

STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

DISTRICT COURT  
SIXTH JUDICIAL DISTRICT

Case Type: Civil  
Court File No.: \_\_\_\_\_

Minnesota Center for Environmental  
Advocacy;  
Stop the Hermantown Data Center,

Plaintiffs,

**COMPLAINT**

and

City of Hermantown;  
Harmony Group LLC,

Defendants.

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### INTRODUCTION

1. Large, hyperscale data Centers are hoping to come to Minnesota, but Minnesotans are in the dark about the potential environmental impacts they pose for our state. One large 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. But when a developer proposed a potential large data center to Defendant City of Hermantown (“the City”), the City hid this information from its residents and conducted a deficient environmental review process that failed to acknowledge the large data center or analyze critical environmental impacts that arise from data centers.

2. Rather than study the anticipated impacts of the proposed data center through the normal environmental review process, in May 2025, the City announced that it selected an “alternative” form of review that studies the impacts across a geographic area,

called Alternative Urban Areawide Review (“AUAR”). The AUAR purported to examine the potential environmental effects of Hermantown Industrial, 1.8 million square feet of industrial development within 403 acres.<sup>1</sup> The City’s announcement identified the project proposer as Defendant Harmony Group LLC (“Harmony Group”), and referred to Hermantown Industrial as a “proposed light industrial development.”<sup>2</sup> The City did not use the words “data center” or any equivalent language in the May 2025 announcement.<sup>3</sup>

3. Since at least September 2024, the City knew that the Hermantown Industrial proposal was to accommodate a large data center. It even had a name: “Project Loon.” Through the end of 2024 and into 2025, City staff and the developer corresponded with various government entities to determine the infrastructure and resources needed to support a data center in Hermantown.

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<sup>1</sup> City of Hermantown, *Draft Order for the City of Hermantown Industrial Development Alternative Urban Areawide Review 1-2* (Apr. 29, 2025) [hereinafter “Draft Order for Review”]; see also Minn. Env’t Quality Bd., *Environmental Review Project Notices*, EQB Monitor, May 6, 2025, at 4 (showing that the document was published in the EQB Monitor on May 6, 2025). The AUAR site was originally described as a 395-acre development, but this was later updated to reflect a 403-acre development. Compare Kimley-Horn, *Hermantown Industrial AUAR: Scoping Document 6* (May 2025) [hereinafter “Scoping EAW”] (describing the project as a 395-acre development), with Kimley-Horn, *Draft Alternative Urban Areawide Review: Hermantown Industrial AUAR 6* (July 2025) [hereinafter “Draft AUAR”] (updating the project area to 403 acres).

<sup>2</sup> Scoping EAW at 1, 6.

<sup>3</sup> Notably, the Final AUAR removes a reference to a “technology park” which was included in the draft version and replaces it with “light industrial uses.” Compare Draft AUAR at 67, with Kimley-Horn, *Final Alternative Urban Areawide Review: Hermantown Industrial AUAR 70* (Sept. 2025) [hereinafter “Final AUAR”]. The phrase “technology park” is sometimes used to describe a data center. See, e.g., City of Farmington, *Data Center (Farmington Technology Park)*, <https://www.farmingtonmn.gov/473/Data-Center-Farmington-Technology-Park> (last visited Oct. 22, 2025); City of Apple Valley, *Proposed Technology Park (Data Center)*, <https://www.applevalleymn.gov/1024/Proposed-Technology-Park-Data-Center> (last visited Oct. 22, 2025).

4. Despite knowing that the development was to accommodate a large data center, the City never disclosed that a data center was driving the Hermantown Industrial development. Throughout the AUAR environmental review process, the City never stated that a large data center was envisioned for the project site. Although the public questioned whether this was a data center,<sup>4</sup> the City did not directly address these questions.<sup>5</sup>

5. The City's lack of transparency with its citizens is troubling in and of itself, but the City's failure to disclose that the project is a data center also resulted in environmental review that violates the Minnesota Environmental Policy Act ("MEPA") for at least three reasons.

6. First, the scoping process was insufficient. The City's April 29, 2025 scoping document for the AUAR study area conflicted with how MEPA describes AUAR environmental review for a "large specific project."<sup>6</sup> The scoping process must provide a description of the "specific large project" to be reviewed,<sup>7</sup> the description should be "clear, complete and detailed,"<sup>8</sup> and include "any known development plans" in a

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<sup>4</sup> See Final AUAR app. G (including a complete copy of Minnesota Center for Environmental Advocacy's comments on the Draft Hermantown Industrial AUAR).

<sup>5</sup> See Final AUAR app. F, at 1-22 (failing to address whether the development is a data center).

<sup>6</sup> Minn. R. 4410.3610, subp. 5a(B).

<sup>7</sup> *Id.*

<sup>8</sup> 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").

development scenario that will be studied.<sup>9</sup> The public then has the opportunity to comment on the scope of the environmental review;<sup>10</sup> the purpose of comments at this time is to suggest alternatives to the large specific project identified in the scoping process.<sup>11</sup>

7. The City's scoping process does not mention data centers at all. Instead of providing a clear, complete, and detailed project description, the City provides only one development scenario: "multiple buildings for a total of 1.8 million square feet of proposed light industrial development."<sup>12</sup> The project description does not define what constitutes "light industrial development."

8. As a result of the overly vague project description, the public could not propose alternatives, frustrating the purpose of the scoping process for large specific projects.

9. The vagueness about the large specific project continued to undermine the AUAR. The result is an environmental review document that avoids studying known and anticipated environmental impacts of a large data center.

10. Second, the environmental analysis is insufficient.<sup>13</sup> AUARs must study the "direct, indirect, and cumulative" environmental effects of "anticipated" developments in the AUAR study area. Minnesota law explains that AUARs must study the

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<sup>9</sup> Minn. R. 4410.3610, subp. 3; *see also* Minn. R. 4410.3610, subp. 5a(B) ("The draft order for review must include the information specified in subpart 3").

<sup>10</sup> Minn. R. 4410.3610, subp. 5a(B).

<sup>11</sup> *See* Minn. R. 4410.3610, subp. 5a(C) (stating that "the purpose of the comments is to suggest additional development scenarios and relevant issues to be analyzed in the review").

<sup>12</sup> Scoping EAW at 6.

