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Case No. A25-1617

STATE OF MINNESOTA
IN COURT OF APPEALS

Approving the Findings of Fact and Record of Decision for Archer Datacenters
Environmental Assessment Worksheet (EAW) and Negative Declaration
Concerning the Need for an Environmental Impact Statement (EIS)

INITIAL BRIEF OF RELATOR
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INTRODUCTION

This case concerns whether the City of Faribault (“City”) adequately assessed the potential environmental effects of a 500,000 square foot data center proposal. It did not. The City’s Environmental Assessment Worksheet (“EAW”), published in August 2025, violated the Minnesota Environmental Policy Act (“MEPA”) in three ways.

First, the City changed the data center's estimated electricity consumption in its final EAW. The revision was unexplained, unsupported by evidence, and caused projected greenhouse gas emissions to drop by over ninety-eight percent. Second, the City ignored the broader context of environmental effects from other projects, including other data center projects, by claiming a cumulative effects analysis was “not applicable.” MEPA required this omitted analysis. Finally, the Minnesota Pollution Control Agency identified the EAW’s air quality analysis as “deficient” and warned that the noise analysis lacked “enough detail.” For both air and noise pollution, the City declined to provide information the agency requested, then unlawfully deferred missing elements of environmental review.

On this record, the City determined the data center lacked the potential to cause significant environmental effects. That determination should be reversed with an order to prepare an EIS or, in the alternative, remanded for revision of the EAW and a new decision on the need for an EIS.

STATEMENT OF THE ISSUES

I. Was the City's decision not to order an Environmental Impact Statement ("EIS") for the proposed data center project arbitrary and capricious or unsupported by substantial evidence because the City failed to explain its revised electricity estimate?

A. *Description of how the issue was raised.* Faribault residents submitted comments on the City's first EAW ("Draft EAW") expressing concern about the project's reported greenhouse gas emissions and requesting commitments to energy efficiency and other climate change mitigations. R.001163-75.

B. *Statement of the City's decision.* Without explaining a ninety-eight percent decrease in projected greenhouse gas emissions in its revised EAW ("Final EAW"), the City determined the proposed data center project did not have the potential to cause significant environmental effects. R.000042-43; Add.41-42.

C. *Description of how the issue was subsequently preserved for appeal.* Relator filed a timely petition for certiorari under Minn. Stat. § 116D.04, subd. 10, which provides judicial review of a final decision on the need for an EIS.

D. *List apposite statutes/cases.* Minn. Stat. § 116D.04, subd. 2a(a) (2025); Minn. R. 4410.1700, subp. 7 (2025); *Pfoser v. Harpstead*, 953 N.W.2d 507 (Minn. 2021); *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817 (Minn. 2006); *Trout Unlimited, Inc. v. Minn. Dep't of Agric.*, 528 N.W.2d 903 (Minn. App. 1995).

II. Was the City's decision not to order an EIS for the proposed data center project arbitrary and capricious, unsupported by substantial evidence, or affected by an error of law because the City failed to adequately assess the project's cumulative potential effects?

A. *Description of how the issue was raised.* Faribault residents submitted comments on the Draft EAW asserting that multiple data center developments across Minnesota would contribute to environmental effects. R.001163-75.

B. *Statement of the City's decision.* After claiming a cumulative effects description was "not applicable" in its revised EAW, the City determined

the proposed data center project did not have the potential to cause significant environmental effects. Add.48.

- C. *Description of how the issue was subsequently preserved for appeal.* Relator filed a timely petition for certiorari under Minn. Stat. § 116D.04, subd. 10, which provides judicial review of a final decision on the need for an EIS.
- D. *List apposite statutes/cases.* Minn. Stat. § 116D.04, subd. 2a(a); Minn. R. 4410.0200, subp. 11a (2025); Minn. R. 4410.1700, subp. 7(B) (2025); *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817 (Minn. 2006); *Connaughty v. Winona Cnty. Bd. of Comm'rs (In re Env't Impact Statement)*, 849 N.W.2d 71 (Minn. App. 2014); *Pope Cnty. Mothers v. Minn. Pollution Control Agency*, 594 N.W.2d 233 (Minn. App. 1999).

III. Was the City's decision not to order an EIS for the proposed data center project arbitrary and capricious, unsupported by substantial evidence, or affected by an error of law because the City failed to adequately assess air quality or noise pollution?

- A. *Description of how the issue was raised.* The Minnesota Pollution Control Agency ("MPCA") submitted comments on the Draft EAW asserting that the City failed to adequately study the proposed data center project's potential effects on air quality and noise pollution. R.001160-63.
- B. *Statement of the City's decision.* Without adding information MPCA requested about noise or air pollution, the City determined the proposed data center project did not have the potential to cause significant environmental effects. Add.9.
- C. *Description of how the issue was subsequently preserved for appeal.* Relator filed a timely petition for certiorari under Minn. Stat. § 116D.04, subd. 10, which provides judicial review of a final decision on the need for an EIS.
- D. *List apposite statutes/cases.* Minn. Stat. § 116D.04, subd. 2a(a); Minn. R. 4410.1700, subps. 2a, 6, 7 (2025); *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817 (Minn. 2006); *Pope Cnty. Mothers v. Minn. Pollution Control Agency*, 594 N.W.2d 233 (Minn. App. 1999); *In re City of Cohasset's Decision on the Need for an Env't Impact Statement for the Proposed Frontier Project*, 985 N.W.2d 370 (Minn. App. 2023).

STATEMENT OF THE CASE

On May 20, 2025, the City of Faribault released a draft Environmental Assessment Worksheet for a 500,000 square foot data center project (“Archer Data Center”) proposed by Archer Datacenters SPE2, LLC (“Project Proposer”). R.000008; R.000426. The project crossed a threshold for mandatory environmental review due to its size. Minn. R. 4410.4300, subp. 14 (2025). As the legally assigned Responsible Governmental Unit (“RGU”), the City was charged with completing an EAW to assess whether the data center proposal had the potential to cause significant environmental effects. Minn. Stat. § 116D.04, subd. 2a(a); Minn. R. 4410.4300, subps. 1, 14.

After the City released the draft version of its EAW, the public had a thirty-day window to submit comments. R.000426. During this comment period, Faribault residents, the Faribault Environmental Commission, and the Minnesota Pollution Control Agency (“MPCA”) raised concerns that the Draft EAW omitted important information about the project’s potential environmental effects on climate change, air quality, noise pollution, and more. R.001158–77.

On August 12, 2025, the City issued a Final EAW and a Record of Decision (“EIS Decision”) concluding that the data center proposal did not have the potential to cause significant environmental effects. R.000837–40. On that basis, the City determined that preparation of a full Environmental Impact Statement

("EIS") for the data center was not required.¹ R.000839. The City published its final decision in the Environmental Quality Board Monitor on September 2, 2025. R.001219.

Relator timely appealed the City's decision on October 2, 2025.

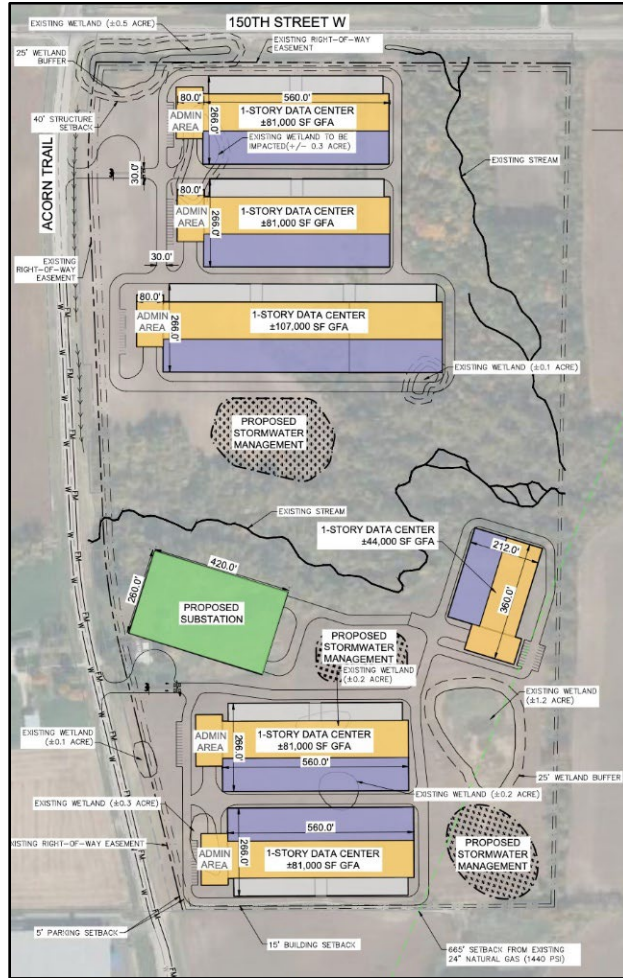
STATEMENT OF THE FACTS

While "Minnesota was not a large data center market in the past," that has changed in recent months. Add.55.² Today, there are "at least 10 potential huge data centers in various stages of development in Minnesota." *Id.*

