

Case Type: Civil Other/Misc.
Court File No.: _____

Minnesota Center for Environmental
Advocacy,

Plaintiff,

COMPLAINT

and

City of Monticello;
Monticello Tech, LLC,

Defendants.

INTRODUCTION

1. Data Centers are coming to Minnesota, but Minnesotans are in the dark about the potential environmental impacts they pose for our state. One data center campus can consume more electricity than the City of Minneapolis, demand billions of gallons of water per year, and generate large amounts of air, noise, and light pollution. Despite these massive potential effects, when a developer proposed constructing a data center to Defendant City of Monticello (“City”), the City conducted an entirely deficient environmental review process that failed to acknowledge or analyze how a data center would impact the environment.

2. In August 2025, the City began the process of conducting an Alternative Urban Areawide Review (“AUAR”) to examine the potential environmental effects of a 550-acre development proposed by Defendant Monticello Tech, LLC (“Monticello Tech”).

The study was intended to evaluate the potential effects of a data center “concept” that had been presented to the City Council by Monticello Tech months earlier, called Monticello Industrial.

3. The AUAR process for Monticello Industrial was insufficient and illegal in three major ways.

4. First, the scoping process was insufficient. Any AUAR process involving a “large specific project” is required to include a public process regarding the scope of review.¹ The AUAR Scoping Document (“Scoping AUAR”) must provide a description of the specific large project to be reviewed,² and that description should be “clear, complete and detailed.”³ The City’s description of Monticello Industrial fails to describe the large specific project in detail.

5. Instead of providing a clear, complete, and detailed project description of the anticipated data center, or providing potential alternatives for how the data center could be constructed, the Scoping AUAR, and later the AUAR itself, includes two vague development scenarios: a 3 million square foot “technology park” (Scenario 1, or the

¹ Minn. R. 4410.3610, subp. 5a(B).

² *Id.*

³ Minn. Env’t Quality Bd., *EAW Guidelines: Preparing Environmental Assessment Worksheets* 11 (Oct. 2013) [hereinafter “EAW Guidelines”]; *see also* Minn. R. 4410.3610, subp. 5a(B) (noting that the information and description should be “comparable to that of a scoping EAW pursuant to part 4410.2100, subpart 2”).

“Data Center Scenario”) and a 5 million square foot “light industrial” development (Scenario 2 or the “Light Industrial Scenario”).⁴

6. The overly vague project descriptions in the Scoping AUAR and the AUAR violate Minnesota law. The City knew Monticello Tech was proposing a data center.⁵ Accordingly, its AUAR should have described the data center project Monticello Tech intended to build or, at the very least, evaluated the environmental effects of different types of *data centers* that could be built at the site—for example, analyzing different cooling systems, power requirements, backup power systems, and noise control. This would have provided useful information to the City and the public that would help inform decisions about the growth of the City. However, the AUAR instead lists two generalized scenarios that exclude almost all details necessary for a complete and accurate analysis of the environmental effects of any project that might be built at Monticello Industrial Park.

7. Second, the environmental analysis is insufficient. AUARs must study the “direct, indirect, and cumulative” environmental effects of developments “anticipated” in the AUAR study area.⁶ Under Minnesota law, AUARs must study the environmental

⁴ City of Monticello, *Scoping Document: Monticello Industrial 7-8* (Oct. 2025) [hereinafter “Scoping AUAR”]; City of Monticello, *Final Alternative Urban Area-wide Review: Monticello Industrial 7-8* (Dec. 2025) [hereinafter “Final AUAR”].

⁵ Grittman Consulting, LLC, *Monticello – Frattalone Development – Concept PUD Review* (Dec. 3, 2024), <https://www.monticellomn.gov/AgendaCenter/ViewFile/Item/1085?fileID=16690>.

⁶ Minn. R. 4410.3610, subps. 3-4.

effects of a proposal with a level of analysis comparable to that of an Environmental Impact Statement (“EIS”),⁷ Minnesota’s highest form of environmental review.

8. Instead of analyzing the environmental effects of Monticello Industrial at a level comparable to an EIS, the AUAR offers broad, conclusory, and unsupported statements about the potential environmental effects of Monticello Industrial. Similarly, the AUAR does not include the assumptions used to draw these conclusions. The City produced an AUAR that fails to study Monticello Industrial’s effects on water resources, air quality, the electricity grid, and nearby residents. This is a violation of Minnesota law.

9. In response to concerns about the inadequacy of the AUAR’s analysis, the City did not resolve these issues, but instead asserted that on multiple issues, further studies would be conducted in the future. This is not sufficient to make the AUAR adequate *now*. On the contrary, it appears to be an admission that the analysis of environmental effects has not been adequate.

10. Third, the mitigation plan is insufficient. AUARs must include a plan “specifying the mitigation measures that *will be imposed* upon future development within the area in order to avoid or mitigate potential environmental impacts.”⁸ A proper mitigation plan is more than a list of ways a developer may reduce impacts—it must contain clear commitments from the City to prevent significant impacts.⁹

⁷ Minn. R. 4410.3610, subp. 4.

⁸ Minn. R. 4410.3610, subp. 5(C) (emphasis added).

⁹ Minn. Env’t Quality Bd., *Recommended Content and Format: Alternative Urban Area-wide Review Documents* 6 (Sept. 2008) [hereinafter “AUAR Guidance”]; see also Minn. R. 4410.3610, subp. 5(C) (“The plan shall contain a description of how each mitigation

11. The City's mitigation plan does not mitigate Monticello Industrial's environmental effects, it does not commit the City to applying specific mitigation measures, and it largely defers analysis of environmental impacts to some future period. This is a violation of Minnesota law.

12. These unlawful acts matter. Minnesotans may have no other opportunity to examine many of the potential environmental effects from these large-scale projects, because once an AUAR is approved, projects "consistent with [the] development assumptions" in the AUAR are exempt from additional environmental review.¹⁰ When the City approved an unlawfully deficient AUAR, it welcomed hyperscale data center developers to claim their projects are consistent with the ill-defined Monticello Industrial proposal and thereby exempt from meaningful environmental study.

13. Plaintiff MCEA challenges the final decision of the City to approve the Monticello Industrial AUAR, seeking declaratory relief, costs, and an order prohibiting the City from making any final decisions, approving the project, or granting any permits for the Monticello Industrial proposal until it completes legally adequate environmental review, and prohibiting Monticello Tech from beginning any construction until the City completes legally adequate environmental review.

measure will be implemented, including a description of the involvement of other agencies, if appropriate").

¹⁰ Minn. R. 4410.3610, subp. 2(A).

PARTIES

14. MCEA is a Minnesota non-profit organization that uses the law and science to protect Minnesota's environment, its natural resources, and the health of its people. MCEA has members and supporters across the state, including in the City of Monticello, who stand to suffer injury from a data center with negative environmental impacts on drinking water, the electricity grid, air quality, noise pollution, and light pollution. MCEA's members and supporters in Monticello were also denied a legitimate opportunity to participate in the AUAR process due to the City's failure to provide complete and accurate project descriptions and details for Monticello Industrial.

15. Defendant City of Monticello is a municipal corporation under the Minnesota Constitution, article XII, section 4, located in Wright County. Part of the Monticello Industrial project area is located within the City, and the City is the Responsible Governmental Unit required to conduct environmental review under the Minnesota Environmental Policy Act ("MEPA") before deciding whether the proposed project can proceed.