<sup>13</sup> *See* Minn. R. 4410.3610, subps. 5(C)-(E) (describing the environmental analysis process).

environmental effects of a proposal with “a level of analysis comparable to that of an Environmental Impact Statement,”<sup>14</sup> Minnesota’s highest form of environmental review.

11. The AUAR does not state that the anticipated development is a large data center. Instead, the AUAR offers broad, conclusory, and unsupported statements about the potential environmental effects of a generic “light industrial” development. The assumed environmental impacts of this generic development are inconsistent with a large data center, and the purported study of the assumed environmental impacts lacks evidentiary rigor to satisfy the mandate to study impacts at an environmental impact statement (“EIS”) level. By obscuring the fact that the AUAR is for a large data center, the City produced an AUAR that fails to appropriately study the data center’s effects on water resources, the electricity grid, nearby residents, and more.

12. Third, the AUAR’s 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.”<sup>15</sup> A proper mitigation plan is more than a list of ways to reduce impacts—it must contain clear commitments from the City to prevent significant impacts.<sup>16</sup>

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<sup>14</sup> Minn. R. 4410.3610, subp. 4.

<sup>15</sup> Minn. R. 4410.3610, subp. 5(C).

<sup>16</sup> 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 measure will be implemented, including a description of the involvement of other agencies, if appropriate.”)

13. The AUAR's mitigation plan assumes that the environmental impacts to be mitigated stem from an ambiguous light industrial development, not a data center. And the mitigation plan itself is a list of generic, non-specific ways to reduce environmental impacts from light industrial development, not a data center. Minnesota law demands more. By failing to identify and commit to specific mitigation measures that will reduce the environmental impacts of a large data center, the AUAR does not comply with Minnesota law.

14. These errors of law matter. The environmental review process is the point at which Minnesotans can examine potential environmental effects from large-scale projects. Once an AUAR is approved as sufficient environmental review, projects "consistent with [the] development assumptions" in the AUAR are exempt from additional environmental review.<sup>17</sup> This means that there is no guarantee for the public to weigh in on the potential significant environmental effects for projects proposed within the AUAR study area.

15. The deficient AUAR welcomes a large data center developer to claim its project is consistent with the ill-defined "light industrial development" and thereby exempt from any further environmental study. There will be no way for local residents, the courts, advocacy groups, or anyone else to determine whether the future data center complies with the development assumptions underpinning Hermantown Industrial because those development assumptions are completely undisclosed.

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<sup>17</sup> Minn. R. 4410.3610, subp. 2.

16. Plaintiffs Minnesota Center for Environmental Advocacy (“MCEA”) and Stop the Hermantown Data Center challenge the adequacy of the City’s AUAR documents for Hermantown Industrial. Plaintiffs seek declaratory relief, costs, and an order prohibiting the City from making any final decisions, approving the project, or granting any permits for Hermantown Industrial until it completes legally adequate environmental review. Plaintiffs also seek an order enjoining Harmony Group from moving forward with construction on any project within the AUAR study area until the City completes adequate environmental review.

#### **PARTIES**

17. 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 supporters across the state, including in the City, that stand to suffer injury from a data center with negative environmental impacts on drinking water, the electricity grid, and noise and light pollution. MCEA’s supporters in Hermantown were also denied a legitimate opportunity to participate in the AUAR process due to the City’s obfuscation of the Hermantown Industrial AUAR proposal’s details.

18. Stop the Hermantown Data Center is Minnesota non-profit organization comprised of Hermantown and surrounding community and regional residents who formed a grass-roots organization to oppose efforts by the City of Hermantown to develop a large, hyperscale data center in the middle of 420 acres of densely wooded, agricultural, and residential properties.

19. Defendant City of Hermantown is a municipal corporation under the Minnesota Constitution, article XII, section 4, located in St. Louis County. Part of the Hermantown Industrial project area is located within the City, and the City is the responsible governmental unit required to conduct environmental review under MEPA before deciding whether the proposed project can proceed.

20. Defendant Harmony Group LLC is the project proposer for Hermantown Industrial. Harmony Group LLC is a registered business corporation in the State of Minnesota as of September 26, 2025. Its registered address is 2780 Snelling Ave North, Suite 101, Roseville, MN, 55113.

### **JURISDICTION AND VENUE**

21. 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.

22. Venue is proper in this Court under Minnesota Rule 4410.0400, subpart 4, as the county where the proposed project would be undertaken.

### **FACTUAL BACKGROUND**

#### **Environmental Review and the History of AUARs**

23. 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.”<sup>18</sup>

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<sup>18</sup> Minn. Stat. § 116D.02, subd. 1.

24. MEPA describes two primary forms of environmental review, the EIS and EAW. An EIS is required “[w]here there is potential for significant environmental effects resulting from any major governmental action.”<sup>19</sup> 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.”<sup>20</sup> An EAW is a less intensive form of environmental review. It is “a brief document which is designed to set out the basic facts necessary to determine whether an [EIS] is required.”<sup>21</sup> An EAW must be prepared when projects meet certain thresholds set forth in the Minnesota Rules,<sup>22</sup> or when evidence presented in a petition demonstrates that “the project may have the potential for significant environmental effects.”<sup>23</sup>

25. MEPA authorizes the Environmental Quality Board (“EQB”) to establish alternative forms of environmental review that “address the same issues and utilize similar procedures as an [EIS] in a more timely or more efficient manner.”<sup>24</sup> In 1988, the EQB used this authority to establish the AUAR process.<sup>25</sup>

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<sup>19</sup> Minn. Stat. § 116D.04, subd. 2a(a).

<sup>20</sup> *Id.*

<sup>21</sup> Minn. Stat. § 116D.04, subd. 1a(c).

<sup>22</sup> See Minn. Stat. § 116D.04, subd. 1a(c) (directing the Environmental Quality Board to establish mandatory EAW categories); Minn. R. 4410.4300 (establishing mandatory EAW categories).

<sup>23</sup> Minn. R. 4410.1100, subp. 6.

<sup>24</sup> Minn. Stat. § 116D.04, subd. 4a.

<sup>25</sup> 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 “Proposed Amendments”].