One of those projects is the Archer Data Center. Project Proposer Archer Datacenters SPE2, LLC seeks to convert 84.3 acres of agricultural and undeveloped woodland into a campus of up to six data center buildings housing servers and equipment used to power digital workloads like artificial intelligence, cloud computing, or data management services. Add.17-18. Anticipated utilities and supporting infrastructure include new parking lots, stormwater ponds, water lines, sanitary sewer, storm sewer, and electric lines. *Id.* The campus would come with a dedicated electric substation. *Id.* See R.001471.

¹ Where this brief refers to the "EAW," the discussion refers to the Final EAW published on August 12, 2025 unless stated otherwise.

² Add.55 includes a Star Tribune article shared with the City in public comments on the Draft EAW. See R.001559.



As a 500,000 square foot “hyperscale” data center, this project crossed a size-based threshold for a mandatory EAW. Minn. R. 4410.4300, subp. 14.

EAWs are part of the environmental review process established by the Minnesota Environmental Policy Act. *See* Minn. Stat. § 116D.04, subd. 2a; Minn. R. 4410.4300, subp. 14. MEPA, passed in 1973, reflects a state policy 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.” Minn. Stat. § 116D.02, subd. 1 (2025). The

law's basic directive is that an Environmental Impact Statement is required for any major governmental action that may result in the "potential for significant environmental effects." Minn. Stat. § 116D.04, subd. 2a(a).

EAWs are used to determine whether a project has the potential for such effects, necessitating an EIS. *See id.* subd. 1a(c); Minn. R. 4410.2100, subp. 2(A) (2025) (stating that an EAW is prepared to "identify the need for preparing an EIS"). Accordingly, an EAW must identify any potential significant effects and provide enough information to determine whether more analysis is necessary. *See Carl Bolander & Sons Co. v. City of Minneapolis*, 502 N.W.2d 203, 207 (Minn. 1993) (affirming an EAW was needed to determine whether a project "may" harm the environment before deciding whether an EIS was necessary); *Trout Unlimited, Inc. v. Minn. Dep't of Agric.*, 528 N.W.2d 903, 909 (Minn. App. 1995) (reversing negative declaration on need for an EIS when EAW record showed potential for significant environmental effects). In this case, the City was the responsible governmental unit tasked with completing an EAW to determine whether the Archer Data Center had the potential to cause significant environmental impacts.

To assess the Archer Data Center's potential for significant environmental effects, the City was required to consider (1) the "type, extent, and reversibility of environmental effects;" (2) the "cumulative potential effects" of the project when combined with other sources of environmental degradation; (3) the extent to

which the effects are subject to specific, effective mitigation measures by ongoing public regulatory authority; and (4) “the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies.” Minn. R. 4410.1700, subp. 7. The City had to consider *all* of these factors when determining whether an EIS is required. *See id.* (using conjunctive “and”).

The Archer Data Center’s potential environmental effects include impacts on climate change, local air quality, and noise pollution.

I. Climate change

Data centers can be a significant source of greenhouse gas emissions due to their continuous, massive demand for power. As of 2025, “Xcel anticipates supplying data centers with 1,300 megawatts in Minnesota and the Dakotas over the next seven years” and “Great River Energy, a Maple Grove-based nonprofit, is planning 1,000 megawatts of new demand in a similar time frame.” Add.55. This electricity demand is “roughly equivalent to Minnesota’s 2.3 million households.” *Id.*

Electricity demand from data centers challenges Minnesota’s climate commitments³ in two ways. First, so long as Minnesota’s grid relies on fossil-fuel

³ To help protect the public from threats posed by climate change, the Minnesota Legislature passed the Next Generation Energy Act (“NGEA”) in 2007. Minn. Stat. §§ 216H.01-13. The NGEA created a statewide goal for the reduction of greenhouse gases across all sectors. *Id.* In 2023, Minnesota updated these statutory goals to call

generation, large electricity loads generate substantial “Scope Two” greenhouse gas emissions tied to a project’s electricity consumption.⁴ Second, data center developments are so large, and advancing so rapidly, that the projects may delay closure of fossil fuel power plants or even spur construction of new fossil fuel facilities. Already, these trends are being reported in places like Wisconsin, where a “utility wants to build more natural gas generation to help supply data center demand,” and in Louisiana, where a “massive” new data center would “need three new natural gas plants.” *Id.*⁵⁵. In Minnesota, the Star Tribune reports that “data centers are already raising concerns about whether they will prolong the burning of fossil fuels for electricity even as Minnesota requires a carbon-free grid by 2040.” *Id.* See Minn. Stat. § 216B.1691, subd. 2g (2025).

A. The Draft EAW reported greenhouse gas emissions higher than the annual electricity usage of 100,000 households

In its Draft EAW, the City reported that the Archer Data Center would produce 529,803 metric tons of carbon dioxide-equivalent greenhouse gases (“tons of GHGs”) per year. R.000042. Nearly all of these emissions—526,976 tons—are Scope Two emissions tied to the data center’s electricity consumption. *Id.* These

for reductions of greenhouse gas emissions by fifty percent by 2030 and net-zero emissions by 2050.

⁴ See *Greenhouse Gas Inventory Guidance: Indirect Emissions from Purchased Electricity Guidance*, 1 U.S. ENV’T PROT. AGENCY (Jan. 2016), https://www.epa.gov/sites/default/files/2016-03/documents/electricityemissions_3_2016.pdf.

emissions are equivalent to the annual electricity consumption of over 100,000 households.⁵ Over the project’s twenty-five to thirty-year lifespan, the City reported GHG emissions that would be equivalent to a decade’s worth of carbon sequestration from 219 million seedling trees. R.000045.⁶

The Draft EAW reported these high GHG emissions alongside “potential design strategies and sustainability measures that are under consideration for this project to reduce emissions.” R.000043. Some ideas, like “[e]nergy efficient data center cooling technology” and “[e]nergy efficient building shells,” would mitigate the data center’s climate impact by reducing its electricity consumption. *Id.* Other possibilities, including “[o]n-site wind power,” “[g]rid-based wind and solar power,” and the “purchase of [Renewable Energy Credits],” would mitigate climate concerns by redirecting electricity consumption to less carbon-intensive sources. *Id.* The City shared that “[i]mplementation of the above strategies will be

⁵ *Greenhouse Gas Equivalencies Calculator – Calculations and References*, U.S. ENV’T PROT. AGENCY (Oct. 2024), <https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator-calculations-and-references> (showing that 529,803 metric tons CO₂e/year is equivalent to the annual electricity use of roughly 110,000 homes).

⁶ *Id.* (showing that 13,245,075 metric tons CO₂e/year, the Draft EAW’s lower bound of the Archer Data Center’s lifetime GHG emissions, is equivalent to the carbon sequestered by 219,008,454 tree seedlings grown for ten years).

evaluated on a case-by-case basis based on code requirements, feasibility, availability of materials, schedule, and customer specifications.”⁷ *Id.*

B. The Final EAW reported over ninety-eight percent lower greenhouse gas emissions

The Final EAW revised the Archer Data Center’s estimated climate impact from 529,803 tons of GHGs per year to 9,753 tons of GHGs. Add.42. This change was acknowledged just once, in response to a public comment about the data center’s climate impact, when the City asserted there “was an error in the calculation provided; this has been updated in the EAW.” Add.56. The City did not describe or explain this error.

