

**STATE OF MINNESOTA
IN COURT OF APPEALS**

*In re Minnesota Pollution Control
Agency's Determination of Need for
Environmental Impact Statement for
Riverview, LLP's West River Dairy
Expansion*

Court of Appeals Case No.: _____

**PETITIONERS'
STATEMENT OF THE CASE**

Petitioners Land Stewardship Project and Food & Water Watch (collectively,
“Petitioners”) state as follows:

1. Agency of Case Origination.

This matter is an appeal from a final decision of the Minnesota Pollution Control Agency (“MPCA”). On June 22, 2026, MPCA issued the Findings of Fact, Conclusions of Law, and Order for a Negative Declaration (the “Order”) on the need for an Environmental Impact Statement (“EIS”) on the Riverview, LLP (“Riverview”) West River Dairy Expansion in Stevens County (the “Expansion Project”). Prior to approving the Order, MPCA prepared and distributed an Environmental Assessment Worksheet (“EAW”) meant to analyze the potential impacts of the Expansion Project. There was no contested case hearing.

2. Jurisdictional Statement.

A. Statute, rule, or other authority authorizing certiorari appeal:

This certiorari appeal is authorized by the Minnesota Environmental Policy Act (“MEPA”), Minn. Stat. § 116D.04, subd. 10. Under this statute, an aggrieved person may obtain judicial review under Minn. Stat. §§ 14.63 to 14.68 of MPCA’s final decision on the need for an

EIS. Here, the final decision is MPCA's Order for a Negative Declaration on the need for an EIS for the Expansion Project.

Petitioners are aggrieved by MPCA's final decision. Petitioner Land Stewardship Project seeks to build vibrant rural communities with strong local economies where the soil, water, air, and natural world are healthy. Petitioner Food & Water Watch fights for sustainable food, clean water, and a livable climate for all, working to protect people from destructive corporate interests. Both Petitioners submitted detailed comments on the EAW and have devoted institutional resources to addressing the Expansion Project's air emissions, water pollution, and other adverse environmental effects, as well as the Project's potential negative impacts on local farmers and the surrounding rural community, including Petitioners' members. Because Petitioners are aggrieved by MPCA's Order, this Court has jurisdiction under Minn. Stat. § 116D.04, subd. 10, and Minn. Stat. §§ 14.63 to 14.68.

B. Authority fixing time limit for obtaining certiorari review:

MEPA requires that a petition for judicial review be filed and served not more than 30 days after the responsible government unit provides notice of the final decision in the EQB Monitor. Minn. Stat. § 116D.04, subd. 10. MPCA provided notice of its final decision in the June 30, 2026, issue of the EQB Monitor. The deadline for obtaining judicial review is therefore July 30, 2026.

C. Finality of order or judgment:

The Order is MPCA's final decision on whether an EIS is needed for the Expansion Project. The decision to be reviewed disposes of all claims by and against all parties, including attorney fees.

3. Type of Litigation and Statutes at Issue.

This certiorari appeal involves administrative and environmental law. Relevant authorities include Minn. Stat. chapter 116D; Minn. Stat. §§ 14.63 to 14.69; and Minnesota Rules chapter 4410.

4. Description of the Case.

Riverview's planned Expansion Project would add 11,000 cows to its existing West River industrial dairy facility, more than doubling the facility's size and making it the largest dairy feedlot ever permitted in Minnesota. On June 22, 2026, MPCA issued an Order for a Negative Declaration on the Expansion Project, concluding that the Project does not have the potential for significant environmental effects, and that, therefore, an EIS is not required.

Contrary to MPCA's conclusions in the Order, the Expansion Project *does* have the potential for significant environmental effects, and so an EIS is necessary. MPCA's analysis of the Expansion Project's potential significant environmental effects is deficient, and MPCA's conclusion that the Expansion Project does not have the potential for such effects is belied by the evidence Petitioners (and many others) provided in comments to MPCA on the EAW. In their comments, Petitioners identified the Expansion Project's potential effects on the climate, water quantity, water quality, and rural communities, providing evidence that significant effects are not just possible, but likely. Despite Petitioners' comments, MPCA did not correct these deficiencies in the Order. MPCA failed to consider the concerns raised by Petitioners, and instead offered responses that did not address important aspects of the problems identified and that were not consistent with relevant evidence.