26. Unlike an EIS or EAW, which reviews the environmental impacts of a “major governmental action,”<sup>26</sup> an AUAR reviews environmental impacts within a “particular geographic area.”<sup>27</sup>

27. 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.”<sup>28</sup> The AUAR must study the “direct, indirect, and cumulative potential effects typical” of these anticipated developments.<sup>29</sup> 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.”<sup>30</sup>

28. 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.”<sup>31</sup>

29. Because AUARs evaluate the worst-case scenario for development impacts, an approved AUAR exempts future “compliant” projects from EIS and EAW review.<sup>32</sup> Projects are compliant if they are “consistent with development assumptions” in an

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<sup>26</sup> Minn. Stat. § 116D.04, subd. 2a(a).

<sup>27</sup> Minn. R. 4410.3610, subp. 1.

<sup>28</sup> *Id.*

<sup>29</sup> Minn. R. 4410.3610, subp. 4.

<sup>30</sup> *Id.*

<sup>31</sup> AUAR Guidance at 1.

<sup>32</sup> Minn. R. 4410.3610, subps. 2(A), 5(E).

approved AUAR<sup>33</sup> and comply with an AUAR's "plan for mitigation" of environmental effects.<sup>34</sup>

### **AUAR Rule Revisions for Large Specific Projects**

30. In 2009, the EQB amended the AUAR rules with new requirements applicable to "large specific projects."<sup>35</sup>

31. To explain the new rules, EQB noted 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."<sup>36</sup> When "one large project dominates an AUAR analysis," the agency determined "there is a concern that this could have a chilling effect on the analysis of alternative development scenarios that is a key purpose of the AUAR process."<sup>37</sup> The EQB concluded that "additional public scrutiny is appropriate when a large project dominates an AUAR to ensure that alternative development scenarios are thoroughly analyzed."<sup>38</sup>

32. The EQB's new rules apply to AUARs that involve a "large specific project," defined as a project that "would otherwise require preparation of an EIS" under ordinary

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<sup>33</sup> Minn. R. 4410.3610, subp. 2(A).

<sup>34</sup> Minn. R. 4410.3610, subp. 5(E).

<sup>35</sup> See Minn. R. 4410.3610, subp. 5a (containing these additional procedures); see also Minn. Env't Quality Bd., *Statement of Need & Reasonableness: Environmental Review Program Rules, Minnesota Rules, Chapter 4410 37-39* (Jan. 8, 2009) [hereinafter "2009 SONAR"] (detailing the amended AUAR requirements pertaining to these projects).

<sup>36</sup> 2009 SONAR at 38.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

development thresholds, or that would “comprise at least 50 percent of the geographic area to be reviewed” in an AUAR.<sup>39</sup>

33. 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.”<sup>40</sup>

34. When a scoping process is required, the local government must publish a draft scoping EAW. The public then gets an opportunity to submit comments to propose alternatives to the large specific project, which should be studied in the AUAR. The local governmental unit next publishes a final scoping EAW after taking any comments into consideration. The scoping EAW sets the stage for what is to be assessed and considered in the draft AUAR. The draft AUAR also comes with a public comment period. After the comment period closes, the responsible governmental unit publishes a final AUAR.

35. Because the scoping EAW defines the parameters of the actual environmental study, the EQB states that the “project description is the most important item in the [scoping] EAW.”<sup>41</sup> The agency’s guidance notes that the project description should include a “brief summary” of the project proposal, followed by a “complete description” focused on all “aspects of the project that may directly or indirectly manipulate, alter or impact the physical or natural environment.”<sup>42</sup> Additionally, the project description

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<sup>39</sup> Minn. R. 4410.3610, subp. 5a(A); *see also* Minn. R. 4410.4400 (identifying development thresholds where an EIS is ordinarily required).

<sup>40</sup> Minn. R. 4410.3610, subp. 5a(C).

<sup>41</sup> EAW Guidelines at 11.

<sup>42</sup> *Id.*

should consider “construction and operational activities,” “project components and structures,” the “locations and relationships of project components,” and “[a]ssociated infrastructure” required to serve the facility.<sup>43</sup>

36. The EQB has stated that “clear, complete and detailed project descriptions are essential to understanding the potential for environmental effects.”<sup>44</sup>

37. 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.”<sup>45</sup>

38. A scoping EAW is a document that can be used to “identify the need for preparing an EIS” for a specific project.<sup>46</sup>

### **The City’s Insufficient Scoping Process**

39. The City published the Draft Order for Review and Scoping Document (“Scoping EAW”) for Hermantown Industrial on May 6, 2025.<sup>47</sup>

40. The Draft Order for Review explains that the attached Scoping EAW is fulfilling the role described in Minnesota Rule 4410.3610, subpart 5a,<sup>48</sup> identified in the

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Minn. R. 4410.3610, subp. 5a(B).

<sup>46</sup> Minn. R. 4410.2100, subp. 2(A).

<sup>47</sup> See Draft Order for Review; Scoping EAW; Minn. Env’t Quality Bd., *Environmental Review Project Notices*, EQB Monitor, May 6, 2025, at 4. Although the date of the memo is April 29, 2025, the notice was published in the EQB monitor on May 6, 2025. Compare Draft Order for Review, and Scoping EAW, with Minn. Env’t Quality Bd., *Environmental Review Project Notices*, EQB Monitor, May 6, 2025, at 4. See also Minn. Env’t Quality Bd., *Environmental Review Project Database: Hermantown Industrial AUAR*, <https://webapp.pca.state.mn.us/eqb-search/project-detail/263202?siId=263202-PROJ0000000001> (last visited Oct. 22, 2025).

<sup>48</sup> Draft Order for Review at 1.

rules as “[a]dditional procedures required when certain large specific projects reviewed.”<sup>49</sup> The Scoping EAW identifies the large specific project with the following description:

The AUAR study area encompasses an area totaling approximately 395 acres on 27 parcels in the City of Hermantown, St. Louis County, Minnesota (shown on Figure 2). The study area is bounded to the north by Morris Thomas Road, to the east by Midway Road, and to the west by Solway Road. The southern boundary of the study area extends parallel to Saint Louis River Road, approximately 0.25 miles to the north.

One scenario is proposed for evaluation in the AUAR as outlined in Table 1. The scenario includes multiple buildings for a total of 1.8 million square feet of proposed light industrial development (see Figure 3). Industrial development is expected to occur in the eastern half of the study area (approximately 210 acres) shown in orange on Figure 3. A new driveway access will be needed on the northwest side of the study area from Morris Thomas Road and will include a shared access with the parcels on the western half of the study area and because of this, these parcels are included within the study area; however, no significant development of the northwest and southwest portions of the study area or the transmissions lines along the south side of the study area are expected.

