



Minnesota Environmental Quality Board
520 Lafayette Road North
Saint Paul, MN 55155

VIA E-MAIL (cover letter & petition)

October 16, 2018

Nancy Lange
Chair, Public Utilities Commission
121 7th Place E, Suite 350
Saint Paul, MN 55101-2147

RE: Petition for an Environmental Assessment Worksheet for the proposed Nemadji Trails Energy Center

Dear Chairwomen Lange,

The Environmental Quality Board (EQB) received a petition, from Paul C. Blackburn, Honor the Earth; dated October 8, 2018. The petition requested the preparation of an Environmental Assessment Worksheet (EAW) for the Nemadji Trails Energy Center, a 525 MW combined cycle natural gas power plant, proposed to be constructed in Superior, Wisconsin.

Using the criteria listed in Minnesota Rule 4410.1100, EQB staff reviewed the petition and determined that it is complete. Information included in the petition indicated that the Public Utilities Commission (PUC) has approval authority for Minnesota Power's purchase of approximately 250 MW of the capacity from the approximately 525 MW Nemadji Trail Energy Center; a governmental action related to the project (Docket No. E015/AI-17-568). Therefore, according to Minnesota Rule 4410.0500 and 4410.4300, the PUC is the appropriate designated Responsible Governmental Unit to make the decision on the need for an EAW.

Based on a review of the facts that EQB staff were presented in the petition, it is our opinion that Minnesota Statute 116D.01 and Minnesota Rules Chapter 4410 apply to the proposed governmental action being considered by the PUC. Information provided through the Minnesota environmental review process is intended to ensure the potential environmental effects of a proposed project will be assessed and disclosed, prior to Minnesota governmental action.

The requirements for environmental review, including the preparation of an EAW, can be found in Minnesota Rules, chapter 4410. The procedures to be followed in making the EAW decision are set forth in part 4410.1100. Key points in the procedures include:

1. No final governmental approvals may be given to the project named in the petition, nor may construction on the project be started until the need for an EAW has been determined. Project construction includes any activities which directly affect the environment, including preparation of land. If the decision is to prepare an EAW, final governmental approval must be withheld until either a negative declaration on the need for an Environmental Impact Statement (EIS) is issued

or an EIS is determined adequate. See part 4410.3100, subparts 1 and 2 for the prohibitions on final governmental decisions.

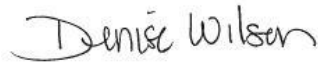
2. To make the decision on the need for an EAW, compare the project to the mandatory EAW, EIS, and exemption categories listed in parts 4410.4300, 4410.4400, and 4410.4600, respectively. If the project should fall under any of these categories, environmental review is automatically required or prohibited. If this should be the case, proceed accordingly:
 - a. If the project meets or exceeds the thresholds of any mandatory EAW or EIS category, then environmental review is required for the project. Please see the guidance documents on the [EQB website](#) for preparing an EAW or EIS.
 - b. If the project is exempt from environmental review, please document the reason for the exemption in writing and notify both the petitioners' representative and EQB of your conclusion.
3. If preparation of an EAW is neither mandatory nor exempted, the Public Utilities Commission has the option to prepare a discretionary EAW in accordance with part 4410.1000, subpart 3, item B. The standard for making the decision on the need for an EAW is provided in part 4410.1100, subpart 6. When considering the evidence provided by the petitioners, proposers, or other persons, the Public Utilities Commission must take into account the factors listed in part 4410.1700, subpart 7. Note that this requires that a record of decision, including specific findings of fact, be maintained.
4. You are allowed up to 30 working days (Saturdays, Sundays and holidays do not count) for your decision if it will be made by a council, board, or other body which meets only periodically, or 15 working days if the decision will be made by a single individual. If the decision will be made by an individual, the individual may request an additional 15 working days from the EQB in accordance with part 4410.1100, subpart 7.
5. You must provide written notification of your decision to the proposer, the petitioners' representative, and the EQB, within 5 working days as described in part 4410.1100, subpart 8. Please provide written notification to these parties even in cases where an EAW or EIS will be prepared according to part 4410.1000, subparts 2 or 3, or the project is found to be exempt from environmental review.
 - a. To notify the EQB of your decision on the need for an EAW, complete the [EQB Monitor submission form](#) found on the EQB website. The EQB requests that you upload a copy of your record of decision using the same electronic submission form, including instances where environmental review is mandatory, voluntary, or exempt.
6. If for any reason you are unable to act on the petition at this time (e.g., no application has yet been filed or the application has been withdrawn or denied), the petition will remain in effect for a period of one year, and must be acted upon prior to any final decision concerning the project identified in the petition. It is recommended that you notify in writing both the petitioners' representative and the EQB if you are unable to act on the petition at the time it is received.

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Notice of the petition and its assignment to your unit of government will be published in the EQB *Monitor* on October 22, 2018.

If you have any questions or need any assistance, please do not hesitate to contact us at 651-757-2873 or env.review@state.mn.us.

Sincerely,

A handwritten signature in dark ink that reads "Denise Wilson". The signature is written in a cursive, flowing style.

Denise Wilson
Director, Environmental Review Program
Environmental Quality Board

cc: Paul Blackburn, Petitioner's Representative
Daniel Wolf, PUC Executive Secretary
Raymond Kirsch, Department of Commerce
David Moeller, Minnesota Power
Lori Hoyum, Minnesota Power
Will Seuffert, Environmental Quality Board