16. Defendant Monticello Tech, LLC is the project proposer for Monticello Industrial. Monticello Tech is a Minnesota limited liability company, with its registered office address at 3205 Spruce Street, Little Canada, MN 55117.

JURISDICTION AND VENUE

17. This Court has jurisdiction over the claims asserted under Minnesota Statute section 484.01, subdivision 1; Minnesota Statute section 555.01; and Minnesota Rule 4410.0400, subpart 4.

18. Venue is proper in this Court under Minnesota Rule 4410.0400, subpart 4, as the county where Monticello Industrial would be undertaken.

FACTUAL BACKGROUND

History of AUARs

19. MEPA was enacted in 1973 with the legislative goal “to create and maintain conditions under which human beings and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state’s people.”¹¹

20. MEPA typically requires the preparation of an EIS whenever “there is potential for significant environmental effects resulting from any major governmental action.”¹² The EIS “describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated.”¹³ When projects meet certain thresholds set forth in the Minnesota Rules, government bodies must prepare an EIS or, for lower-impact projects, an Environmental Assessment Worksheet (“EAW”) to “set out the basic facts necessary to determine whether an environmental impact statement is required.”¹⁴

21. MEPA authorizes the Environmental Quality Board (“EQB”) to establish alternative forms of environmental review that “address the same issues and utilize

¹¹ Minn. Stat. § 116D.02, subd. 1.

¹² Minn. Stat. § 116D.04, subd. 2a(a).

¹³ *Id.*

¹⁴ Minn. Stat. § 116D.04, subd. 1a(c); Minn. R. 4410.4300; Minn. R. 4410.4400.

similar procedures as an environmental impact statement in a more timely or more efficient manner.”¹⁵ In 1988, the EQB used this authority to establish the AUAR process.¹⁶

22. Unlike an EIS or EAW, which reviews the environmental impacts of a “major governmental action,”¹⁷ an AUAR reviews environmental impacts within a “particular geographic area.”¹⁸

23. Within the particular geographic area of an AUAR, a city examines the environmental impacts of “anticipated residential, commercial, warehousing, and light industrial development and associated infrastructure.”¹⁹ The AUAR must study the “direct, indirect, and cumulative potential effects typical” of these anticipated developments.²⁰ The “content and format must be similar to that of the EAW, but must provide for a level of analysis comparable to that of an EIS.”²¹

24. In a guidance document, the EQB instructs that “whenever a certain impact may or may not occur, depending on the exact design of future developments, the AUAR should cover the possible impacts through a ‘worst case scenario’ analysis or else prevent the impacts through the provisions of the mitigation plan.”²²

¹⁵ Minn. Stat. § 116D.04, subd. 4a.

¹⁶ See Minn. R. 4410.3610 (outlining this process); Minn. Env’t Quality Bd., *Statement of Need & Reasonableness: In the Matter of the Proposed Amendments to the Rules Governing the Environmental Review Program, Minn. Rules Parts 4410.0200 to 4410.7800* 25 (1988) [hereinafter “1988 SONAR”].

¹⁷ Minn. Stat. § 116D.04, subd. 2a(a).

¹⁸ Minn. R. 4410.3610, subp. 1.

¹⁹ *Id.*

²⁰ Minn. R. 4410.3610, subp. 4.

²¹ *Id.*

²² AUAR Guidance at 1.

25. Because AUARs evaluate the worst-case scenario for development impacts, an approved AUAR exempts future compliant projects from EIS and EAW review.²³ Projects are compliant if they are “consistent with development assumptions” in an approved AUAR²⁴ and comply with an AUAR’s “plan for mitigation” of environmental effects.²⁵

AUAR Rule Revisions for Large Specific Projects

26. The AUAR rules establish two distinct paths for environmental review, based on the type of development anticipated in the AUAR area. When a city anticipates many “specific development projects” scattered across a study area, it may describe anticipated development in generic categories and terms.²⁶ The city need not identify every individual retailer, warehouse, or hotel it expects developers to eventually propose. When, however, the city anticipates a single “large specific project” that dominates the study area, the AUAR rules raise significant safeguards.²⁷ Before drafting the AUAR, the city must publicly identify the large project, offer a robust project description, and give interested parties a meaningful opportunity to comment on the proposal and suggest alternatives.²⁸

27. This distinction reflects a policy judgment by the EQB. When the agency amended the AUAR rules in 2009 to add heightened protections for large projects, it

²³ Minn. R. 4410.3610, subps. 2(A), 5(E).

²⁴ Minn. R. 4410.3610, subp. 2(A).

²⁵ Minn. R. 4410.3610, subps. 2(A), 5(E).

²⁶ Minn. R. 4410.3610, subps. 1-2.

²⁷ Minn. R. 4410.3610, subp. 5a.

²⁸ Minn. R. 4410.3610, subp. 5a(A)-(E).

explained that “[c]ritics have questioned whether the use of the AUAR process for the review of individual projects reduces the quality of the review compared to what would be achieved if the project was reviewed through the regular EAW/EIS process,” and that “additional public scrutiny is appropriate when a large project dominates an AUAR.”²⁹

28. The heightened procedures for large specific projects apply to any AUAR used to review a project that “would otherwise require preparation of an EIS” under ordinary development thresholds, or that would “comprise at least 50 percent of the geographic area to be reviewed” in an AUAR.³⁰

29. When an AUAR involves a “large specific project,” the amended rules require local governments to conduct a scoping process where the public may offer “alternatives to the specific large project or projects proposed to be included in the review.”³¹

30. The scoping process must be based on a “description of the specific large project . . . comparable to that of a scoping EAW pursuant to part 4410.2100, subpart 2.”³²

31. A scoping EAW is a document that can be used to “identify the need for preparing an EIS” for a specific project.³³

²⁹ See Minn. R. 4410.3610, subp. 5a; Minn. Env't Quality Bd., *Statement of Need & Reasonableness, Environmental Review Program Rules, Minnesota Rules, Chapter 4410*, 37-39 (Jan. 8, 2009) (detailing the amended AUAR requirements pertaining to these projects).

³⁰ Minn. R. 4410.3610, subp. 2(E); *see also* Minn. R. 4410.4400 (identifying development thresholds where an EIS is ordinarily required).

³¹ Minn. R. 4410.3610, subp. 5a(C).

³² Minn. R. 4410.3610, subp. 5a(B).

³³ Minn. R. 4410.2100, subp. 2(A).

32. Scoping EAWs must describe the “purpose of the project, methods of construction, quantification of physical characteristics and impacts, project site description, and land use and physical features of the surrounding area.”³⁴

33. The EQB states that the “project description is the most important item in the EAW.”³⁵ The agency’s guidance notes that the project description should include a “[b]rief summary” of the project proposal, followed by a “[c]omplete description” focused on all “aspects of the project that may directly or indirectly manipulate, alter or impact the physical or natural environment.”³⁶ Additionally, the project description should consider “construction and operational activities,” “[p]roject components and structures,” the “[l]ocations and relationships of project components,” and “[a]ssociated infrastructure” required to serve the facility.³⁷

34. The EQB has stated that “clear, complete and detailed project descriptions are essential to understanding the potential for environmental effects.”³⁸

The City’s Insufficient Scoping Process

35. Monticello Industrial is a 550-acre light industrial development that, if not for this AUAR, would “otherwise require preparation of an EIS” under ordinary development thresholds.³⁹

³⁴ Minn. R. 4410.1200(C).