The intent of the AUAR is to recognize the worst-case potential impacts and identify mitigation measures that may be taken to compensate for those impacts. Development of the study area would include new infrastructure to serve the development scenario, including City water service and sewer, stormwater management, streets, and utilities. All new services would be extensions from existing infrastructures and/or upgrades to existing systems to support the new development scenario. Preliminary construction work (i.e. tree clearing) is anticipated to begin as early as late 2025. The study area will be constructed in phases with the full build anticipated to occur over 5-10 years. Public utility

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<sup>49</sup> Minn. R. 4410.3610, subp. 5a.

extensions will be needed to site for sewer and water and are anticipated to start construction in 2026 and will take approximately two years to complete.

A more detailed discussion of infrastructure needs will be included in the AUAR.<sup>50</sup>

41. The Scoping EAW identified that the only development scenario to be studied would be 1.8 million square feet of industrial building within a 395-acre project area.<sup>51</sup>

42. When the City published the Scoping EAW, the City knew that the large specific project was a large data center.

43. Starting in at least September 2024, the City was communicating with a developer seeking to construct a large data center in the proposed AUAR study area, nicknamed "Project Loon."<sup>52</sup>

44. On September 18, 2024, the City Administrator sent an email with the subject line "project loon" to the City's Director of Economic Development and Assistant City Administrator. The email describes an apparent conversation between the City Administrator and the Mayor about a "Data Center next to MN Power substation."<sup>53</sup> The email shows that the City was already looking into how to provide water and sewer to the location, and that utilities extensions were being considered.

45. October 17, 2024 emails between the City's Director of Economic Development, a large developer, and a Director at the Minnesota Department of Employment and

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<sup>50</sup> Scoping EAW at 6.

<sup>51</sup> *Id.* at 7.

<sup>52</sup> Exhibit A.

<sup>53</sup> *Id.*

Economic Development also confirm Project Loon is a data center. When asked whether Project Loon is a data center, a manager with the developer responded, “yes this project is a data center use.”<sup>54</sup>

46. A week later, the City’s Director of Economic Development sent an email connecting the developer with a Director at Western Lake Superior Sanitary District (“WLSSD”), the utility that would provide water and wastewater services for the data center. The email advises the WLSSD Director that it would need to sign a non-disclosure agreement about Project Loon, and that “[t]he City of Hermantown is under one now.”<sup>55</sup>

47. Despite knowing that the large specific project for the AUAR was the proposed Project Loon data center, the Scoping EAW did not describe the project as a data center, identify the project’s purpose as a data center, or contemplate studying the anticipated environmental effects of a data center.

48. The City’s project description fails to include a “complete description” of all aspects of the data center that “may directly or indirectly manipulate, alter or impact the physical or natural environment.”<sup>56</sup> The project description also fails to include a purpose for the project.<sup>57</sup> Instead, the Scoping EAW proposes to study 1.8 million square feet of

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<sup>54</sup> Exhibit B.

<sup>55</sup> Exhibit C.

<sup>56</sup> EAW Guidelines at 11.

<sup>57</sup> The only “purpose” the Scoping EAW shares is found in the Land Use section of the document and states that the purpose of the land use designation of “Business and Light Manufacturing” is “[l]and guided for the integration of commercial and industrial land uses which are compatible with each other, including office, light industrial, and retail services/uses.” Scoping EAW at 15. It does not mention data center uses. *Id.*

light industrial development; the Scoping EAW does not identify the buildings as part of a data center development.

49. The vague description runs afoul of EQB guidance that requires AUAR project descriptions to identify “aspects of the project that may directly or indirectly manipulate, alter or impact the physical or natural environment.”<sup>58</sup> Indirect impacts extend to “[a]ssociated infrastructure . . . necessary to serve the project.”<sup>59</sup>

50. At least one public comment flagged these deficiencies in the Scoping EAW. In a public comment on the Scoping EAW, MCEA told the City that the project description is inadequate because it fails to describe the project as a data center. The comment stated that failing to adequately explain the project imperils the public’s ability to engage in environmental review and threatens the integrity of the AUAR.

51. On July 8, 2025, the City issued a final order for review. The only change from the language in the Scoping EAW is a slight expansion of the project study area. No changes were made to the project description, and the final order for review also did not state that the project was a data center.

### **The City’s Insufficient Environmental Analysis**

52. The AUAR continued to obscure the fact that the planned development is for a large data center.

53. As in the Scoping EAW, the July 2025 Draft AUAR (the “Draft AUAR”) describes the project as 1.8 million square feet of “light industrial development, which

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<sup>58</sup> EAW Guidelines at 11.

<sup>59</sup> *Id.*

may be supported by some combination of new roadways, parking areas, utilities, landscaping, stormwater, perimeter fencing, and infrastructure which may include substation/transmission lines, and mechanical/electrical equipment.” The document does not disclose that the planned development is for a data center.

54. In addition to an inadequate description, the Draft AUAR also lacked detail and specificity about the project’s anticipated environmental impacts and the plan to mitigate those impacts. The assumptions used to evaluate the development scenario’s environmental impacts were not based on the unique and acute environmental impacts data centers present. And many of these assumptions were undisclosed within the Draft AUAR.

55. Multiple comments on the Draft AUAR criticized the document as lacking needed detail. The Minnesota Pollution Control Agency stated that “the AUAR lacks an adequate level of detail to evaluate the actual and potential environmental impacts and resulting effects created by the development.”<sup>60</sup> MCEA also commented on the inadequate study of the project’s purported environmental effects.

56. The City published the September 2025 Final AUAR (the “Final AUAR”) without sufficiently addressing these criticisms.

57. The Final AUAR continues to omit the fact that the project is a data center by continuing to describe the project as 1.8 million square feet of light industrial development. The Final AUAR explains that light industrial development “typically

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<sup>60</sup> Final AUAR app. G.

involve[s] office space, warehousing, and communication service facility equipment.”<sup>61</sup>

This project description fails to provide needed detail to comply with Minnesota law.

58. The AUAR process is an alternative to EIS review but it is not a shortcut. State law requires an AUAR to offer a “level of analysis comparable to that of an EIS.”<sup>62</sup> Engaging in an EIS-level of analysis requires thoroughly studying the potential environmental impacts of a proposal.