Comparing the Draft and Final EAWs’ appendices indicates that the GHG reduction resulted from a large shift in reported electricity consumption. The Draft EAW reported that the Archer Data Center would consume 1,000,050 megawatt-hours (“MWh”) of electricity per year, suggesting an average power use of 114 Megawatts (“MW”). R.000202. The Final EAW, by contrast, reported that the Archer Data Center would consume only 14,140 MWh per year, suggesting just 1.6 MW of average power use. R.001040. For comparison, the Star Tribune’s reporting on other large data center proposals describes a North Mankato project

⁷ Multiple residents pushed for stronger action in their public comments, requesting the City to “[p]lease change the language to ‘will be used’” and critiquing “EAW mentions general strategies for efficiency but does not commit to implementation.” R.001194; R.001199.

as a 300–500 MW facility, a Hampton data center as a 150–250 MW facility, and a Farmington data center as a 500 MW facility. Add.55. The smallest data center proposal reported by the Star Tribune, planned for the City of Rosemount, would reportedly draw “10-150 MW or more.” *Id.*

At 1.6 MW of average power usage, the Archer Data Center would consume far less electricity than other data center proposals in Minnesota. It would also diverge from public reporting about this project. In a January 2025 article submitted to the City in comments on the Draft EAW, the Star Tribune described the Archer Data Center as a 120 MW project. *Id.* In a story in Finance & Commerce, Jordan Milman, chairman and CEO of Archer Datacenters SPE2, LLC, was quoted stating the project would use “up to 120MW of power.”⁸ The Project Proposer’s website has also described the project as a “120MW data center campus.”⁹

⁸ Brian Johnson, *Data Center Site in Faribault Fetches \$4.5M*, FIN. & COM. (Nov. 25, 2024), <https://finance-commerce.com/2024/11/data-center-site-in-faribault-fetches-4-5m/>. The Court may take judicial notice of these publicly available sources, which include information from the project proposer itself, for the limited purpose of establishing that the Project Proposer itself was stating publicly that it expected its data center to use up to 120 MW of power. Minn. R. Evid. 201(b)(2). *See In re Denial of Contested Case Hearing Requests*, 993 N.W.2d 627, 656–57 (Minn. 2023) (taking judicial notice of public reports and agency comments for the “limited purpose of demonstrating ongoing federal concern” over MPCA’s permitting decision).

⁹ Archer Datacenters, *Archer Acquires Land in Faribault, Minnesota, for 120MW Data Center Campus*, NEWS & RES., <https://www.archerdatacenters.com/news-resources/archer-acquires-land-in-faribault-minnesota-for-120mw-data-center-campus/> (last visited Dec. 3, 2025). As in footnote eight, Relator seeks judicial

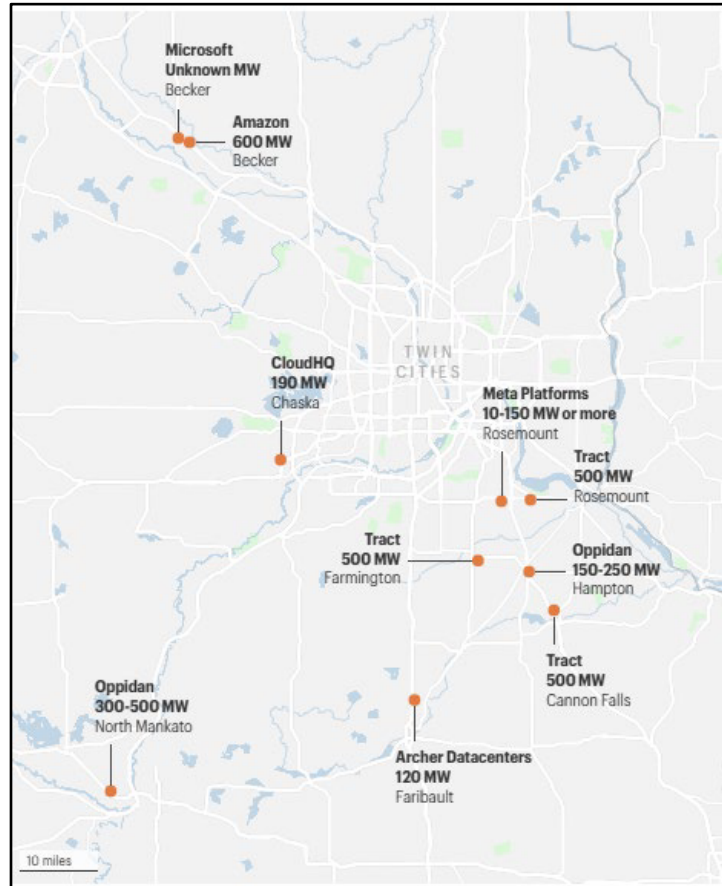
II. Cumulative impacts

MEPA required the City to assess the Archer Data Center's cumulative potential effects, defined as the "incremental effects of a project in addition to other projects in the environmentally relevant area that might reasonably be expected to affect the same resources." Minn. R. 4410.0200, subp. 11a.

When asked to "[d]iscuss 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," the City wrote "Not Applicable" in the Draft EAW. R.000049.

notice of this publicly available post for the limited purpose of establishing that the Project Proposer stated it expected its data center to use up to 120 MW of power.

Public comments on the Draft EAW included detailed figures from a Star Tribune article identifying ten large proposals concentrated near the Twin Cities metropolitan area. Add.55.



In its Final EAW, the City maintained that the cumulative effects description was “Not Applicable” to the Archer Data Center. Add.48. At no point during environmental review did the City contemplate environmental impacts from nearby hyperscale data center proposals that could, in aggregate, consume as much electricity as 2.3 million households. Add.55. The Final EAW did not identify any “other projects in the environmentally relevant area that might

reasonably be expected to affect the same resources.” See Minn. R. 4410.1700, subp. 7(B).

III. Air pollution

Large data center campuses can host dozens or hundreds of on-site power generators: an Amazon proposal in Becker sought to “build 250 emergency backup diesel generators capable of producing nearly as much power as Xcel’s Monticello nuclear plant in case of a grid outage,” while “data center developer Oppidan might install several hundred diesel generators at its project in Hampton.” Add.55. By burning diesel fuel or natural gas, these generators emit nitrogen oxides, particulate matter, carbon monoxide, and other criteria pollutants that EPA and the World Health Organization identify as major contributors to respiratory and cardiovascular disease and premature death.¹⁰

In its Draft EAW, the City noted that the Archer Data Center project would include power generators running on “either natural gas (Table 9b) or onsite

¹⁰ *Basic Information About NO₂*, U.S. ENV’T PROT. AGENCY (July 10, 2025), https://www.epa.gov/no2-pollution/basic-information-about-no2?utm_source=; *Health and Environmental Effects of Particulate Matter (PM)*, U.S. ENV’T PROT. AGENCY, <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm> (last visited Nov. 26, 2025); *Ambient (Outdoor) Air Pollution*, WORLD HEALTH ORG., [https://www.who.int/news-room/fact-sheets/detail/ambient-\(outdoor\)-air-quality-and-health](https://www.who.int/news-room/fact-sheets/detail/ambient-(outdoor)-air-quality-and-health) (last updated Sept. 22, 2021). The Court may take judicial notice of this background information regarding air pollutants as facts that are not reasonably subject to dispute. Minn. R. Evid. 201(b)(2).

diesel (Table 9a).” R.000041. In response to the EAW’s directive to “[d]escribe the type, sources, quantities, and compositions of any emissions from stationary sources,” the City offered no information about those power generators’ potential to emit nitrogen oxides, particulate matter, carbon monoxide, or other pollutants. R.000039–40.

MPCA described this omission as “deficient.” Add.54. In comments on the Draft EAW, the agency noted that the City failed to “offer any substantive information on the project or its emissions with respect to air quality,” and it instructed the City to “add material information regarding the nature of the project” and its effect on air quality. *Id.* In particular, MPCA requested information about “emission units, their emissions, and the impacts of those emissions” related to any “power generation in the form of either diesel or natural gas” at the Archer Data Center. *Id.*

In its Final EAW, the City stated that the “size, type, and quantity of back up emergency generators” remained “unknown.” *Id.* Going forward, the City promised that when “more information is known for the site, a full air quality analysis will be completed, coordination with the Minnesota Pollution Control Agency (MPCA) will occur, and any anticipated permits will be obtained from the MPCA. If the emissions exceed a mandatory EAW threshold, an additional environmental review will be completed.” Add.54. The City claimed that

“stationary source air emissions for the proposed buildings are anticipated to be minimal based on the anticipated mechanical equipment that will be installed.”