First, MPCA in the EAW undercounted the greenhouse gas emissions resulting from the Expansion Project and therefore underestimated their environmental effects. As Petitioners'

comments submitted to MPCA explained, the EAW: relied on questionable mitigation measures to justify the conclusion that the Project would not cause significant environmental effects; engaged in inconsistent and incorrect calculations for measuring emissions (such as quantifying an emissions *reduction* for certain kinds of feed, while failing to quantify emissions *increases* for other kinds of feed); and impermissibly ignored greenhouse gas emissions associated with the Project as out of scope. In the section of the Order responding to comments on the EAW, MPCA failed to meaningfully address evidence of these deficiencies.

Second, MPCA failed to adequately account for the Expansion Project's impact on groundwater availability. The information relied upon in the EAW was nearly two decades old and did not consider the significant changes in regional water use or availability since that time, as noted in Petitioners' comments. In its response to comments, MPCA attempted to brush off concerns about the Expansion Project's effects on water quantity by deferring to the Minnesota Department of Natural Resources ("DNR"). This response is insufficient because evidence in the record—including documents provided by DNR—demonstrates the potential for significant effects caused by the Expansion Project's water use and the way in which water quantity concerns interact with other potentially significant environmental effects, such as water quality.

Third, MPCA failed to fully account for water quality impacts resulting from the Expansion Project. In particular, MPCA did not adequately consider the potential for significant cumulative effects as a result of spreading over 169 million gallons of manure and contaminated wastewater to fields that are already saturated with manure and fertilizer. Petitioners explicitly raised the potential for significant cumulative effects on water quality in their comments on the EAW. However, despite explicitly acknowledging that, because of water quality impairments in the area, "we can assume there is a cumulative impact" from spreading the manure generated by

industrial dairy facilities, MPCA nonetheless concluded, without reasoned analysis and contrary to the evidence MPCA itself noted, that these cumulative impacts were not significant.

Additionally, MPCA unjustifiably dismissed concerns raised in the comments that Riverview's stormwater management plan will cause potentially significant environmental impacts (in that stormwater to be discharged the Pomme de Terre River may be contaminated by manure storage pond leakage).

Finally, MPCA sidestepped any analysis of the social and economic effects of the Expansion Project, despite significant concerns from local farmers and community members about the way in which Riverview's relentless expansion of massive, industrial dairy facilities, including the Expansion Project, has negatively impacted rural farming communities. These concerns were raised in the comments on the EAW, but MPCA entirely declined to address them.

5. Issues Proposed to be Raised on Appeal.

1. Whether MPCA's decision that the Expansion Project's greenhouse gas emissions had no potential for significant environmental effects—despite evidence that the Expansion Project's emissions were understated and MPCA therefore underestimated the direct and cumulative impacts on Minnesota's climate and other natural resources—was arbitrary and capricious, unsupported by substantial evidence, or based on an error of law.
2. Whether MPCA's decision that the Expansion Project's water use had no potential for significant environmental effects—despite evidence that the information MPCA relied upon in making this determination was stale and failed to consider current conditions—was arbitrary and capricious, unsupported by substantial evidence, or based on an error of law.

3. Whether MPCA's decision that the Expansion Project does not have the potential for significant environmental effects on water quality—despite evidence that water quality in this region is poor and the cumulative impact of applying the additional wastes from the Expansion Project cannot be controlled by a nutrient management plan—was arbitrary and capricious, unsupported by substantial evidence, or based on an error of law.
4. Whether MPCA's decision that the Expansion Project's local and regional social and economic impacts are beyond the scope of the EAW was arbitrary and capricious, unsupported by substantial evidence, or based on an error of law.

6. Related Appeals.

None.

7. Contents of the Record.

No transcript is required; there was no contested case hearing or trial preceding MPCA's final decision. No statement of proceedings under Rule 110.03 is necessary. The parties have not agreed to prepare a statement of the record under Rule 110.04, and this appeal will be based on the contents of the administrative record.

8. Oral Argument.

Formal oral argument is requested in St. Paul.

9. Briefs.

Petitioners will file a formal brief.

10. Parties' Attorneys.

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