59. As an example of an adequate EIS-level analysis of an environmental impact on the issue of water appropriation, an EIS for a mining proposal in 2015 engaged in detailed groundwater appropriation modeling based on groundwater-flow models, calibrated to monitoring wells, to map aquifer drawdown and seepage pathways.<sup>63</sup> The EIS simulated solute-transport pathways to predict metals and sulfate migration under varying recharge scenarios, accounting for storm-runoff and climate-stress.<sup>64</sup> These studies allowed the public and decision-makers to know how the mining project could impact Minnesota, and how those impacts could be limited.

60. On this same issue, however, the City’s AUAR provides far less detailed analysis. The AUAR provides one page of conclusory statements to justify assumed environmental impacts for an ambiguous light industrial development.

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<sup>61</sup> Final AUAR at 6.

<sup>62</sup> Minn. R. 4410.3610, subp. 4.

<sup>63</sup> U.S. Army Corps of Eng’rs, U.S. Forest Serv. & Minn. Dep’t of Nat. Res., *Final Environmental Impact Statement: NorthMet Mining Project and Land Exchange* ch. 5, § 5.2.2, at 5-95-5-127, 5-177 (Nov. 2015).

<sup>64</sup> *Id.*

61. This pattern repeats throughout the AUAR. 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 Hermantown Industrial. Across these and other issues, the AUAR *flags* potential environmental impacts; it does not *study* them.

### Water Impacts

62. The AUAR estimates that the project would use up to 50,000 gallons of water per day or 18.25 million gallons per year.

63. The Final AUAR explains that this “estimate is based on the following breakdown (see Table 13).”<sup>65</sup> The entirety of Table 13 is as follows:

**Table 13: Estimated Water Demand**

Use	Building Square Footage	Flow (GPD)
Industrial	1,800,000	50,000

64. The Final AUAR does not explain how it calculated the estimated water usage, nor how the 50,000 gallons of water per day would be used. The Final AUAR merely states that the water is for “light industrial purposes (i.e. process, sanitation, cooling, landscaping, fire protection).”

65. The Final AUAR’s water usage assumptions unreasonably underestimate a data center’s water usage. Although the amount of water needed to cool a data center varies significantly by size of the facility and cooling method, even a medium-sized data center can use 300,000 gallons of water daily.<sup>66</sup>

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<sup>65</sup> Final AUAR at 51.

<sup>66</sup> Michael Copley, *Data Centers, Backbone of the Digital Economy, Face Water Scarcity and Climate Risk*, NPR (Aug. 30, 2022), <https://www.npr.org/2022/08/30/1119938708>

66. The amount of water that the City projects Hermantown Industrial will use is below the amount often needed to cool a data center.

67. In addition to noting the estimated water usage, the City's Final AUAR states that Hermantown Industrial would "require extension of approximately 12 miles of new looped 8-16" watermain to connect the site to municipal utilities."<sup>67</sup>

68. Connecting Hermantown Industrial to the City's utilities necessitates the City building additional water infrastructure.<sup>68</sup> The impacts of this additional water infrastructure must be studied.

69. By failing to disclose how the water usage estimate was calculated and the purpose of the water, and by not assessing the impacts of the associated water infrastructure, the City has failed to fully analyze the environmental impacts of the project, and thwarted the community's ability to verify the reasonableness of the projected water use. The level of analysis provided by the City's Final AUAR does not constitute environmental review and it is certainly not "a level of analysis comparable to that of an EIS."<sup>69</sup>

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/data-centers-backbone-of-the-digital-economy-face-water-scarcity-and-climate-ris (attributing the following to Arman Shehabi, Lawrence Berkeley National Laboratory: "a mid-sized data center consumes around 300,000 gallons of water a day, or about as much as 1,000 U.S. households" -- far less than the City's estimated 50,000 gallons per day).

<sup>67</sup> Final AUAR at 51.

<sup>68</sup> *Id.* ("The proposed study area will require extension of approximately 12 miles of new looped 8-16" watermain to connect the site to municipal utilities.").

<sup>69</sup> Minn. R. 4410.3610, subp. 4.

70. The City omitted any study of “environmental effects from water appropriation” tied to the proposed data center.

### Energy Impacts

71. The Final AUAR underestimates the amount of energy needed for the development because the City did not study the energy impacts attendant to powering a large data center. The Final AUAR also fails to analyze the impacts of the energy demand on the grid.

72. The Final AUAR estimates that Hermantown Industrial will utilize 36,360 megawatt hours of electricity per year.<sup>70</sup> The estimate is “based on an occupancy load for a typical light industrial use and the current and projected power utility supply.”<sup>71</sup> In other AUARs prepared by the consultant that helped the City complete the Final AUAR, the consultant acknowledged that energy usage is based purely on square footage rather than specific industrial activities.

73. The Final AUAR’s estimated power usage equates to approximately 4 megawatts.<sup>72</sup>

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<sup>70</sup> See Final AUAR app. D (estimating that the electricity use for the data center will be 36,360,000 kWh, which is the equivalent of 36,360 mWh).

<sup>71</sup> Final AUAR at 66.

<sup>72</sup> To calculate this number, divide 36,360,000 by 1000 to convert kWh to mWh, for a total of 36,360 mWh. To calculate megawatts, divide that figure by 8,760 (the number of hours in a year -- 24 hours/day x 365 days/year) for a total of 4.15 megawatts of estimated energy usage.

74. However, data centers commonly use between 100 and 500 megawatts of electricity.<sup>73</sup> At those rates, a single data center would consume more energy than 475,000 homes in Minnesota.<sup>74</sup>

75. 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 Hermantown Industrial site. The impacts of this infrastructure must be studied as part of an adequate environmental review.<sup>75</sup>

76. The Final AUAR does not consider whether Hermantown Industrial's electricity demands would require new grid infrastructure, and the Final AUAR omits any study of the land use or climate impacts that would be caused by grid-infrastructure changes. Nor does the Final AUAR study the effect this significant increase in electricity

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<sup>73</sup> See generally 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).