Add.38.

The Final EAW offered no information about “emission units, their emissions, and the impacts of those emissions” from on-site generators at the data center. Add.54.

IV. Noise pollution

Data center servers, surrounded by banks of high-speed fans, chillers, and other equipment, can produce noise. As explained by MPCA, “[n]oise becomes a health concern when there is long-term exposure to increased ambient noise levels.”¹¹ To protect residents from this pollution, Minnesota law sets noise limits based on land use, decibel level, and duration to protect public health and welfare.¹²

¹¹ *Noise and Odor*, MINN. POLLUTION CONTROL AGENCY, <https://www.pca.state.mn.us/air-water-land-climate/noise-and-odor> (last visited Nov. 26, 2025). The Court may take judicial notice of this background information regarding noise pollution as facts that are not reasonably subject to dispute. Minn. R. Evid. 201(b)(2).

¹² *A Guide to Noise Control in Minnesota*, 1 MINN. POLLUTION CONTROL AGENCY (Nov. 2015), <https://www.pca.state.mn.us/sites/default/files/p-gen6-01.pdf>. The Court may take judicial notice of this background information regarding noise pollution as facts that are not reasonably subject to dispute. Minn. R. Evid. 201(b)(2).

In its Draft EAW, the City reported that “the main sources of noise include ventilation systems, industrial traffic and the use of generators tested once a month and in the case of emergency.” R.000045. The City acknowledged that “[s]ensitive receptors within the project site vicinity include adjacent residential houses, and businesses.” *Id.* To limit noise pollution, the Draft EAW reported that “attenuation measures such as sound walls or increased buffering from the property line (i.e. physical distance, berms, or dense landscaping) may be incorporated into project design to ensure that MPCA noise rules and City noise ordinances are followed.” R.000045–46.

MPCA commented that this analysis “did not provide enough detail regarding current and anticipated sound levels in the project area to determine whether an immediate violation of the state noise standards would occur if the project were approved.” Add.53.

In response, the City wrote “[c]omment noted. As noted in the EAW, further noise analysis will be completed once design progresses for the proposed project and equipment is selected for project design. The project will be required to meet the state noise standards during operations.” Add.54.

The Final EAW offered no additional details “regarding current and anticipated sound levels in the project area.” *Id.*

This appeal follows.

STANDARD OF REVIEW

All of Relator's claims are brought under MEPA, Minn. Stat. § 116D.04, subd. 10, which incorporates the standards of review articulated in the Minnesota Administrative Procedure Act. Under this standard, this Court may reverse or modify the City's EIS Decision if the City's findings, conclusions, or decisions are *inter alia* (1) unsupported by substantial evidence in view of the entire record, (2) arbitrary and capricious, or (3) affected by an error of law. Minn. Stat. § 14.69 (listing six bases for reversal).

I. Issues of law

The application of statutes and rules to the facts of a case involves questions of law. *Minn. Ctr. for Envtl. Advoc. v. Big Stone Cnty. Bd. of Comm'rs*, 638 N.W.2d 198, 202-03 (Minn. App. 2002). This case raises two issues of law: (1) whether the City committed an error of law by determining a description of cumulative effects was "not applicable" to its EAW, and (2) whether the City committed an error of law by deferring air quality and noise pollution analyses to an undefined future date. The City receives no deference for these questions of law, which are reviewed *de novo*. *Kind Heart Daycare, Inc. v. Comm'r of Hum. Servs.*, 905 N.W.2d 1, 9 (Minn. 2017).

II. Issues of fact

The appellate courts review issues of fact to determine whether agency decisions were unsupported by substantial evidence or arbitrary and capricious. Minn. Stat. § 14.69; see *In re Enbridge Energy, Ltd. P'ship*, 930 N.W.2d 12, 21 (Minn. App. 2019) (reviewing decision on the adequacy of an EIS to determine if it was supported by substantial evidence or arbitrary and capricious).

In this case, the Court must review several issues of fact related to the City's EIS Decision, including: (1) the City's revision of estimated greenhouse gas emissions between its Draft and Final EAWs, (2) the City's assertion that air quality impacts from on-site generators at the data center will be minimal, and (3) the City's determination that the data center's noise pollution does not have the potential to cause significant environmental effects.

To determine whether these findings were supported by substantial evidence, this Court considers "whether the [decisionmaker] has adequately explained how it derived its conclusion and whether that conclusion is reasonable on the basis of the record." *Pfoser v. Harpstead*, 953 N.W.2d 507, 514 (Minn. 2021) (quoting *Minn. Power & Light Co. v. Minn. Pub. Utils. Comm'n*, 342 N.W.2d 324, 330 (Minn. 1983)). If the City provided nothing other than "bare assertions" with no support from evidence such as data, agency opinions, or studies, its decisions would not be supported by substantial evidence. *Citizens Advocating Responsible*

Dev. v. Kandiyohi Cnty. Bd. of Comm'rs, 713 N.W.2d 817, 837-38 (Minn. 2006) [hereinafter *CARD*].

The City's decisions would be arbitrary or capricious if they represent the City's will rather than its judgment. *Trout Unlimited*, 528 N.W.2d at 907. This Court must reverse the City's decisions as arbitrary and capricious if the City (1) relied on factors not intended by the legislature, (2) entirely failed to consider an important aspect of the problem, (3) offered an explanation that runs counter to the evidence, or (4) made a decision so implausible that it could not be explained as a difference in view or as the result of the City's expertise. *Id.*

In reviewing agency findings of fact, this Court shows deference "to the agencies' expertise and their special knowledge in the field of their technical training, education, and experience." *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 824 (Minn. 1977). But where there is a combination of danger signals that suggest the City has not taken a "hard look" at the salient problems and "has not genuinely engaged in reasoned decision-making," it is this Court's duty to intervene. *Id.* at 825 (quoting *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 851 (D.C. Cir. 1970)).

ARGUMENT

The City's EIS Decision violated MEPA because it relied on an implausible and unsupported GHG emissions estimate, omitted a cumulative effects analysis, and failed to adequately assess air and noise pollution.

I. The City's greenhouse gas emissions estimate was arbitrary and capricious and unsupported by substantial evidence

Addressing climate change is a key part of determining whether a project has the "potential for significant environmental effects." *See In re Determination of Need for Env't Impact Statement for Mankato Motorsports Park*, No. A20-0952, 2021 WL 1604359, at *11 (Minn. App. Apr. 26, 2021) (recognizing that "recent federal decisions have held that an environmental review must address impacts of [greenhouse-gas or] GHG emissions," and concluding that an EAW's failure to study greenhouse gas emissions was arbitrary and capricious); *see also In re Denial of a Contested Case Hearing Request & Modification of a Notice of Coverage Under Individual Nat'l Pollutant Discharge Elimination Sys. Feedlot Permit No. MN0067652*, No. A19-0207, 2019 WL 5106666, at *7-8 (Minn. App. Oct. 14, 2019) (holding that MPCA failed to take the required "hard look" at potentially significant environmental effects when the agency did not consider greenhouse-gas emissions from a proposed feedlot expansion).

In recent years, EQB has clarified *how* EAWs should address climate change. The agency revised its official EAW Form in 2022 with instructions to describe a

project’s carbon footprint, climate mitigations, and climate adaptations.¹³ In 2024, the agency published an official guidance document for local governmental units with instructions for “[d]eveloping a carbon footprint and incorporating climate adaptation and resilience” into EAWs.¹⁴ EQB’s revised form and guidance ensure that EAWs “measure the potential climate impacts of a proposed project” and “track progress in meeting state and local GHG reduction goals and support[] efforts to reduce emissions, mitigate, and adapt to the impacts of climate change.” *Id.* at 4.