³⁵ EAW Guidelines at 11.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Minn. R. 4410.3610, subp. 5a(A); *see also* Minn. R. 4410.4400, subp. 11.

36. For this reason, the Monticello Industrial AUAR triggers the heightened procedures for “large specific projects.”⁴⁰

37. The City recognized that its AUAR was subject to the heightened AUAR standards for large projects when announcing the scoping process for Monticello Industrial. However, the City’s project description did not include a “complete description” of all aspects of the proposed project that “may directly or indirectly manipulate, alter or impact the physical or natural environment.”⁴¹ Nor did it include a purpose for the project.

38. Instead, the Scoping AUAR and the Draft AUAR identified two scenarios, the 3 million square foot technology park/campus and the 5 million square foot light industrial use.⁴² The Data Center Scenario would be bigger than Target Field and U.S. Bank Stadium combined, and the Light Industrial Scenario would be nearly as large as the Mall of America.⁴³

39. For the Data Center Scenario, the Scoping AUAR stated that it “could include a data center, research and design facilities, technology, laboratories or research

⁴⁰ Final AUAR, Appendix F: Comment Responses at 1, 26 (explaining the City determined the AUAR would undergo the scoping procedures for “large specific projects” detailed in Minn. R. 4410.3610, subp. 5a(A)).

⁴¹ EAW Guidelines at 11.

⁴² Scoping AUAR at 7-8; City of Monticello, *Draft Alternative Urban Area-wide Review: Monticello Industrial* 7-8 (Nov. 2025) [hereinafter “Draft AUAR”].

⁴³ *Facts About Target Field*, Minn. Ballpark Auth., <https://ballparkauthority.com/Facts.html> (last visited Feb. 23, 2026) (estimating Target Field’s footprint at 1,000,000 square feet); *U.S. Bank Stadium*, Salas O’Brien, <https://salasobrien.com/projects/vikings-u-s-bank-stadium/> (last visited Feb. 23, 2025) (estimating U.S. Bank Stadium’s footprint at 1,750,000 square feet); *Mall of America*, <https://www.mallofamerica.com/press-release/12206> (last visited Feb. 23, 2026) (stating mall is 5.6 million square feet).

park uses.”⁴⁴ The Scoping AUAR “assumes a data center campus, with 5-10 buildings, approximately 100,000-200,000 square feet per building with a few ancillary support buildings. . . . With most technology park campuses, including data centers, the exterior shell of the buildings are anticipated to be used over many decades, while the internal components are upgraded periodically as technology advances.”⁴⁵ For this scenario, a single developer would build in multiple phases, starting in 2027 and ending in approximately 2034.⁴⁶ The Draft AUAR contains nearly identical language.⁴⁷

40. For the Light Industrial Scenario, the Scoping AUAR stated that it “could include process and production manufacturing which uses moderate amounts of partially processed materials, warehousing and distribution, machine shops, computer technology including office and research and development facilities (but not including data centers as a singular principal use), professional and corporate offices and industrial engineering facilities.”⁴⁸ The Scoping AUAR explained this scenario could include 5 to 20 buildings, likely in the range of 50,000 to 500,000 square feet, but possibly as large as 1 million square feet.⁴⁹ For this scenario, multiple developers would build in phases, ending in approximately 2045.⁵⁰ The Draft AUAR contains an identical description.⁵¹

⁴⁴ Scoping AUAR at 7.

⁴⁵ *Id.*

⁴⁶ *Id.* at 8.

⁴⁷ Draft AUAR at 7 (changing the anticipated building size to 200,000 – 400,000 square feet).

⁴⁸ Scoping AUAR at 7.

⁴⁹ *Id.* at 7-8.

⁵⁰ *Id.* at 8.

⁵¹ Draft AUAR at 7-8.

41. For both scenarios, the Scoping AUAR states the development would require new “water service, sewer, stormwater, streets, and utilities,” including two miles of “trunk water and trunk sanitary sewer extensions.”⁵² The Data Center Scenario would require less traffic and “potentially higher water/wastewater demands” while the Light Industrial Scenario would require “additional public roadway network improvements.”⁵³ Both scenarios would require screening/buffering.⁵⁴ The Draft AUAR includes this same information.⁵⁵

42. The Scoping AUAR and the Draft AUAR do not offer a “complete description” of all aspects of the technology center “that may directly or indirectly manipulate, alter or impact the physical or natural environment.”⁵⁶ Nor do they offer a project purpose that expresses the clear goals of the project, as required by the EQB.⁵⁷

43. Beyond referencing the types of industry that could be included, vague estimates of the sizes and numbers of buildings, and a general list of the types of infrastructure that might be required, the project description in both the Scoping AUAR and the Draft AUAR do not actually provide critical information about Monticello Industrial. They do not describe the proposed project’s “construction and operational

⁵² Scoping AUAR at 8.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Draft AUAR at 8.

⁵⁶ EAW Guidelines at 11.

⁵⁷ *Id.* at 12-13. In the section of the Draft AUAR asking for a project purpose, the document instead describes the purpose of the AUAR document. It is completely devoid of a description of the project purpose or goals of the project. Draft AUAR at 4.

activities,” the “[p]roject components and structures,” the “[l]ocations and relationships of project components,” or “[a]ssociated infrastructure” required to serve the facility.⁵⁸

44. Even the Final AUAR does not address these problems by adding meaningful details to this project description. In fact, apparently recognizing the vagueness of the project description, the Final AUAR acknowledges “the development potential and individual impacts of development uses in either scenario are highly variable.”⁵⁹

45. The incompleteness of the project description in the AUAR, and the suggestion that the proposed project might *not* be a data center, is particularly problematic because the City knew well before it conducted the AUAR that the proposal was intended to be a data center, not a light industrial use.

46. In December 2024, eight months before the City issued the Draft Scoping AUAR, the City Council and the City Planning Commission held a joint workshop, at which a “concept plan” was presented for the Monticello Industrial Park area. This concept proposed a “data center development” of between 2.3 and 3.5 million square feet, requiring 500 megawatts of energy.⁶⁰ No “light industrial” alternative was included in the “concept plan.”

⁵⁸ EAW Guidelines at 11.

⁵⁹ Final AUAR at 7.

⁶⁰ Gritman Consulting, LLC, *Monticello – Frattalone Development – Concept PUD Review*, 1, 11, 15 (Dec. 3, 2024), <https://www.monticellomn.gov/AgendaCenter/ViewFile/Item/1085?fileID=16690>.

47. In the spring of 2025, the City Council and City Planning Commission considered requests to amend the City’s Comprehensive Plan for the Monticello Industrial Park area and to annex this same area. Although neither of these actions would require that the area be used for a data center, the City Council and Planning Commission documents were clear that both actions were intended to accommodate a proposal by Monticello Tech to build a data center.⁶¹

48. Before the issuance of the Final AUAR, the City posted a webpage called “Data Centers” that listed “Monticello Tech/Monticello Industrial Park” as a “proposed private data center project in Minnesota.”⁶² The webpage was clear that the project would be a “Technology campus (data center) totaling approximately 3 million square feet.”⁶³ No possibility of a different use, including a “light industrial use,” was included.⁶⁴

49. Despite the City’s knowledge that the proposal actually being considered for the Monticello Industrial Park was a hyperscale data center project, the AUAR did not include any basic details about the data center proposal under consideration, including how it would be cooled, the effects of its draws on water and electrical resources, and design considerations related to air, noise, and light pollution.

