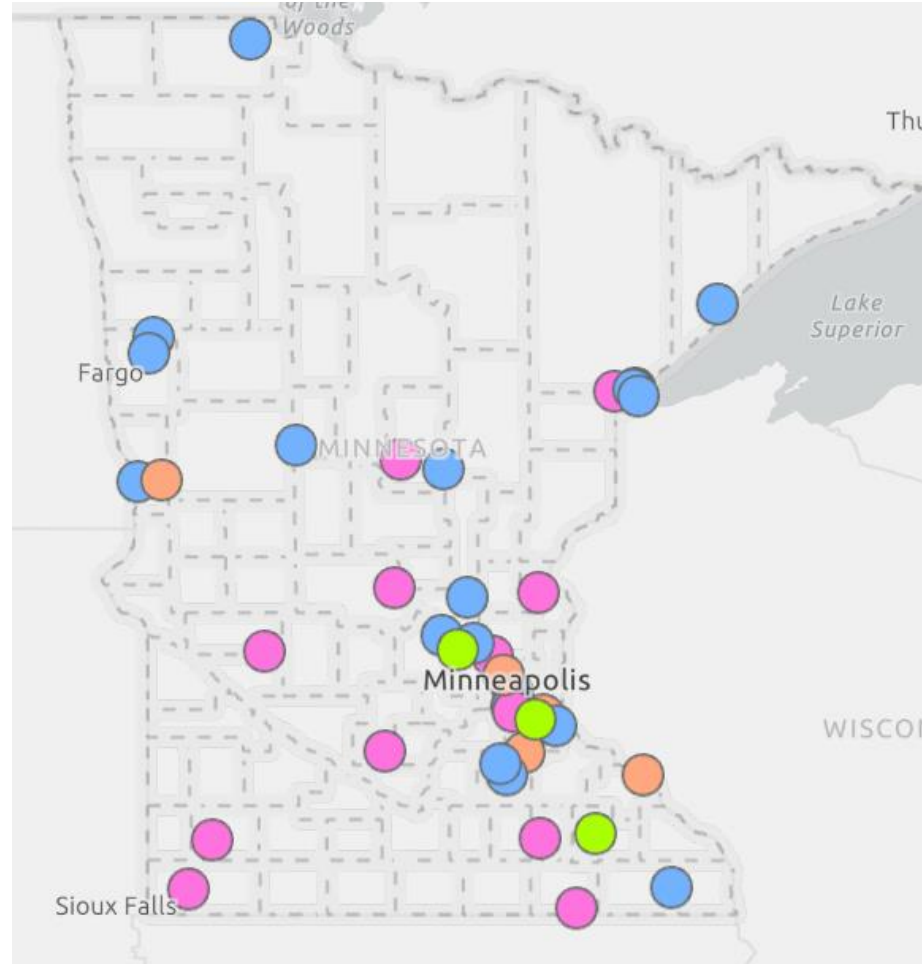
Longer Environmental Impact Statement (EIS)

- Specific types of projects set out in rule
- EAW shows potential for significant environmental effects
- RGU determined by rule based on type of project



Environmental Assessment Worksheet

- **Brief document of basic facts necessary to determine whether an EIS is needed**
- **Based on 13-page form worksheet created by state agency**
- **Public can comment**
- **Agency determines if the project has the potential for significant environmental effects**
- **Much more common than EIS**