In its official guidance, EQB identifies a “simplified formula for calculating GHG emissions from off-site purchased electricity.” *Id.* at 13. The formula rests on three inputs: how much “purchased electricity” a project will consume, a set of “emission factors” that help estimate how much of a project’s electricity use will come from fossil fuels, and a “global warming potential” factor that converts different types of greenhouse gases—like carbon dioxide, methane, or nitrous oxide—into a single unit. *Id.* EQB identifies a “number of pre-existing tools” that

¹³ *Environmental Assessment Worksheet (EAW) Form*, MINN. ENV’T QUALITY BD. (Dec. 2022), <https://www.eqb.state.mn.us/sites/eqb/files/documents/December%202022%20EAW%20form.pdf>.

¹⁴ *Environmental Assessment Worksheet (EAW) Guidance: Developing a Carbon Footprint and Incorporating Climate Adaptation and Resilience*, 5 MINN. ENV’T QUALITY BD. (June 2024), <https://www.eqb.state.mn.us/sites/eqb/files/documents/December%202022%20EAW%20form.pdf> [hereinafter EQB Climate Guidance].

“may prove helpful in calculating emissions from one or more GHG emission sources.” *Id.*

Once an RGU has calculated GHG emissions from off-site purchased electricity, the EAW must “[d]escribe the methods used to quantify emissions,” Add.39, and it must “provide sufficient background and technical information so that the emissions calculations are replicable.” EQB Climate Guidance at 14.

In short, an adequate EAW must detail total greenhouse gas emissions associated with a project’s electricity usage, and it must show its work. The City’s Final EAW for the Archer Data Center fell short of those requirements in two respects: First, the City based its greenhouse gas emissions estimate on a dramatic and unexplained reduction in the data center’s electricity consumption. This revised figure was unsupported by substantial evidence. Second, the City relied on this revised electricity figure even though it was highly implausible and contradicted all available evidence. That reliance was arbitrary and capricious.

These errors were not harmless. After sharply reducing the data center’s projected greenhouse gas emissions, the Final EAW omitted any commitments to mitigate the project’s climate impact.

A. The City’s dramatically revised electricity estimate lacked substantial evidence

Between the Draft and Final EAW, the City reduced the Archer Data Center’s GHG emissions estimate by over ninety-eight percent after amending,

without explanation, the key input of purchased electricity. R.000042–43; Add.41–42. This completely unsupported conclusion warrants reversal under the lack-of-substantial-evidence standard.

An agency decision lacks substantial evidence if the agency has not “adequately explained how it derived its conclusion and whether that conclusion is reasonable on the basis of the record.” *Pfoser v. Harpstead*, 953 N.W.2d 507, 514 (Minn. 2021) (quoting *Minn. Power & Light Co. v. Minn. Pub. Utils. Comm’n*, 342 N.W.2d 324, 330 (Minn. 1983)). In particular, when a decisionmaker provides nothing other than “bare assertions,” with no support from evidence such as data, agency opinions, or studies, the decision is not supported by substantial evidence. *CARD*, 713 N.W.2d 817, 837–38 (Minn. 2006).

The City offered no explanation on the record for how it estimated the Archer Data Center’s purchased electricity. In response to a public comment noting the Draft EAW’s high GHG emissions estimate, the City indicated there was “an error in the calculation provided.” Add.56. But the City never identified what that error was or how it was fixed. The City offered no explanation for why the Final EAW’s electricity consumption estimate varied so dramatically from the draft estimate. In fact, the City offered no data, methods, or sources *at all* to explain how it assessed the project’s electricity consumption, either in the Draft EAW or the Final EAW. This failure to “[d]escribe the methods used to quantify emissions”

made the City's GHG calculations impossible to replicate, violating EQB guidance. Add.39. It also contradicted the City's obligation to demonstrate its conclusions are reasonable on the record. *See Pfoser*, 953 N.W.2d at 514.

The Final EAW's purchased electricity estimate was, in short, a "bare assertion." *CARD*, 713 N.W.2d at 837–38. That assertion produced a fifty-fold difference in the Archer Data Center's climate impact. Yet, the record contains no "[s]uch relevant evidence as a reasonable mind might accept as adequate to support a conclusion" that it is true. *White v. Minn. Dep't of Nat. Res.*, 567 N.W.2d 724, 730 (Minn. App. 1997). This was a reversible error.

B. The City's revised electricity estimate contradicted all available evidence and was arbitrary and capricious

Even if the City had explained its decision to dramatically decrease the estimated GHGs from the Archer Data Center, several facts indicate that the City's lowered electricity consumption estimate was simply wrong. An agency decision will be reversed as arbitrary and capricious if it "runs counter to the evidence" or is "so implausible that it could not be explained as a difference in view or the result of the agency's expertise." *Trout Unlimited*, 528 N.W.2d at 907.

The Final EAW's purchased electricity estimate was implausible and contrary to the evidence before the City for three reasons.

First, the City's purchased electricity input implies an average power usage at the Archer Data Center that, at 1.6 MW, would be highly irregular. *See R.001040*.

In an article shared in public comments on the Draft EAW, the Star Tribune tracked ten data center proposals in Minnesota. Add.55. Among those projects, nine of the ten projects are described as between 120 MW to 600 MW campuses, while the final proposal, a data center project planned for the City of Hampton, is described as a “10-150 MW or greater” project. *Id.* A 10 MW baseline – the lowest potential electricity demand from the least power-hungry data center proposal tracked in Minnesota – is 625 percent higher than what the City’s Final EAW reported for Archer Data Center. The EAW offered no information to explain why its large data center proposal, whose design plans include electric lines and an electric substation, would consume so little electricity compared to other proposals.

Second, several public reports and statements describe the Archer Data Center as a 120 MW facility. In December 2024, the Project Proposer posted online that “Archer acquires land in Faribault, Minnesota, for 120MW data center campus.”¹⁵ The developer’s CEO repeated this claim in a quote shared with the Finance and Commerce publication.¹⁶ In early 2025, the Star Tribune released a

¹⁵ Archer Datacenters, *Archer Acquires Land in Faribault, Minnesota, for 120MW Data Center Campus*, NEWS & RES., <https://www.archerdatacenters.com/news-resources/archer-acquires-land-in-faribault-minnesota-for-120mw-data-center-campus> (last visited Dec. 3, 2025).

¹⁶ Brian Johnson, *Data Center Site in Faribault Fetches \$4.5M*, FIN. & COM. (Nov. 25, 2024), <https://finance-commerce.com/2024/11/data-center-site-in-faribault-fetches-4-5m/>.

map of data center proposals that identified an “Archer Datacenters” project in Faribault as a 120MW facility. Add.55.

Finally, the Final EAW’s numbers are called into question by the City’s own draft estimate. In its Draft EAW, the City reported 114 MW of average power usage from the Archer Data Center. R.000292. This number falls well within range of expected power consumption for large data centers, based on other Minnesota proposals, and it closely tracks public reports describing the Archer Data Center campus as a 120 MW campus.

Altogether, the Final EAW’s claim that a 500,000 square foot data center campus would draw just 1.6 MW of power contradicted three data points: other data centers’ power consumption, public statements by the Project Proposer about its project, and the City’s own original power estimates. By contrast, the City’s final claim that the data center would draw just 1.6 MW was supported by no facts. The City’s EIS Decision thus relied on a GHG estimate that ran “counter to the evidence” available to the City and was arbitrary and capricious. *Trout Unlimited*, 528 N.W.2d at 907.

C. The City’s implausible and unexplained greenhouse gas emissions reduction allowed the City to omit any climate change mitigations

An EAW’s core directive to assess whether a project has the potential for significant environmental effects is based, in part, on “the extent to which the effects are subject to specific, effective mitigation measures by ongoing public

regulatory authority.” Minn. R. 4410.1700. If a reviewing agency relies on mitigation measures to avoid an EIS, it “may reasonably do so only if those measures are specific, targeted, and certain to be able to mitigate the environmental effects.” *CARD*, 713 N.W.2d at 835.

By dramatically reducing the Archer Data Center’s estimated GHG emissions, the City erased the need to adopt specific, targeted, or certain climate mitigations, or to conduct an EIS to further examine the effects of those emissions. In its Draft EAW, which reported high GHG emissions, the City presented potential mitigations ranging from “energy efficient data center cooling technology,” “energy efficient building shells,” “onsite wind power,” “grid-based wind and solar power,” and purchase of Renewable Energy Credits, that could be used to reduce the project’s climate footprint. R.000043.