⁶¹ City of Monticello, *Planning Commission Agenda*, Item 2B (Feb. 4, 2025), <https://www.monticellomn.gov/AgendaCenter/ViewFile/Item/1166?fileID=18514>; City of Monticello, *City Council Meeting Agenda*, Item 4B, at 2 (April 14, 2025), <https://www.monticellomn.gov/AgendaCenter/ViewFile/Item/1225?fileID=20486>.

⁶² City of Monticello, *Data Centers*, Wayback Machine capture (Nov. 6, 2025).

⁶³ *Id.*

⁶⁴ *Id.*

50. If such details were unknown at the time of the review, the AUAR's project description should have included multiple alternatives for *data centers*, with scenarios for different cooling systems, water and power draws, and designs, and then evaluated the environmental impacts of each, instead of including a single alternative for a "light industrial use" that was not, in fact, under consideration.

51. Since the project descriptions and purpose are the foundational elements of environmental review, these insufficiencies denied the public meaningful participation in the AUAR process.

The City's Insufficient Environmental Analysis

52. The AUAR process is an alternative to EIS review but should not be a shortcut. State law requires an AUAR to offer a "level of analysis comparable to that of an EIS."⁶⁵ To engage in an EIS-level analysis, a city must *study* a project's potential environmental effects. The City's AUAR falls far short of this bar.

53. The City's AUAR does not provide an EIS-level analysis of the potential water, energy, air quality, noise and light, or cumulative impacts of Monticello Industrial. Across these and other issues, the AUAR flags some potential environmental impacts. However, it does not provide a detailed analysis of their effects on the environment.

Water Impacts

⁶⁵ Minn. R. 4410.3610, subp. 4.

54. An AUAR must describe “the source, quantity, duration, use and purpose of the water use” for any project requiring water appropriation.⁶⁶

55. EQB Rules require AUARs to describe “environmental effects from water appropriation, including an assessment of the water resources available for appropriation.”⁶⁷ EQB guidance also instructs that AUAR project descriptions should identify “aspects of the project that may directly or indirectly manipulate, alter or impact the physical or natural environment.”⁶⁸ Indirect impacts extend to “[a]ssociated infrastructure . . . necessary to serve the project.”⁶⁹

56. The City estimates that for the Data Center Scenario, Monticello Industrial could require up to 3-3.5 million gallons per day for non-contact cooling water use, with an estimated yearly water demand of 250-300 million gallons per year.⁷⁰ The City currently has only 149 million gallons per year of available water appropriations.⁷¹

57. Because the project’s water demand would exceed the City’s available appropriation, the AUAR must include an “assessment of the water resources available for appropriation.”⁷² Here, the AUAR states that “[t]he city has completed a preliminary

⁶⁶ Minn. Env’t Quality Bd., *Environmental Assessment Worksheet Form*, 8 (Dec. 2022) (establishing EAW content requirements for water appropriations); *see also* Minn. R. 4410.3610, subp. 4 (stating that AUARs must include content similar to that of an EAW).

⁶⁷ Minn. Env’t Quality Bd., *Environmental Assessment Worksheet Form* 8 (Dec. 2022) (establishing EAW content requirements for water appropriations); *see also* Minn. R. 4410.3610, subp. 4 (stating that AUARs must include content similar to that of an EAW).

⁶⁸ EAW Guidelines at 11.

⁶⁹ *Id.*

⁷⁰ Final AUAR at 66.

⁷¹ *Id.*

⁷² Minn. Env’t Quality Bd., *Environmental Assessment Worksheet Form* 8 (Dec. 2022).

aquifer analysis.”⁷³ The City reports that this analysis “found that there appears to be limited draw down impact to adjacent wells within city limits and wells directly across the Mississippi River.”⁷⁴ But that is all. The AUAR contains none of the study details or results.

58. In its response to comments on the AUAR, the City stated that it is “currently undertaking an aquifer analysis study” to study aquifer drawdown and future water demand in the city.⁷⁵ This assertion that further study is ongoing is insufficient to make the AUAR adequate.

59. MEPA requires environmental review documents to explain their analyses, so that public and governmental officials have useful information *before* decisions are made.⁷⁶ To “describe environmental effects from water appropriation” of an additional 250–300 million gallons per year from the Quaternary Buried Artesian aquifer, the revised AUAR must share the actual analysis, not merely characterize impacts as “limited,” or assert that further analysis is occurring.⁷⁷

⁷³ Final AUAR at 66.

⁷⁴ Final AUAR at 44. In its responses to comments, the City asserts without any explanation that “the aquifer does not appear to be impacted, even when accounting for other anticipated growth within the city.” Final AUAR, Appendix F: Comments Responses at 8. This does not provide any of the data or analysis the City used to reach this conclusion.

⁷⁵ Final AUAR, Appendix F: Comments Responses at 18.

⁷⁶ Minn. R. 4410.3610, subp. 4; *Greater Yellowstone Coal. v. Lewis*, 628 F.3d 1143, 1158 (9th Cir. 2010), as amended (Jan. 25, 2011) (environmental review is a “look before you leap” process, designed to ensure that agencies “consider every significant aspect of the environmental impact of a proposed action” before that action is approved”).

⁷⁷ AUAR Guidance at 3; Final AUAR at 44; Final AUAR, Appendix F: Comments Responses at 18.

60. Furthermore, the AUAR errs by framing “up to 75 MGY” of water processed through a Rapid Infiltration Basin (“RIB”) system as a credit to *subtract* from the project’s water appropriation in order to calculate the “net demand.”⁷⁸ The City cites no authority behind this accounting exercise. The effort is also foreclosed by state law: Minn. Stat. § 103G.005 defines appropriation as the “withdrawal, removal, or transfer of water from its source regardless of how the water is used.”⁷⁹ Plans to recharge that aquifer using an RIB system, a process that the AUAR concedes will take decades, and may not result in water returning to the aquifer the city draws from, are not an allowance to claim minus 75 on a data center’s estimated millions of gallons per year of water appropriations.⁸⁰

61. The AUAR does not include any information from an aquifer test that would measure the effects of an approximate 50 percent increase in the City’s appropriation volume.⁸¹ Nor does it discuss how increasing the City’s water demand by 50 percent will affect groundwater, surface water, wetlands, or any other natural resources.

⁷⁸ Final AUAR at 68 (Table 17). In addition, the City’s math on this point is unclear, as the City claims the “net demand” will be 113.15 million gallons per year, but subtracting 151 million gallons from 250 or 300 million gallons does not equal 113.15 million gallons.

⁷⁹ Minn. Stat. § 103G.005, subd. 4.

⁸⁰ Final AUAR at 67.

⁸¹ *Id.* at 65 (city’s annual pumping is between 511 and 651 million gallons per year). The City cannot subtract the 76 million gallons being withdrawn at the site by irrigation wells, as those irrigation wells will be closed, and their allowed appropriation will not be transferred to the City’s appropriation permit. *Id.* at 65, 68.

62. Instead, the City notes that Data Center Scenario would require the following changes: an increase in City pumping capacity, construction of a water storage tank, an increase in water treatment plant capacity, the addition of elevated storage and raw watermain piping, and modification of wells.⁸² However, the AUAR provides no analysis whatsoever of the environmental impacts of these significant changes.