<sup>74</sup> This figure was calculated by dividing the number of megawatt hours used by a data center (500 megawatts multiplied by 8,760 - the number of hours in a year) by the average household usage in Minnesota. See Minn. Com. Dep't, *Minnesota Energy Data Dashboard* (May, 2022), <https://mn.gov/commerce-stat/pdfs/mn-energy-data-dashboard.pdf> (noting that the average Minnesota household used 9.2 mWh annually in 2016).

<sup>75</sup> 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 the direct or indirect impacts of the project's associated infrastructure on the physical or natural environment).

demand could have on Minnesota's ability to meet its statutorily required clean energy goals.<sup>76</sup>

77. The Final AUAR contains no analysis of the "direct, indirect, and cumulative potential effects" of providing the immense amount of power required by a large data center.

78. A more accurate estimate of energy usage would allow for analysis of the impacts from that energy use, which include greenhouse gas ("GHG") and other emissions as well as potential grid impacts.

79. In addition to obtaining power from the grid, data centers often require backup electricity supplies, which data centers procure by using on-site fossil-fuel-powered turbines to power generators. These on-site turbines fuel "data processing center's voracious appetite for energy [which] has outpaced electric utilities' ability to serve it."<sup>77</sup>

80. On-site turbines 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.<sup>78</sup>

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<sup>76</sup> See Minn. Stat. § 216B.1691, subd. 2g (describing these benchmarks).

<sup>77</sup> 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>.

<sup>78</sup> *Id.*

81. The Final AUAR estimates that Hermantown Industrial will produce 18,443 tons of carbon-dioxide-equivalent GHG emissions per year. The bulk of these emissions come from off-site electricity generation.

82. The Final AUAR states, however, that Hermantown Industrial “may include backup generators for emergency use.”<sup>79</sup> These backup generators would “be designed to be capable of utilizing renewable diesel.”<sup>80</sup>

83. Upon information and belief, all diesel generators are “capable” of running on both traditional and “renewable” diesel. The Final AUAR makes no commitment to use “renewable” diesel rather than the traditional diesel that the generators would also be capable of using.

84. Even if the generators do ultimately run on “renewable” diesel, upon information and belief, “renewable” diesel is not a carbon-free fuel. While it produces fewer GHG emissions than traditional diesel, it does still produce GHG emissions.

85. The Final AUAR does not study the environmental impacts of these generators. Instead, it provides a conclusory and unsupported statement that the generators will produce no GHG emissions.

86. The Final AUAR also does not disclose the number of emergency generators to be used and how much electricity they would be capable of producing.

87. This missing information is critical because these details determine whether the AUAR process is a legal form of environmental review for the proposal, as they could

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<sup>79</sup> Final AUAR at 55.

<sup>80</sup> *Id.*

establish that the proposal falls under an EIS or EAW category that is excluded from AUAR review.<sup>81</sup>

88. The Final AUAR also does not include information about estimated power needs.

89. By omitting significant and relevant details about on-site power generation, the AUAR fails to study the direct, indirect, and cumulative potential effects on air quality.

#### Noise and Light Pollution

90. The thousands of graphics chips and associated infrastructure housed at a large 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.”<sup>82</sup> 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.<sup>83</sup>

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<sup>81</sup> 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.”). If the AUAR review is determined to be inappropriate here, the large data center will require EIS review because its square footage eclipses the thresholds set in Minn. R. 4410.4400, subp. 11. There are additional thresholds requiring an EIS that may be triggered depending on the design of the data center. See, e.g., Minn. R. 4410.4400, subp. 3 (describing the EIS threshold for electric generating facilities).

<sup>82</sup> 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>.

<sup>83</sup> See Steven Gonzalez Monserrate, *The Staggering Ecological Impacts of Computation and the Cloud*, The MIT Press Reader (Feb. 14, 2022), <https://thereader.mitpress.mit.edu/the-staggering-ecological-impacts-of-computation-and-the-cloud/> (describing these adverse effects).

91. The EQB instructs cities to examine whether developments studied in an AUAR “will include or adjoin major noise sources.”<sup>84</sup> 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.”<sup>85</sup>

92. The Final AUAR acknowledges that Hermantown Industrial “could produce noises throughout the continuous audible frequency spectrum, including an organic mix of low, medium, and high frequencies.”<sup>86</sup>

93. The Final AUAR asserts that “[f]uture development will undergo noise modeling to ensure equipment selected does not contain low-frequency pure tones,” and that development would comply with the City’s Zoning Code.<sup>87</sup>

94. The Final AUAR does not include any noise modeling.

95. Despite asserting that “[t]he equipment that would be used for this type of use has not been associated with disruption to wildlife or other animals,” the Final AUAR does not identify what this equipment is, the type and amount of energy it will use, or provide evidence that the unidentified equipment would not disrupt wildlife or other animals.

96. The Final AUAR does not study the impact of the potential noise on *humans* beyond a conclusory statement that it complies with relevant noise standards.<sup>88</sup>

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<sup>84</sup> AUAR Guidance at 5.

<sup>85</sup> *Id.*

<sup>86</sup> Final AUAR at 70.

<sup>87</sup> *Id.* at 69- 70

<sup>88</sup> *Id.*

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

98. The Final AUAR does not include any analysis of potential light pollution or its impacts on nearby residences.<sup>89</sup>

99. Million-square-foot 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.”<sup>90</sup>

100. EQB guidance instructs cities to analyze “[a]ny impacts” on scenic views and vistas in the AUAR study area, including “both direct physical impacts and impacts on visual quality or integrity.”<sup>91</sup> If “any non-routine visual impacts would occur,” they “should be discussed . . . along with appropriate mitigation.”<sup>92</sup>

101. The Final AUAR asserts that “[a]ny development of these lands will have an impact on the visual look of a property” without any further analysis.<sup>93</sup>

102. The Final AUAR offers only generic comments on compliance with city ordinances with respect to lighting.<sup>94</sup> It also vaguely asserts that “[g]uidance from the

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<sup>89</sup> See generally *id.* (excluding any mention of light pollution).

<sup>90</sup> 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/> (last visited Aug. 2, 2025).

<sup>91</sup> AUAR Guidance at 5.

<sup>92</sup> *Id.*

<sup>93</sup> Final AUAR at 63.

<sup>94</sup> *Id.*

[U.S. Fish and Wildlife Service] to minimize blue light, uplight, and backlight will be adhered to the extent practicable.”<sup>95</sup>

103. The Final AUAR offers no analysis of how a 1.8-million-square-foot data center development would be lit, and it fails to study how data center lighting would impact the visual quality of the surrounding region.