In its Final EAW, which reported far lower GHGs, the City committed to no climate mitigations at all. Instead, the City reported that “implementation of the above strategies will be evaluated on a case-by-case basis based on code requirements, feasibility, availability of materials, schedule, and customer specifications.” Add.42. This menu of hypotheticals fell far short of embracing commitments that would be “specific, targeted, and certain to be able to mitigate the environmental effects” from the Archer Data Center. *CARD*, 713 N.W.2d at 835.

Because the City based its climate analysis on an electricity consumption figure that was unsupported by substantial evidence and arbitrary and capricious, its EIS Decision should be reversed.

II. The City's cumulative potential effects analysis was affected by legal error, arbitrary and capricious, and unsupported by substantial evidence

To determine whether a project has the potential for significant environmental effects, MEPA requires RGUs to review "cumulative potential effects," Minn. R. 4410.1700, subp. 7(B), which are environmental impacts resulting from "incremental effects of a project in addition to other projects in the environmentally relevant area" that could affect the same resources. Minn. R. 4410.0200, subp. 11a. An EAW's cumulative effects analysis must "consider whether the contribution from the project is significant when viewed in connection with other contributions" from projects that "(1) are already in existence or planned for the future; (2) are located in the surrounding area; and (3) might reasonably be expected to affect the same natural resources." *Connaughtly v. Winona Cnty. Bd. of Comm'rs (In re Env't Impact Statement)*, 849 N.W.2d 71, 77 (Minn. App. 2014). The City must assess "whether the cumulative potential effects are significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of

the proposer to minimize the contributions from the project.” Minn. R. 4410.1700, subp. 7(B).

The role of a cumulative effects analysis is to “put the proposed project into context.” *CARD*, 713 N.W.2d at 829. Where a single project might not independently cause significant effects, considering cumulative effects ensures that “environmental consequences [do not] vanish from the map” simply because they arise incrementally rather than all at once. *Id.* at 831.

The Final EAW included the following 141 words regarding cumulative potential effects, Add.48:

21. Cumulative Potential Effects

- a. Describe the geographic scales and timeframes of the project related environmental effects that could combine with other environmental effects resulting in cumulative potential effects.**

Cumulative effects are defined as the “effect on the environment that results from the incremental effects of a project in addition to other projects in the environmentally relevant area that might reasonably be expected to affect the same environmental resources, including future projects actually planned or for which a basis of expectation has been laid, regardless of what person undertakes the other projects or what jurisdictions have authority over the projects.” The geographic areas considered for cumulative effects are those areas adjacent to the EAW study area, and the timeframe considered includes projects that would be constructed in the reasonably foreseeable future.

- b. Describe any reasonably foreseeable future projects (for which a basis of expectation has been laid) that may interact with environmental effects of the proposed project within the geographic scales and timeframes identified above.**

Future private development projects may result in impacts to transportation, water resources, and utilities. These impacts will be addressed via the regulatory permitting and approval processes and will be individually mitigated to ensure minimal cumulative impacts occur.

- c. Discuss 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.**

Not Applicable.

In this section, the City restated the regulatory definition of cumulative potential effects, asserted that future private development “will be addressed via the regulatory permitting and approval processes and will be individually mitigated to ensure minimal cumulative impacts occur,” and concluded that cumulative effects were otherwise “Not Applicable.” Add.48. This analysis, which failed to identify or examine any cumulative potential effects from any existing or foreseeable projects, was based on a legal error, unsupported by substantial evidence, and arbitrary and capricious.

A. The City committed a legal error by claiming cumulative potential effects were “not applicable” to this EAW

Claiming that “the nature of the cumulative potential effects” was “Not Applicable” to this EAW was a legal error, which this Court reviews de novo. *Kind Heart Daycare*, 905 N.W.2d at 9.

To evaluate cumulative potential effects, MEPA plainly requires RGUs to consider “whether the contribution from the project is significant when viewed in connection with other contributions,” alongside “the efforts of the proposer to minimize the contributions from the project.” Minn. R. 4410.1700, subp. 7(B).

The City ignored both of these mandatory considerations: it neither evaluated the Archer Data Center’s contribution to broader cumulative impacts, nor did it examine whether the proposer had taken any steps to “minimize the contributions from the project.” Minn. R. 4410.1700, subp. 7(B).

The City recognized that there *could be* cumulative effects from “[f]uture private development projects” affecting the same environmental resources as the Archer Data Center. Add.48. Nevertheless, it determined that MEPA’s ordinary requirement to “discuss the nature of the cumulative effects” was “Not Applicable.” *Id.* This unexplained assertion was a legal error.

B. The City’s failure to identify existing and reasonably foreseeable projects was arbitrary and capricious and unsupported by substantial evidence

The City’s Final EAW failed to identify whether any existing or reasonably foreseeable projects could, alongside the Archer Data Center, cause significant cumulative effects on the environment. A decision on the need for an EIS is arbitrary and capricious if it “entirely failed to consider an important aspect of the problem.” *CARD*, 713 N.W.2d at 832 (citing *In re Charges of Unprofessional Conduct Contained in Panel File 98-26*, 597 N.W.2d 563, 567 (Minn. 1999)). The decision also lacks substantial evidence if the record contains no adequate explanation about how the conclusion was reached and relies on “bare assertions.” *Pfoser*, 953 N.W.2d at 514; *CARD*, 713 N.W.2d at 837–38 (Minn. 2006).

The City ignored every step of MEPA’s process for studying cumulative environmental effects from the Archer Data Center. To address existing impacts, MEPA requires cumulative effects analyses to describe the “current aggregate effects of past actions.” Minn. R. 4410.0200, subp. 11a. The City’s cumulative effects

analysis did not acknowledge this requirement or include any information to satisfy it.

To address foreseeable future impacts, MEPA directs EAWs to identify the incremental effects of projects in the “environmentally relevant area that might reasonably be expected to affect the same environmental resources.” Minn. R. 4410.0200, subp. 11a. Here, the City offered one sentence that “future private development projects may result in impacts to transportation, water resources, and utilities.” Add.48.

Acknowledging that “future private development projects” could have environmental impacts is merely a truism. The City offered no indication that it examined projects that “(1) are already in existence or planned for the future; (2) are located in the surrounding area; and (3) might reasonably be expected to affect the same natural resources.” *Connaughty*, 849 N.W.2d at 77 (Minn. App. 2014). Most concerning, the City ignored abundant evidence of *actual* planned projects in the form of other large data centers. Public comments directed the City to Star Tribune coverage of nine other data center proposals. Add.55. Most are not far away: data centers reported in Cannon Falls and Farmington are within twenty-five miles of the Archer Data Center proposal. *See id.* Proposals in Rosemount and Chaska are within fifty miles of the Archer project. *See id.* Together, anticipated data centers’ massive electricity consumption could equal that of “every home in

the state,” introducing new strain on Minnesota’s ability to satisfy its commitments to a carbon-free grid by 2040. *Id.*

This aggregate impact of these proposals, which the review of any individual data center might miss, is exactly the sort of “environmental impacts resulting from incremental effects of a project in addition to other projects in the environmentally relevant area that could affect the same resources” that a cumulative effects analysis is designed to address. Minn. R. 4410.0200, subp. 11a. Here, the City treated other data centers as if “their environmental consequences vanished from the map,” despite being directed to an actual map of data center proposals. *CARD*, 713 N.W.2d at 831–32; Add.48. That omission wholly ignored an important aspect of the Archer Data Center’s potential environmental impacts, making the City’s EIS Decision arbitrary and capricious. *CARD*, 713 N.W.2d at 831. By not describing the cumulative effects of any existing or future developments, the City’s EIS Decision also presumed that *no* cumulative effects were relevant to assessing the Archer Data Center’s potential environmental effects. Add.48. That determination came with no explanation, analysis, or factual basis, and lacked substantial evidence. *Pfoser*, 953 N.W.2d at 514.

C. The City’s reliance on future permitting and regulatory mitigation lacked substantial evidence and was arbitrary and capricious

In an effort to salvage its clear noncompliance with MEPA, the City relied on a blanket assertion that there were no significant cumulative potential effects

because other projects will undergo “regulatory permitting and approval processes and will be individually mitigated to ensure minimal cumulative impacts occur.” Add.48.