63. In addition, the AUAR does not sufficiently examine the environmental effects of the increased discharges that will necessarily follow appropriation of an additional 250 to 300 million gallons per year of groundwater. The AUAR asserts that under the Data Center Scenario, Monticello Industrial could discharge as much as 100 million gallons per year, and up to 1.5 million gallons per day, for cooling water, plus an additional 25,000 to 50,000 gallons per day for domestic wastewater.⁸³ The City's wastewater treatment plant has capacity to process only an additional 310,000 gallons per day.⁸⁴

64. To address this gap, the AUAR asserts that a RIB system will be constructed at the site. RIB systems for this waste type "have not typically been permitted in Minnesota," making its effectiveness suspect.⁸⁵ Yet the AUAR does not provide a thorough characterization of the site, hydrogeology, and wastewater characteristics needed to analyze the environmental effects of the system.⁸⁶ Nor does the AUAR analyze

⁸² Final AUAR at 67.

⁸³ *Id.* at 48. It is unclear how a facility that appropriates 250 to 300 million gallons a year would discharge only 100 million gallons per year.

⁸⁴ *Id.* at 49.

⁸⁵ Final AUAR, Appendix F: Comments Responses at 4.

⁸⁶ *Id.*

impacts to groundwater and surface waters from infiltrating large volumes of cooling water through the RIB.⁸⁷

65. Instead of addressing these issues, the City simply asserts that the RIB system or two other listed methods for handling wastewater would be the subject of future environmental review.⁸⁸ This assertion that future environmental review may be performed does not make the AUAR adequate.

66. In addition, the AUAR does not fully describe the characteristics of the water to be discharged, including what treatment it may have undergone, what additives may be included in the water, or the temperature of the water to be discharged. Further, the scant information provided by the City on this topic, in response to comments, provides no source for its assertion that the water will contain no wastes and will have no chemicals added, particularly when the AUAR admits “[t]he developer will make the final decision” regarding any chemicals that would be added to the water.⁸⁹

67. The City omitted a full study of “environmental effects from water appropriation”⁹⁰ and the associated effects of discharge of this water appropriation tied to Monticello Industrial. This makes the AUAR inadequate.

⁸⁷ *Id.* at 5.

⁸⁸ *Id.* at 4-5.

⁸⁹ *Id.* at 5.

⁹⁰ Minn. Env’t Quality Bd., *Environmental Assessment Worksheet Form 8* (Dec. 2022) (establishing EAW content requirements for water appropriations); *see also* Minn. R. 4410.3610, subp. 4 (stating that AUARs must include content similar to that of an EAW).

Energy Impacts

68. The AUAR based its estimated Scope 2 emissions for the Data Center Scenario on the electricity consumption of a “typical light industrial user.”⁹¹ This is inadequate.

69. Data center proposals in Minnesota would reportedly require 100 to 500 megawatts of power,⁹² rivaling the electricity consumption of entire cities. They are not typical light industrial developments.⁹³ The initial “concept” for Monticello Tech’s data center indicated it would be a 500-megawatt facility,⁹⁴ which would mean it would use an estimated 3.7 million megawatts of electricity per year. This would be approximately 73 times greater than the electricity use of every household in Monticello.⁹⁵

⁹¹ Final AUAR at 88, fn 48.

⁹² See Walker Orenstein, *Mega Data Centers Are Coming to Minnesota. Their Power Needs Are Staggering.*, Star Trib. (Jan. 10, 2025), <https://www.startribune.com/mega-data-centers-are-coming-to-minnesota-their-power-needs-are-staggering/601204129> (describing the collective increased electricity demand expected from these data centers across Minnesota if constructed).

⁹³ *Id.*

⁹⁴ Grittman Consulting, LLC, *Monticello – Frattalone Development – Concept PUD Review*, 15 (Dec. 3, 2024), <https://www.monticellomn.gov/AgendaCenter/ViewFile/Item/1085?fileID=16690>.

⁹⁵ See U.S. Energy Info. Admin., *Electric Sales, Revenue & Average Price*, tbl. 5A, 2023 (listing Minnesota average monthly residential consumption as 752 kWh, equivalent to 9 MWh per year); see also U.S. Census Bureau, *Pine Island City, Minnesota*, https://data.census.gov/profile/Chicago_city,_Illinois?g=160XX00US2747068 (showing 5,695 households, which at a 9 MWh rate would consume an estimated 51,255 MWh of electricity per year) (last visited Oct. 9, 2025); I. Riu, D. Smiley, S. Bessasparis & K. Patel, *Load Growth Is Here to Stay, but Are Data Centers?: Strategically Managing the Challenges and Opportunities of Load Growth*, Energy & Env't Econ., Inc. (July 2024), available at <https://www.ethree.com/wp-content/uploads/2024/07/E3-White-Paper-2024-Load-Growth-Is-Here-to-Stay-but-Are-Data-Centers-2.pdf> (study estimating an 86% load factor for data centers), when applied to at 500 MW data center, an 86% load factor shows an energy use of 4,380,000 MWh.

70. This is many times the amount of electricity that would be used by a “typical light industrial user.”⁹⁶ Accordingly, the Data Center Scenario greenhouse gas analysis severely undercounts the emissions that would be attributable to the proposed project.

71. In response to comments raising this issue, the City did not provide more detailed information, but instead asserted, “the actual energy demand . . . depends on several factors such as the type of equipment, cooling systems, power redundancy, and overall efficiency that is not possible to estimate”⁹⁷

72. In such situations, the AUAR rules require the City to analyze the “worst case scenario,”⁹⁸ but instead of doing so, the City chose to severely undercount these emissions.

73. In addition, this level of new load could require a build-out of associated grid infrastructure, such as transmission lines, distribution systems, or generation facilities required to deliver power to the Monticello Industrial site. The impacts of this infrastructure must also be studied as part of an adequate environmental review.⁹⁹

⁹⁶ The amount of electricity that the City asserts the data center would need if it were in fact a “typical light industrial user” is not clear from the Greenhouse Gas Analysis included in the AUAR, and it therefore cannot be compared to the estimated 3.7 million megawatts of energy a 500-megawatt data center would use. Final AUAR, Appendix D: Greenhouse Gas Quantification at 1-5.

⁹⁷ Final AUAR, Appendix F: Comments Responses at 10.

⁹⁸ AUAR Guidance at 1.

⁹⁹ See Minn. R. 4410.3610, subp. 1 (noting that this review includes “associated infrastructure”); Minn. R. 4410.3610, subp. 4. (“The content and format must be similar to that of the EAW, but must provide for a level of analysis comparable to that of an EIS for direct, indirect, and cumulative potential effects typical of . . . associated infrastructure.”); see also EAW Guidelines at 11 (stipulating that the environmental review must consider

74. The AUAR does not analyze the changes to grid infrastructure that would be necessitated by Monticello Industrial’s electricity demands, and it omits any study of the land use or climate impacts that would be caused by grid-infrastructure changes. Nor does the AUAR study the effect this significant increase in electricity demand could have on Minnesota’s ability to meet its statutory clean energy goals.¹⁰⁰

75. Instead, the AUAR asserts that future studies will examine the effects of the data center on the grid and the need for infrastructure improvements, after which additional environmental review would be performed.¹⁰¹ An assertion that future environmental review will be performed does not make the AUAR adequate.