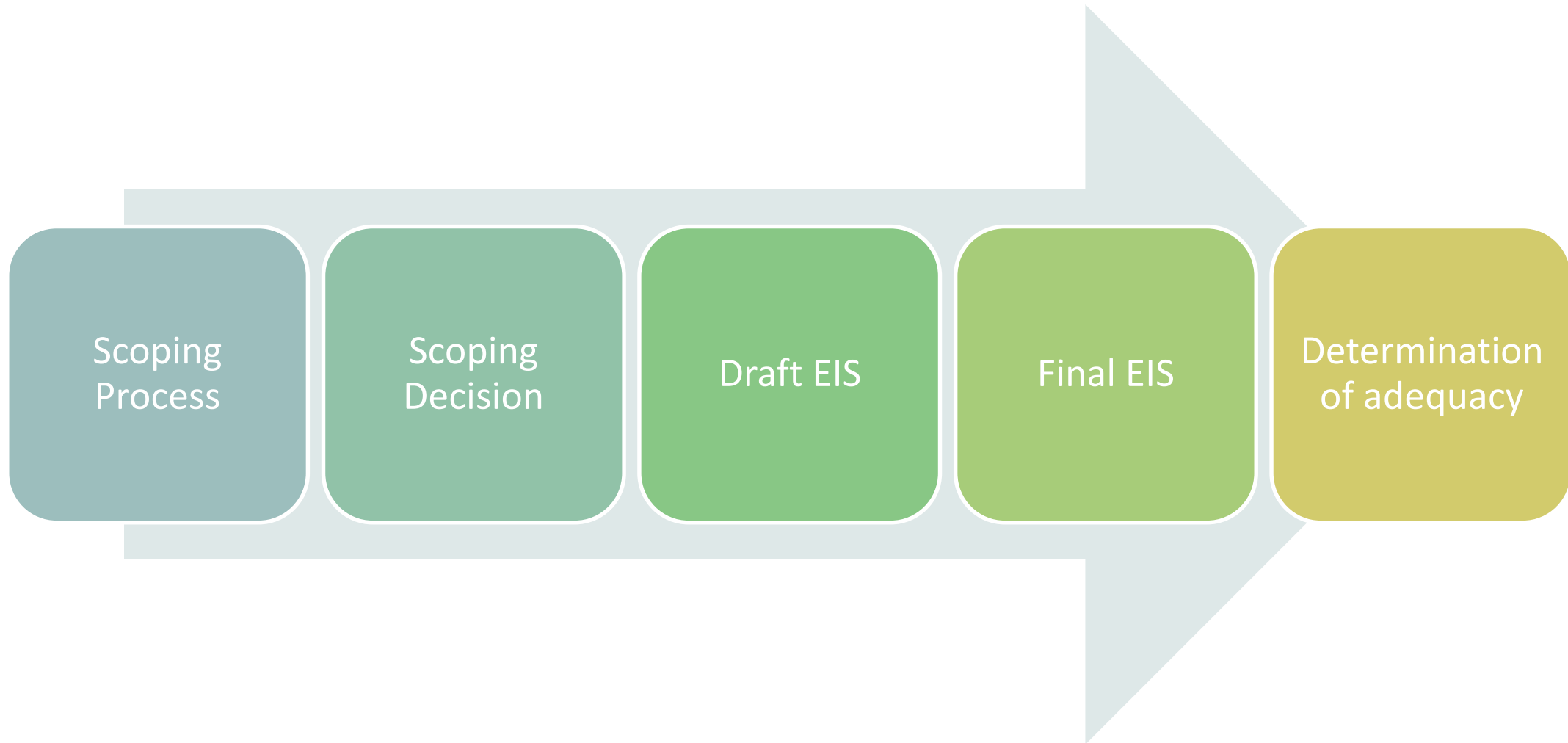


Environmental Impact Statement



- **Gather more in-depth information about environmental impacts**
- **Explore methods for reducing adverse environmental impacts**
- **Consider alternatives to proposed project**

EIS Process





Scoping Process

- **Determines form, content, alternatives, timetable, permits**
- **Project proposer submits an EAW with project information**
- **Agency may ask for more information**
- **Draft Scoping Decision Document**
- **Public comment allowed – 30 days**
- **Scoping Decision**
 - **Issues to be addressed in EIS**
 - **Alternatives**
 - **Potential impact areas and necessary studies**





Draft Environmental Impact Statement



- **Must be prepared in accordance with scope**
- **Agency must notice publicly**
- **Informational meeting – at least one, must be 15 days or more after notice**
- **Comment period – must be held open at least 10 days after informational meeting**
- **Sometimes do more review – Supplemental DEIS**



Final Environmental Impact Statement



- **Must respond to all timely, substantive comments**
- **May make changes to DEIS**
- **Comment period – must be at least 10 days**
- **Agency is not required to respond to comments on FEIS**



Determination of Adequacy

- **Agency determines whether EIS is adequate**
- **Not whether project will negatively affect the environment**
- **At least 10 days after notice of FEIS**
- **FEIS will be determined adequate if it:**
 - **Addresses potentially significant issues and alternatives raised in scoping**
 - **Provides responses to substantive comments concerning issues raised in scoping**
 - **Was prepared in compliance with required procedures under MEPA**





Judicial Review of EIS Decision

- Only after decision on adequacy of EIS
- Brought directly in Court of Appeals
- Deadline: 30 days
- Bond may be required to stop project while on appeal





Is the FEIS adequate?

Limited scope of review

- Doesn't comply with law or proper procedure, unsupported by substantial evidence, arbitrary and capricious

Failure to consider issue raised in scoping

- *In re Enbridge Energy Applications*, 930 N.W.2d 12 (Minn. Ct. App. 2019)

Agency failed to take a “hard look”

- *Citizens Advocating Responsible Development v. Kandiyohi Cty.*, 713 N.W.2d 817 (Minn. 2006)



Public Comment

- **Three comment periods**
 - **Draft Scoping Document: 30 days**
 - **Draft EIS: 25 days**
 - **Final EIS: 10 days**
- **Importance of comment period**
 - **Agency must respond to all substantive comments (except on FEIS)**
 - **Can lead to changes in the project**
 - **May lead to Supplemental DEIS with additional information**
 - **Becomes part of the record for appeal**





How to Submit Comment

Timed from announcement in EQB Monitor

Announcement will explain how to submit (email, website)

No particular format required (letter, memo, informal paragraph)

Include name and contact information



Content of Comment

Not just general opposition or support

- Not “I don’t like this project” or “I don’t trust this project proposer”

Within the scope of environmental review

- Not “Minnesota needs laws that prevent projects like this one”

Cite to authority when possible

- Scientific articles, agency statements, government plans for reducing pollution

Individual connection to the problem

- “I have a well near this project that already has raised levels of nitrate”



Types of comments

Scoping:

- Focus on scope of review, not project
- Environmental effects, time period, geographic area, mitigation measures to be studied
- Alternatives to be analyzed in EIS

DEIS:

- Focus on weaknesses in study of impacts
- Project impacts EIS did not include or didn't fully analyze
- Anything from Scoping Decision not included in EIS

FEIS:

- Focus on finding of adequacy
- Substantive comments not addressed
- Procedures not followed correctly



Questions