This Court has repeatedly cautioned that a negative EIS declaration is arbitrary and capricious when it relies on “ongoing public regulatory authority” to bypass discussion of cumulative potential effects. *See Pope Cnty. Mothers v. Minn. Pollution Control Agency*, 594 N.W.2d 233, 238 (Minn. App. 1999) (explaining that while the “extent to which environmental effects are subject to mitigation [from regulatory process] is an important consideration . . . [the agency] must still consider the *extent* of the environmental effects likely to result and *how* those effects could be mitigated”) (emphasis added); *see also In re Determination of Need for Env’t Impact Statement for Mile Post 7 W. Ridge R.R. Relocation*, No. A24-0597, 2025 WL 368515, at *6 (Minn. App. Feb. 3, 2025), review denied (May 13, 2025) (reversing a negative EIS declaration where the Department of Natural Resources wrongly relied on the “prior [cumulative potential effects] analysis conducted by the U.S. Army Corps of Engineers”) [hereinafter “Mile Post 7”].

Here, the City improperly delegated its analytical burden to other proceedings by assuming that future permitting will “ensure minimal cumulative impacts occur.” Add.48. The claim came without any analysis of the “extent of the environmental effects likely to result,” absent mitigation, and no explanation of

“how those effects could be mitigated” from ongoing regulation. *See Pope Cnty.*, 594 N.W.2d at 238.

In short, the City rejected the possibility of significant cumulative effects based on unknown mitigations applied to unidentified future projects. This “bare assertion” about hypothetical mitigations was unsupported by substantial evidence and committed the same arbitrary and capricious reasoning this Court rejected in *Pope County* and *Mile Post 7*. *See Mile Post 7*, No. A24-0597, 2025 WL 368515, at *5; *Pope Cnty.*, 594 N.W.2d at 238. As in those cases, this Court should reverse the City’s determination that the Archer Data Center lacks the potential for significant environmental effects.

III. The City’s air quality analysis was affected by an error of law, arbitrary and capricious, and unsupported by substantial evidence

MPCA criticized the Draft EAW for failing to offer “any substantive information” about air pollution from on-site power generators at the Archer Data Center. R.000410. The City responded in a few ways: pleading it did not have any of the air quality information MPCA requested, claiming with no evidence that emissions were “anticipated” to be minimal, and promising it would do a “full air quality analysis” later. Add.54.

Each part of this response violated MEPA.

A. The City committed a legal error by unlawfully deferring required air quality analysis

The City violated MEPA by deferring air quality analysis required in the EAW to an unknown future date. This was a legal error reviewed de novo. *Kind Heart Daycare*, 905 N.W.2d at 9.

State law requires EAWs to study all “reasonably expected” impacts related to a project’s potential for significant environmental effects. Minn. R. 4410.1700, subp. 6. If an RGU is missing that information, MEPA offers specific instructions: wherever “information necessary to a reasoned decision about the potential for, or significance of, one or more possible environmental impacts is lacking, but could be reasonably obtained,” the RGU may “make a positive declaration and include within the scope of the EIS appropriate studies to obtain the lacking information.” Minn. R. 4410.1700, subp. 2a. Alternatively, it may postpone the decision on the need for an EIS, for not more than 30 days or such other period of time as agreed upon by the RGU and proposer, in order to obtain the lacking information.” *Id.*

MEPA does not raise the possibility of backfilling environmental analysis with additional EAWs, nor does it permit RGUs to ignore EAW requirements in favor of doing the analysis in the future. *See In re Determination of Need for EIS for Pavilion Estates Subdivision*, A21-1276, 2022 WL 1946512, at *4-5 (Minn. App. June 6, 2022) (discussing Minnesota Rules 4410.1700 subp. 2a and confirming that EAW

adequacy decisions must rest on information gathered during the EAW process and comments).

Here, air pollution from the Archer Data Center's backup generators is a "reasonably expected" environmental impact. The City acknowledged the project would include on-site power generators, producing air pollution that, as emphasized by MPCA comments, was relevant to assessing the Archer Data Center's potential for significant environmental effects. *See id.* Accordingly, MEPA required the City to analyze that potential pollution in the EAW.

Instead, the City stated that "[o]nce more information is known for the site, a full air quality analysis will be completed, coordination with the Minnesota Pollution Control Agency (MPCA) will occur, and any anticipated permits will be obtained from the MPCA. If the emissions exceed a mandatory EAW threshold, an additional environmental review will be completed." Add.38. This deferred analysis violated MEPA's instruction to either order an EIS or delay the decision on the need for an EIS to obtain that information. Minn. R. 4410.1700, subp. 2a.

Beyond violating MEPA's plain terms, the City's strategy undermines core principles of environmental review. Time and again, this Court has rejected piecemeal approaches to analyzing a project's potential to cause significant environmental effects. *See, e.g., Trout Unlimited*, 528 N.W.2d at 908 (holding it was arbitrary and capricious to conclude that individual irrigation projects were

unlikely to stimulate additional irrigation where the record showed future stages were “planned or likely”); *In re City of St. Paul's Decision on Need for Env't Impact Statement*, No. A23-1656, 2024 WL 3320586, at *1 (Minn. App. July 8, 2024) (reversing an EIS decision where “the city overlooked an important aspect of the problem by ignoring multiple stages of a phased action”) [hereinafter *St. Thomas*]. Carving out parts of an EAW for future study, as the City proposed for the Archer Data Center, presents the same danger this Court identified in *St. Thomas*: splitting a project’s aggregate environmental impact into insignificant pieces. *See St. Thomas*, 2024 WL 3320586, at *12.

The City’s effort also undermines public transparency. The Legislature designed environmental review as a public-facing process, where Minnesotans receive “early notice” of project proposals, can comment on draft studies, and may even trigger environmental review with petitions. Minn. Stat. § 116D.04, subd. 2a(a); Minn. R. 4410.1100, subps. 1-2, 7; Minn. R. 4410.1500, subp. A. Replacing that public process with an undefined “air quality analysis” that comes with no guarantee of public input, or even public disclosure, is inconsistent with MEPA’s design to “*assure* for all people of the state safe, healthful, productive . . . surroundings.” Minn. Stat. § 116D.02, subd. 2(2) (emphasis added).

At bottom, the City's attempt to defer environmental review of the Archer Data Center's on-site power generators was a plain legal error that would subvert MEPA's holistic and transparent review process.

B. The City's decision ignored important aspects of the Archer Data Center's air pollution and was arbitrary and capricious

By omitting required analysis of the data center's potential for air pollution, the City's negative EIS declaration "entirely fail[ed] to consider an important aspect of the problem" of the Archer Data Center's potential environmental effects, making the decision arbitrary and capricious. *Trout Unlimited*, 528 N.W.2d at 907.

EQB's official guidance describes how an EAW should study air pollution from stationary sources like on-site power generators.¹⁷ The analysis should "cover all sources of air emissions other than traffic, odor sources and construction phase dust," and it should offer a "level of detail and the degree of sophistication of the analysis . . . commensurate with the magnitude of the emissions and their likely impacts on air quality." *Id.* At a minimum, "any hazardous or criteria air pollutants as well as greenhouse gases must be specifically addressed." *Id.*

Here, the City failed to specifically address *any* hazardous or criteria air pollutants from on-site power generators at the Archer Data Center. MPCA

¹⁷ *EAW Guidelines: Preparing Environmental Assessment Worksheets*, 38 MINN. ENV'T QUALITY BD. (Oct. 2013), https://www.eqb.state.mn.us/sites/eqb/files/documents/EAW%20guidelines%202013%20revision_0.pdf [hereinafter EAW Guidance].

criticized that missing information as “deficient,” identifying in comments on the Draft EAW that the City omitted “any substantive information on the project or its emissions with respect to air quality.” Add.54.

The error was not remedied. The City did not identify pollutants from the on-site power generators in its Final EAW. It did not estimate how much pollution those generators could produce. In response to MPCA’s request for “emission units, their emissions, and the impacts of those emissions,” the City offered no responsive information at all. *Id.* These omissions entirely ignored “an important aspect of the problem” of the hyperscale data center’s potential environmental effects and were therefore arbitrary and capricious. *Trout Unlimited*, 528 N.W.2d at 907.