76. The AUAR contains no analysis of the “direct, indirect, and cumulative potential effects”¹⁰² of providing the immense amount of power required by a hyperscale data center. This is inadequate.

Air Quality Impacts

77. In addition to obtaining power from the grid, data centers often generate backup electricity using on-site fracked gas or diesel-powered turbines to power generators. These on-site power generators fuel “data processing center’s voracious appetite for energy [which] has outpaced electric utilities’ ability to serve it.”¹⁰³

the direct or indirect impacts of the project’s associated infrastructure on the physical or natural environment).

¹⁰⁰ See Minn. Stat. § 216B.1691, subd. 2g (describing these benchmarks).

¹⁰¹ Final AUAR at 103.

¹⁰² Minn. R. 4410.3610, subp. 4.

¹⁰³ Ariel Wittenberg, ‘How Come I Can’t Breathe?’: Musk’s Data Company Draws a Backlash in Memphis, Politico (May 6, 2025), <https://www.politico.com/news/2025/05/06/elon-musk-xai-memphis-gas-turbines-air-pollution-permits-00317582>.

78. On-site generators can emit nitrogen oxides, particulate matter, carbon monoxide, and other pollutants that are hazardous to human health. In Memphis, thirty-five gas turbines powering a data center have reportedly emitted more nitrogen oxides than a nearby power plant and oil refinery.¹⁰⁴

79. The City's AUAR should disclose the number of on-site generators to be used, how much electricity they would be capable of producing, and what fuel source they would use.

80. These details are critical to establishing whether the AUAR process is a legal form of environmental review for the proposal, as they could establish that the proposal falls under an EIS or EAW category that is excluded from AUAR review.¹⁰⁵ If the details regarding the number of generators are unavailable, the AUAR should analyze the "worst-case scenario."¹⁰⁶

81. The City's AUAR does not disclose the number of generators to be used, how much electricity they would be capable of producing, or what fuel source they would use. Instead, the AUAR once again attempts to postpone necessary review to the future, stating that if the number of generators would exceed the threshold for air emissions (which the AUAR stated is likely to be reached with 100 to 200 generators),

¹⁰⁴ *Id.*

¹⁰⁵ See Minn. R. 4410.3610, subp. 1 ("The procedures of this part may not be used to review any project meeting the requirements for a mandatory EAW in part 4410.4300, subparts 2 to 13, 15 to 17, 18, item C, D, or E, or 24, or a mandatory EIS in part 4410.4400, subparts 2 to 10, 12, 13, or 25.").

¹⁰⁶ AUAR Guidance at 1.

additional environmental review would be performed.¹⁰⁷ This does not make the AUAR adequate, particularly as the generators would entirely escape any environmental review whatsoever if their number was under the environmental review threshold.

82. In addition to failing to analyze the generators' effects on air quality, the AUAR entirely fails to account for the greenhouse gas emissions they would produce, adding to the undercount of emissions in the AUAR's analysis.¹⁰⁸

83. Further, the AUAR did not discuss other air pollutants, including PM 2.5 and nitrogen oxides, from generators, traffic, or other sources. In response to comments on this inadequacy, the City stated that it converted PM 2.5 and nitrogen oxides emissions to carbon dioxide equivalents for purposes of the greenhouse gas analysis.¹⁰⁹

84. This response entirely ignores the environmental effects of these air pollutants beyond their climate effects. Both particulate matter and nitrogen oxides can cause health impacts, damage to water bodies and ecosystems, and acid rain.¹¹⁰ Failing to analyze their effects makes the AUAR inadequate.

85. By omitting any information about on-site power generation, including the generators' effects on greenhouse gas emissions and other air pollution, the City failed to

¹⁰⁷ Final AUAR at 22.

¹⁰⁸ Final AUAR, Appendix D: Greenhouse Gas Quantification at 3 (stating that all emissions from natural gas and oil products, such as would be emitted by generators, were "NA"). It is unclear where these emissions might otherwise be accounted for, particularly as the AUAR nowhere specifies the amount or type of generators that might be used.

¹⁰⁹ Final AUAR, Appendix F: Responses to Comments at 6.

¹¹⁰ *Health and Environmental Effects of Particulate Matter*, EPA, <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>; *Basic information about NO₂*, EPA, <https://www.epa.gov/no2-pollution/basic-information-about-no2>.

contemplate Monticello Industrial’s direct, indirect, and cumulative potential effects on air quality.

Noise and Light Pollution

86. The thousands of graphics chips and associated infrastructure housed at a hyperscale data center can generate significant noise pollution. Residents living near data centers describe this pollution as a “low-pitched roar topped with a tinny screech.”¹¹¹ This noise can be heard day and night, travel for miles, and contribute to sleep disruption, headaches, and decreased quality of life for impacted residents.¹¹²

87. EQB instructs cities to examine whether developments studied in an AUAR “will include or adjoin major noise sources.”¹¹³ If the project includes a major noise source, “noise analysis is needed to determine if any noise levels in excess of standards would occur, and if so, to identify appropriate mitigation measures.”¹¹⁴

88. The AUAR acknowledges that chiller equipment at “a typical data center could range from around 65 dB(A) up to around 80 dB(A) at a distance of approximately 30 feet” and that “[g]iven the quantity of chillers needed for a typical data center building,

¹¹¹ Peter Cary, *Amazon Tones Down Its Data Center Noise After Residents Sound the Alarm*, Data Center Knowledge (Oct. 24, 2023), <https://www.datacenterknowledge.com/data-center-construction/amazon-tones-down-its-data-center-noise-after-residents-sound-the-alarm>.

¹¹² See Steven Gonzalez Monserrate, *The Staggering Ecological Impacts of Computation and the Cloud*, MIT Press Reader (Feb. 14, 2022), <https://thereader.mitpress.mit.edu/the-staggering-ecological-impacts-of-computation-and-the-cloud/> (describing these adverse effects).

¹¹³ AUAR Guidance at 5.

¹¹⁴ *Id.*

these noise levels would be higher.”¹¹⁵ The AUAR further notes the possibility of “low frequency noise” from operational equipment and states that when used, generators could create noise ranging “between 75 dB(A) to 85 dB(A).”¹¹⁶ The AUAR does not provide any detail on how these numbers were chosen, nor does it study the impact of this noise beyond the conclusory statement that it complies with noise standards.¹¹⁷

89. The AUAR does not model the noise impacts of the Data Center Scenario. Instead, the AUAR once more postpones critical study to the future, stating that “[a]s site development progresses, developers would be responsible for assessing whether operational noise exceeds established noise standards which may require studies of ambient and proposed noise conditions and then mitigation for compliance.”¹¹⁸

90. The AUAR omits any analysis of whether this operational noise qualifies as a “major source of noise.”¹¹⁹

91. Million-square-foot hyperscale data centers can also generate light pollution. In Virginia, residents living near hyperscale data centers report that the facilities’ lighting is “easily seen for miles,” glowing “at night like a giant city of lights.”¹²⁰

92. EQB guidance instructs cities to analyze “any impacts” on scenic views and vistas in the AUAR study area, including “both direct physical impacts and impacts on

¹¹⁵ Final AUAR at 90.

¹¹⁶ *Id.* at 91.

¹¹⁷ *See id.* at 90-91 (failing to substantiate its noise estimates).

¹¹⁸ *Id.* at 92.

¹¹⁹ *See* AUAR Guidance at 5.