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

#### Cumulative Impacts

105. An AUAR must include a cumulative impacts analysis that studies 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.”<sup>96</sup>

106. 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

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<sup>95</sup> *Id.* (emphasis added).

<sup>96</sup> 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).

significant effect when other local projects already in existence or planned for the future are considered.”<sup>97</sup>

107. For foreseeable future projects, the 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.”<sup>98</sup>

108. In response to this prompt, the City fails to provide even a surface-level analysis of cumulative impacts, instead providing only a vague statement about the potential for cumulative impacts, without ever mentioning what those impacts may be: “Future public and private development projects may result in impacts on 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.”<sup>99</sup>

109. However, permitting is not the proper process for studying and addressing environmental impacts—environmental review is the process designed for this analysis. The Minnesota Pollution Control Agency’s comments on the Draft AUAR highlighted its concern about the Draft AUAR’s shifting of the burden to the permitting processes,

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<sup>97</sup> *Citizens Advocating Responsible Dev. v. Kandiyohi Cty. Bd. of Comm'rs*, 713 N.W.2d 817, 829 (Minn. 2006).

<sup>98</sup> Minn. Env’t Quality Bd., *Environmental Assessment Worksheet Form 13* (Dec. 2022).

<sup>99</sup> Final AUAR at 77.

“which typically examine the different components in isolation, rather than from an integrated perspective that environmental review provides.”<sup>100</sup>

110. In particular, the City fails to connect Hermantown Industrial to any other foreseeable data center projects. The Star Tribune has reported that ten hyperscale facilities planned for Minnesota could consume “as much electricity as every home in Minnesota.”<sup>101</sup> 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.

111. The Final AUAR fails to address “whether there is potential for significant environmental effects due to these cumulative effects” from Hermantown Industrial.

#### **Inadequate Mitigation Plan**

112. 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.”<sup>102</sup>

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<sup>100</sup> Final AUAR app. G (reprinting MPCA’s comments on the Draft AUAR).

<sup>101</sup> 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>.

<sup>102</sup> Minn. R. 4410.3610, subp. 5(C).

113. The EQB has emphasized that “the plan for mitigation called for is perhaps the key part of the entire substitute review process” in an AUAR.<sup>103</sup> 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 . . . .<sup>104</sup>

114. The mitigation plan disclosed in the Final AUAR amounts to a list of ways impacts *could* be reduced and facts about permitting. The mitigation plan is devoid of information about how the mitigations will be applied or any substantive commitment to implement those mitigations. Thus, it fails to offer a commitment to prevent potentially significant impacts.

115. For example, on water appropriation, several of the “mitigation” measures included merely refer to obtaining permits.<sup>105</sup> But merely listing that a permit will be requested if necessary at an unspecified time is not mitigation.

116. On air quality, the mitigation strategy consists of two sentences which do not address impacts from the data center’s operation.<sup>106</sup> Instead, the mitigation strategy mentions that “[c]onstruction will generate temporary fugitive dust emissions” and

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<sup>103</sup> Proposed Amendments at 32.

<sup>104</sup> 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.”).

<sup>105</sup> *See* Final AUAR at 78-79.

<sup>106</sup> *Id.* at 81.

provides a short list of potential mitigation measures.<sup>107</sup> Identifying potential mitigation measures does not constitute a “description of how each mitigation measure will be implemented.” The Final AUAR’s air quality mitigation strategy fails to acknowledge any diesel generators or explain how air pollution from that equipment will be managed.

117. On greenhouse gas emissions, the mitigation plan contains a lengthy list of mitigation measures that “developers should consider.”<sup>108</sup> But the EQB requires the mitigation plan to explain where mitigation is possible, provide an explanation of how measures would be implemented, and commit to them.<sup>109</sup> Considering the possibility is not sufficient.

118. On noise, the mitigation strategy merely states that the City restricts “the hours of operation for construction equipment through development agreements and typically limits construction activities from 10 p.m. to 7 a.m.”<sup>110</sup> Factual information regarding the City’s typical approach to limit the operation of construction equipment does not constitute a mitigation strategy.

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<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> See 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.”); AUAR Guidance at 6 (“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.”).

<sup>110</sup> Final AUAR at 82.

119. Additionally, the Final AUAR states that “[m]itigation measures are based on a conceptual development scenario and would be refined through permitting processes and in accordance with regulations in-place at that time.”<sup>111</sup>

120. Under Minnesota law, AUARs are not a cursory review looking at *conceptual* development. They are a tool to study the “direct, indirect, and cumulative potential effects” of *anticipated* development.<sup>112</sup>

121. These samples from the mitigation plan exemplify the shortcomings found throughout the plan. Across these examples, and others, 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.”<sup>113</sup>

122. Despite the inadequacies identified above, the City adopted the AUAR on October 7, 2025.<sup>114</sup>

## COUNT I

### **Inadequate Scoping EAW Minnesota Environmental Policy Act**

123. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

124. Pursuant to the Minnesota Environmental Policy Act, Minn. Stat. § 116D.04, the City’s AUAR documents must comply with the requirements of Minnesota Rule

<sup>111</sup> Final AUAR app. F at 17.

<sup>112</sup> Minn. R. 4410.3610, subp. 4 (emphasis added).

<sup>113</sup> Minn. R. 4410.3610, subp. 5(C).

<sup>114</sup> Hermantown Res. 2025-147, *Resolution Adopting the Final Hermantown Industrial Alternative Urban Area-wide Review (AUAR) Document and Mitigation Plan*, at 2 (Oct. 7, 2025) (although the City Council voted on October 6, 2025, the city clerk’s seal was affixed on October 7, 2025.).

4410.3610, which sets forth the process for conducting an Alternative Urban Areawide Review.

125. The City's Scoping EAW is an AUAR document whose adequacy may be reviewed in district court.

126. The City's Scoping EAW fails to comply with the requirements of Minnesota Rule 4410.3610 because it does not provide a clear, complete, and detailed description of Hermantown Industrial.

127. Plaintiffs respectfully request this Court declare that the Scoping EAW is inadequate and does not comply with MEPA, reverse the City's decision to approve the AUAR, order the City to prepare a new AUAR based on a new Scoping EAW, and enjoin the City from making any final decisions with respect to Hermantown Industrial until adequate environmental review is complete.