C. The City’s claim that air emissions would likely be minimal lacked substantial evidence

Despite offering no information about on-site generator air pollution, the Final EAW claimed that “[s]tationary source air emissions for the proposed buildings are anticipated to be minimal based on the anticipated mechanical equipment that will be installed.” Add.38.

For an EAW to establish that potential environmental effects are “minimal,” the record must contain substantial evidence that this finding was “reasonable on the basis of the record,” and it must show that the City “adequately explained how it derived its conclusion.” *Pfoser*, 953 N.W.2d at 514.

The record contains no reasonable explanation about how the City derived the conclusion that generator emissions would likely be minimal. The City hinted that this finding was “based on the anticipated mechanical equipment” to be installed at the project. Add.25; Add.54. But the City failed to identify what mechanical equipment it looked at, how it assessed said equipment, or why this assessment supported the conclusion that emissions “will be minimal.” Add.25; Add.54. The practical effect was to say air emissions will be minimal because the City anticipates they will be minimal.

Even on its own conclusory terms, the City’s explanation makes no sense. In response to MPCA’s request to describe generators’ “emission units, their emissions, and the impacts of those emissions,” the City claimed that the “size, type, and quantity” of on-site generators were all unknown. It is entirely unclear how the City derived that this equipment’s air pollution would be “minimal” based on generator information it claimed not to have.

The City’s combination of reassurance without explanation recalls this Court’s decision to remand an EIS decision where an RGU “apparently did not investigate – and certainly does not explain” how mitigation measures identified in an EAW would protect a wild-rice bed and other resources from a proposed manufacturing project. *In re City of Cohasset’s Decision on the Need for an Env’t Impact Statement for the Proposed Frontier Project*, 985 N.W.2d 370, 386 (Minn. App. 2023).

Here, the City appeared not to investigate, and certainly did not explain to Relator's members in Faribault, its determination that air quality impacts would be minimal. This failure to demonstrate that its conclusions were "reasonable on the basis of the record" was a reversible error. *Pfoser*, 953 N.W.2d at 514.

IV. The City's noise pollution analysis was affected by an error of law, arbitrary and capricious, and unsupported by substantial evidence

The EAW's review of potential noise pollution from the Archer Data Center repeated the mistake of omitting and deferring analysis required by MEPA.

A. The City committed a legal error by unlawfully deferring noise analysis required by MEPA

As with its air quality analysis, the City violated MEPA by attempting to delay study of the Archer Data Center's noise pollution to an unknown future time. This was a legal error, reviewed de novo. *Kind Heart Daycare*, 905 N.W.2d at 9.

MEPA required the City to analyze all reasonably expected impacts relevant to the Archer Data Center's potential to cause significant environmental effects. Minn. R. 4410.1700, subp. 6. Here, the City recognized that operating the Archer Data Center will produce "main sources of noise [that] include ventilation systems, and traffic generated noise," and it acknowledged that "[s]ensitive receptors within the project site vicinity include adjacent residential houses, and businesses." Add.44. Accordingly, noise pollution was a reasonably expected

impact of the Archer Data Center, and the City needed to assess the “type, extent, and reversibility of environmental effects” associated with that pollution. Minn. R. 4410.1700, subp. 7(A).

MPCA warned that the City’s Draft EAW fell short of this bar because it did “not provide enough detail regarding current and anticipated sound levels in the project area to determine whether an immediate violation of the state noise standards would occur if the project were approved.” Add.53. In response, the City attempted a similar approach to its air quality analysis: omitting any of the details MPCA requested from its Final EAW, but promising that “[f]urther noise evaluation will be completed as design progresses and best practices to reduce noise will be implemented for the project to ensure compliance with local and state noise regulations.” Add.44.

As with the City’s air quality analysis, this attempt to defer environmental review was a legal error. MPCA’s comments demonstrated that the EAW’s noise analysis omitted information “necessary to a reasoned decision about the potential for, or significance of, one or more possible environmental impacts” from the Archer Data Center. Add.53; Minn. R. 4410.1700, subp. 2a. Instead of taking one of two approaches permitted by MEPA – ordering an EIS or delaying approval of the EAW – the City attempted to write into the statute a third option of doing “further

noise evaluation” at some undefined point in the future. Add.53. MEPA prohibits this tactic.

B. The City’s determination that potential noise pollution was insignificant lacked substantial evidence and was arbitrary and capricious

Because the City attempted to delay adequate noise analysis to some unknown future date, its EIS Decision lacked substantial evidence and ignored an important part of the Archer Data Center’s potential environmental effects. *Pfoser*, 953 N.W.2d at 514; *Trout Unlimited*, 528 N.W.2d at 907.

EQB instructs RGUs to study the scale of a project’s potential noise pollution, the effects of that pollution, and how those effects will be mitigated. The Final EAW accomplished none of these goals.

To review the scale of a project’s potential noise pollution, EQB instructs RGUs to “[d]escribe sources, characteristics, duration, quantities, and intensity of noise generated during project . . . operation.” Add.44. Each “major noise should be described, including information on their levels (dBA) and hours of duration.” EAW Guidance at 40. Here, the Final EAW offered no information about the “characteristics, duration, quantities, and intensity” of noise pollution from the Archer Data Center, nor did it identify “existing noise levels/sources in the area” or “levels (dBA) and hours of duration” that would be added by the data center. Add.44.

To review the impact of potential noise pollution, EQB instructs RGUs to “[d]iscuss the effect of noise in the vicinity of the project including 1) existing noise levels/sources in the area, 2) nearby sensitive receptors, 3) conformance to state noise standards, and 4) quality of life.” Add.44. The City’s Final EAW contained no modeling, analysis, or information about the “effect of noise in the vicinity of the project.” *Id.*

Finally, EQB instructs RGUs to “[i]dentify measures that will be taken to minimize or mitigate the effects of noise.” *Id.* These mitigation measures should “be identified, and their effects assessed.” EAW Guidance at 40. The City’s Final EAW included a one-sentence suggestion that mitigations “such as sound walls or increased buffering from the property line (i.e. physical distance, berms, or dense landscaping) may be incorporated into project design to ensure that MPCA noise rules and City noise ordinances are followed.” Add.44. Yet, the City offered no commitment to mitigation measures “that *will* be taken,” and the contemplated measures were in no way “assessed.” *Id.*; EAW Guidance at 40. The City’s end claim, that its named mitigations would suffice to “ensure MPCA noise rules and City noise ordinances are followed,” was supported by no evidence at all. Add.44.

In short, the City’s Final EAW contained no analysis regarding the scale of potential noise pollution, its effects on nearby residents, or whether its mitigation ideas would work. Instead, the City asserted that “best practices to reduce noise

will be implemented for the project to ensure compliance with local and state noise regulations,” then determined there was no potential for significant environmental effects. Add.44. That determination was supported by no evidence, let alone substantial evidence, on the record. *See Pfooser*, 953 N.W.2d at 514. Because the City ignored EQB’s instructions and MPCA’s comments on the Draft EAW, its EIS Decision also “entirely fail[ed] to consider” several important aspects of the data center’s noise pollution and was arbitrary and capricious. *Trout Unlimited*, 528 N.W.2d at 907. This was a reversible error.

CONCLUSION

For the above reasons, Relator respectfully requests that this Court order the City to prepare an EIS or, in the alternative, remand for revision of the EAW and a new decision on the need for an EIS.

Dated: December 8, 2025

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CERTIFICATE OF COMPLIANCE

The undersigned counsel for Relator, Minnesota Center for Environmental Advocacy, hereby certifies that the Relator's Brief filed herewith complies with the requirements of Minn. R. Civ. App. P. 132.01, subd. 3: The print is a 13-point, proportionately spaced typeface utilizing Microsoft Word for Microsoft 365 MSO and the text of the brief, including footnotes and headings, contains 10,345 words, excluding the cover page, Table of Contents, Table of Authorities, and this certificate and acknowledgment.

Dated: December 8, 2025

/s/Luke Norquist
Luke Norquist (#0505691)

CERTIFICATION

In compliance with this Court's March 20, 2020 Order, no paper copies of this brief will be filed with the Court. I hereby certify that, should the Court request a paper copy of this brief, the content of the accompanying paper brief will be identical to the electronic version filed and served, except for any binding, colored cover, or colored back, and any corrections or alterations to this electronically filed brief will be separately served and filed in the form of an errata sheet.

Dated: December 8, 2025

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