¹²⁰ Grace Mamon, *Data Centers Are Changing the Landscape. Here's How They May Affect Rural Virginia.*, Cardinal News (Mar. 12, 2025), <https://cardinalnews.org/2025/03/12/data-centers-are-changing-the-landscape-heres-how-they-may-affect-rural-virginia/>.

visual quality or integrity.”¹²¹ If “any non-routine visual impacts would occur,” they should be discussed “along with appropriate mitigation.”¹²²

93. The AUAR fails to meet this requirement. The AUAR notes that “[f]uture development would conform with the city ordinances” regarding lighting and that “[g]uidance from the [U.S. Fish and Wildlife Service] to minimize blue light, uplight, and backlight will be adhered to the extent practicable.”¹²³

94. These brief platitudes do not constitute a study of the effects of lighting a 3 million square-foot technology park. To properly evaluate the facility’s “impact on visual quality,” along with “appropriate mitigation,” the AUAR must detail how the data center project will be lit.¹²⁴ Again, postponing this analysis does not make the AUAR adequate.

95. The AUAR’s missing analysis of noise and light pollution is a failure to study Monticello Industrial’s “direct, indirect, and cumulative potential effects” on surrounding residents.¹²⁵

Cumulative Impacts

96. An AUAR must include a cumulative impacts analysis that studies the “incremental effects of a project in addition to other projects in the environmentally

¹²¹ AUAR Guidance at 5.

¹²² *Id.*

¹²³ Final AUAR at 84-85.

¹²⁴ AUAR Guidance at 5.

¹²⁵ Minn. R. 4410.3610, subp. 4.

relevant area that might reasonably be expected to affect the same environmental resources.”¹²⁶

97. The Minnesota Supreme Court has explained that an adequate cumulative impacts analysis under MEPA must “determine whether the project, which may not individually have the potential to cause significant environmental effects, could have a significant effect when other local projects already in existence or planned for the future are considered.”¹²⁷

98. For projects already in existence near the AUAR study area, the City omits any analysis of how a hyperscale data center could exacerbate existing environmental stressors.

99. For foreseeable future projects, EQB instructs cities to study “the nature of the cumulative potential effects and summarize any other available information relevant to determining whether there is potential for significant environmental effects due to these cumulative effects.”¹²⁸

100. The AUAR's cumulative effects section identifies only one reasonably foreseeable future project: the Haven Ridge West housing development of 300 single family homes approximately 0.5 miles east of the study area.¹²⁹

¹²⁶ Minn. R. 4410.0200, subp. 11a. (defining the term cumulative potential effects); *see also* Minn. R. 4410.3610, subp. 4 (stating that AUARs must include content similar to that of an EAW); Minn. Env't Quality Bd., *Environmental Assessment Worksheet Form 1*, 13 (Dec. 2022) (establishing EAW content requirements for cumulative impacts).

¹²⁷ *Citizens Advocating Responsible Dev. v. Kandiyohi Cty. Bd. of Comm'rs*, 713 N.W.2d 817, 829 (Minn. 2006).

¹²⁸ Minn. Env't Quality Bd., *Environmental Assessment Worksheet Form 13* (Dec. 2022).

¹²⁹ Final AUAR at 101.

101. The AUAR then identifies three areas for potential cumulative effects: wastewater and water appropriation, traffic, and other data centers.¹³⁰ For each, however, the AUAR then avoids substantive review or postpones it to some unidentified future period.

102. Not only does this analysis suffer from the same lack of detailed engagement as the rest of the AUAR, but it is also completely devoid of insight into other potential cumulative effects, like those associated with light pollution, air quality, greenhouse gas emissions, or reliability of the electric grid.

103. In particular, the City identifies other data center projects as a potential cumulative effect, but it then asserts “it is expected that review by state agencies will be coordinated to study and address expected impacts.”¹³¹ The Star Tribune has reported that ten hyperscale facilities planned for Minnesota could consume “as much electricity as every home in Minnesota.”¹³² Taken together, these foreseeable projects could easily strain Minnesota’s electricity grid and interconnected water resources. Yet the City omits any study of how multiple foreseeable hyperscale data centers could result in cumulative environmental effects. While the City asserts that state agencies will study regional impacts, it has not so far, and these non-existent state studies cannot excuse the City from its obligations to complete an adequate AUAR.

¹³⁰ *Id.* at 102.

¹³¹ *Id.*

¹³² See Walker Orenstein, *Mega Data Centers Are Coming to Minnesota. Their Power Needs Are Staggering.*, Star Trib. (Jan. 10, 2025), <https://www.startribune.com/mega-data-centers-are-coming-to-minnesota-their-power-needs-are-staggering/601204129/>.

104. The City’s AUAR fails to address “whether there is potential for significant environmental effects due to these cumulative effects” from Monticello Industrial.¹³³ This is inadequate.

The City’s Inadequate Mitigation Plan

105. AUARs must include a plan “specifying the mitigation measures that will be imposed upon future development within the area in order to avoid or mitigate potential environmental impacts.”¹³⁴

106. EQB has emphasized that “[t]he plan for mitigation called for is perhaps the key part of the entire substitute review process” in an AUAR.¹³⁵ The agency instructs that it:

must be understood that the mitigation plan is a commitment by the [Responsible Governmental Unit] to prevent potentially significant impacts from occurring from specific projects. It is more than just a list of ways to reduce impacts – it must include information about how the mitigation will be applied and assurance that it will.¹³⁶

107. The mitigation plan has three main inadequacies.

108. First, because the AUAR is inadequate in identifying and describing potential environmental impacts, the mitigation plan cannot effectively avoid or mitigate those impacts. For example, because the AUAR entirely fails to identify the environmental effects of the use of generators in the data center scenario, the mitigation

¹³³ Minn. Env’t Quality Bd., *Environmental Assessment Worksheet Form 13* (Dec. 2022).

¹³⁴ Minn. R. 4410.3610, subp. 5(C).

¹³⁵ 1988 SONAR at 32.

¹³⁶ AUAR Guidance at 6; *see also* Minn. R. 4410.3610, subp. 5(C) (“The plan shall contain a description of how each mitigation measure will be implemented, including a description of the involvement of other agencies, if appropriate.”).

plan cannot identify any measures to mitigate their environmental effects, other than to assert that future environmental review may be needed if the generators pass the threshold for air emissions.¹³⁷

109. Second, the mitigation plan is supposed to be a *commitment* by the *City*, the Responsible Governmental Unit, to prevent impacts, but the AUAR's mitigation plan entrusts almost all responsibility for mitigations to the *developer* without imposing binding obligations. Sixty-nine of the seventy-seven identified mitigations are designated wholly or partially as the responsibility of the developer, with no enforcement mechanisms to ensure that they are implemented.¹³⁸

110. For example, the developer is entrusted with considering water-efficient irrigation systems, incorporating energy efficient appliances, equipment, and lighting, and evaluating parking areas to potentially reduce impervious areas.¹³⁹ If the developer fails to do these things—or does them in a way that fails to mitigate environmental effects—there is no remedy for this failure. In addition, multiple items only require the developer to “consider” or “evaluate” potential mitigations, or to vaguely “minimize” effects “to the extent possible.”¹⁴⁰ Thus, the mitigation plan fails to obtain a commitment or assurance that the mitigations will be applied.

¹³⁷ Final AUAR at 111.

¹³⁸ See Final AUAR at 105-16.

¹³⁹ Final AUAR at 105.

¹⁴⁰ See, e.g., *id.* at 114 (requiring “consideration” of “potential design strategies” to reduce greenhouse gas emissions, minimizing noise “[t]o the extent possible, and further “evaluation” of noise).

111. Third, many of the mitigation items simply postpone environmental analysis and mitigation actions to an unknown future time. Several mitigation items involve future “evaluation,” and in numerous others the City notes that additional environmental review or permitting may later be required. For example, for noise mitigation, the item notes, “[f]urther noise evaluation may be conducted [by the developer] as required to demonstrate compliance with local and state regulations” and directs that future site plans “should show” locations and types of mitigation.¹⁴¹ This is not a commitment to mitigate noise, but instead a vague statement that analysis that should have been included in the AUAR *may* be performed in the future.

112. The mitigation for greenhouse gas emissions demonstrates all three of these failings. To mitigate the massive emissions from Monticello Industrial, the mitigation plan merely identifies three “potential design strategies and sustainability measures” under consideration: creating new open spaces with native vegetation, expanding tree planting, and requiring energy efficient appliances.¹⁴² Because the AUAR did not accurately identify and account for sources of greenhouse gas emissions at the site, it cannot create a binding commitment to any specific percentage of reductions—by, for example, requiring the use of renewable energy in the Data Center Scenario, or at a minimum, identifying specific energy efficiency measures to implement. In addition, the mitigation item does not require the developer to do anything to reduce emissions, only to “consider” a few “sustainability” measures that, even if adopted, would not begin to

¹⁴¹ *Id.* at 114.

¹⁴² *Id.*

address even the severely undercounted greenhouse gas emissions reported in the AUAR, let alone the emissions such a project would actually produce. Finally, the AUAR pushes the “consideration” of these measures into an unidentified future time.

113. Throughout the mitigation plan, the City fails to specify “mitigation measures that will be imposed upon future development within the area in order to avoid or mitigate potential environmental impacts.”¹⁴³ This makes the AUAR inadequate.

**There May Be No Additional Review of a Hyperscale Data Center
at Monticello Industrial**

114. The City knows that Monticello Tech plans to build a hyperscale data center up to 3 million square-feet in size at the Monticello Industrial site. Ordinarily, a data center campus (or other industrial facility) of this size would trigger a mandatory EIS, the most rigorous form of environmental review.¹⁴⁴

115. However, an EIS will no longer be required because the City approved the Monticello Industrial AUAR. Because AUARs are supposed to evaluate the worst-case scenario for development impacts within the geographic area being studied,¹⁴⁵ EQB rules offer environmental review exemptions to projects that are “consistent with development assumptions” in an approved AUAR.¹⁴⁶

116. The City’s generic project description produced an AUAR with some very broad and often undisclosed development assumptions.

¹⁴³ Minn. R. 4410.3610, subp. 5(C).

¹⁴⁴ See Minn. R. 4410.4400, subp. 11 (listing mandatory EIS thresholds based on the size of an industrial, commercial, or institutional facility).

¹⁴⁵ AUAR Guidance at 1.

¹⁴⁶ Minn. R. 4410.3610, subps. 2(A), 5(E).

117. Because of the lack of detail in the City's AUAR, a data center with (a) up to 300 million gallons of water use per year,¹⁴⁷ (b) any impacts to the grid,¹⁴⁸ (c) any number or type of generators,¹⁴⁹ (d) up to 3 million tons per year of greenhouse gas emissions,¹⁵⁰ (e) any level of light pollution,¹⁵¹ and (f) any level of cumulative environmental effects¹⁵² could claim that it is consistent with development assumptions in the AUAR and thus exempt from further environmental review.

118. Even though the City failed to study the worst-case potential impacts of a hyperscale data center, or to evaluate such a development with the detail required in an EIS, a data center potentially could use the City's AUAR to evade environmental study.

119. Such an evasion would violate the intent of MEPA for major projects to receive adequate environmental review, based on a fair evaluation of "alternatives to the specific large project" under consideration, before proceeding to development.¹⁵³

120. While the AUAR has postponed numerous portions of environmental review to an unknown future date, this does not remedy the lack of an EIS or a comprehensive EAW examining the entire project. The EAWs and other studies proposed by the City may never occur, and in any case each would analyze only a small portion of

¹⁴⁷ Final AUAR at 66.

¹⁴⁸ *Id.* at 103.

¹⁴⁹ *Id.* at 22.

¹⁵⁰ *Id.*

¹⁵¹ *Id.* at 84-85.

¹⁵² *Id.* at 102.

¹⁵³ Minn. R. 4410.3610, subp. 5a(C); *see also* Minn. Stat. § 116D.04, subd. 2b (listing project environmental review prerequisites before proceeding to development).

the data center proposal.¹⁵⁴ This would make it easy to minimize and dismiss the project's effects piecemeal, instead of examining the potentially devastating environmental impacts of the data center proposal as a whole.

121. Throughout the AUAR process, Plaintiff submitted comments highlighting the AUAR's failure to describe the large specific project it was reviewing, its failure to study Monticello Industrial's potential environmental effects at a level comparable to an EIS, and its failure to include a mitigation plan with specific and enforceable mitigations. These comments did not result in an adequate Final AUAR that complies with Minnesota law.

COUNT I

Inadequate Environmental Review Minnesota Environmental Policy Act

122. Plaintiff realleges and incorporates by reference all preceding paragraphs.

123. Pursuant to the Minnesota Environmental Policy Act, Minn. Stat. § 116D.04, the City's AUAR must comply with the requirements of Minnesota Rule 4410.3610, which sets forth the process for conducting an Alternative Urban Areawide Review.

124. The City's AUAR for Monticello Industrial fails to comply with the requirements of Minnesota Rule 4410.3610.

125. The City's AUAR fails to provide a clear, complete, and detailed description of Monticello Industrial.

¹⁵⁴ See Final AUAR at 22.

126. The City's AUAR fails to adequately study the potential environmental effects of Monticello Industrial.

127. The City's AUAR fails to include a mitigation plan with specifically enforceable mitigation measures for Monticello Industrial.

128. Plaintiff respectfully requests this Court to declare that the AUAR for Monticello Industrial is inadequate, reverse the City's decision to approve the AUAR, remand the AUAR to the City, enjoin the City from making any final decisions with respect to Monticello Industrial until an adequate environmental review is complete, and enjoin Monticello Tech from beginning construction on any project at Monticello Industrial Park until an adequate environmental review is complete.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- a. Reverse the City's decision to approve the AUAR, and remand the AUAR to the City to add further analysis and to make a new decision on its adequacy or, in the alternative, to complete an EIS;
- b. Enjoin the City from issuing any permits or approvals or making any other final decision for any development in the AUAR geographic area until an adequate environmental review is complete;
- c. Enjoin the City from taking any action that would prejudice the ultimate decision on any project in the AUAR geographic area until it completes adequate environmental review;
- d. Enjoin Monticello Tech from beginning construction on any project in the AUAR geographic area until an adequate environmental review is complete;
- e. Award Plaintiff its costs and expenses; and
- f. Grant Plaintiff such other and further relief as this Court deems just and equitable.

Dated: February 24, 2026



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ACKNOWLEDGEMENT

Plaintiffs, by their attorneys, acknowledge that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties pursuant to Minn. Stat. § 549.211.

s/Joy Anderson
Joy Anderson, MN Atty No 0388217