## COUNT 2

### **Inadequate Final AUAR Minnesota Environmental Policy Act**

128. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

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

130. The City's Final AUAR is an AUAR document whose adequacy may be reviewed in district court.

131. The City's Final AUAR fails to comply with the requirements of Minnesota Rule 4410.3610 because it does not adequately study the potential environmental effects of Hermantown Industrial or include a mitigation plan with specifically enforceable mitigation measures for Hermantown Industrial.

132. Plaintiffs respectfully request this Court to declare that the Final AUAR for Hermantown Industrial is inadequate, reverse the City's decision to approve the AUAR, remand the AUAR to the City, and enjoin the City from making any final decisions with respect to Hermantown Industrial until adequate environmental review is complete.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request that this Court:

- a. Declare that the City must start the MEPA process from the beginning and order the City to complete an adequate Scoping EAW and Final AUAR;
- b. Enjoin the City from taking any action that would prejudice the ultimate decision on any proposed project in the AUAR geographic area, including the issuance of any permits or approvals for any development in the AUAR geographic area, until adequate environmental review is complete;
- c. Enjoin Harmony Group LLC from beginning construction on any proposed project in the AUAR geographic area until adequate environmental review is complete;
- d. Award Plaintiffs their costs and expenses; and
- e. Grant Plaintiffs such other and further relief as this Court deems just and equitable.

Dated: November 5, 2025

*Abigail Hencheck*

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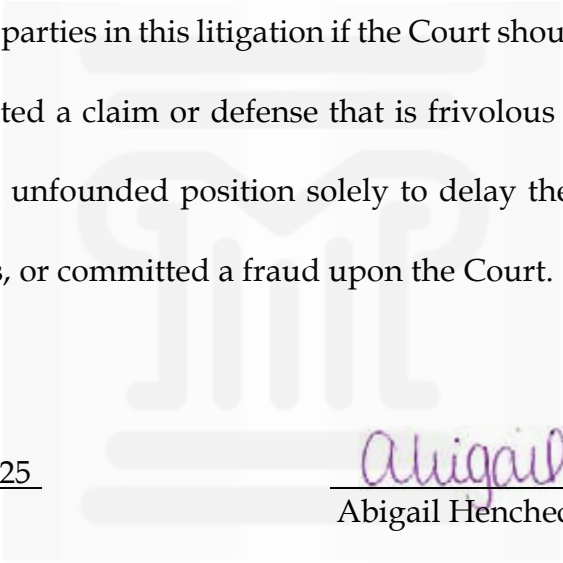
*Attorneys for Minnesota Center for  
Environmental Advocacy and Stop the  
Hermantown Data Center*

MINNESOTA  
JUDICIAL  
BRANCH

**ACKNOWLEDGEMENT**

Plaintiffs, through their attorneys, acknowledge that pursuant to Minn. Stat. § 549.211, subd. 2, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the Plaintiffs acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the Court.

Dated: November 5, 2025

  
*Abigail Hencheck*  
Abigail Hencheck, MN Atty No 0401850

MINNESOTA  
JUDICIAL  
BRANCH

**From:** CH-John Mulder  
**To:** Chad Ronchetti; CH-Joe Wicklund  
**Subject:** project loon  
**Date:** Wednesday, September 18, 2024 12:41:17 PM

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Chad and Joe

Just FYI  
talked to the Mayor

My key points

Data Center next to MN Power substation  
1 billion investment 50+ full time jobs. his response was “wow”  
MN Power introduced this project to us  
People at the County and City of Duluth are aware of this  
We’ve started having David Bolf look at how we would provide water & sewer to this site  
Building Company has reached out to Jordan Urshan and Kerry Juntunen

His comments:

Should we be talking about this extension of utilities in the Comp plan? I told him that we did make sure that this area would be planned for Business Light Manufacturing  
He stated Brian would be interested in utility extensions – I said we were aware of that  
He noted that we would want to be aware of reactions by Urshans

Just to keep everyone on the same page

John Mulder  
City Administrator

**City of Hermantown**

Working together to serve and build our community.

[Hermantownmn.com](http://Hermantownmn.com) - 218.729.3600

**From:** [Chris Bates](#)  
**To:** [Valencia, Catalina \(DEED\)](#); [Bodin, Chet \(DEED\)](#)  
**Cc:** [Dan Lessor](#); [Chad Ronchetti](#)  
**Subject:** RE: Project Loon & Introductions w/ DEED  
**Date:** Thursday, October 17, 2024 10:43:24 AM  
**Attachments:** [image002.png](#)  
[image004.png](#)

Catalina – yes this project is a data center use.

**Chris Bates, Development Manager**

**Mortenson Development, Inc.**

700 Meadow Lane North

Minneapolis, MN 55422

**Mortenson | Let's Redefine Possible®**

Mobile: 612.232.6386

[chris.bates@mortenson.com](mailto:chris.bates@mortenson.com)

[www.mortenson.com/Development](http://www.mortenson.com/Development)



**From:** Valencia, Catalina (DEED) <[catalina.valencia@state.mn.us](mailto:catalina.valencia@state.mn.us)>

**Sent:** Thursday, October 17, 2024 10:20 AM

**To:** Chris Bates <[Chris.Bates@mortenson.com](mailto:Chris.Bates@mortenson.com)>; Bodin, Chet (DEED) <[chet.bodin@state.mn.us](mailto:chet.bodin@state.mn.us)>;  
 Chad Ronchetti <[cronchetti@hermantownmn.com](mailto:cronchetti@hermantownmn.com)>

**Cc:** Dan Lessor <[Dan.Lessor@mortenson.com](mailto:Dan.Lessor@mortenson.com)>

**Subject:** RE: Project Loon & Introductions w/ DEED

Chris,

Could you confirm at this point whether the project is a data center? If so, I would have another business development manager – Colleen Eddy – be the lead on our end instead of Chet. Colleen focuses in data centers among other industries. Please advise.

**Catalina Valencia | Executive Director, Business Development**

*Minnesota Department of Employment and Economic Development*

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**From:** Chris Bates <[Chris.Bates@mortenson.com](mailto:Chris.Bates@mortenson.com)>

.....

Chad,

Thanks for the introduction and appreciate the WLSSD team's availability on 10/30.

Please see attached the NDA we ask you to sign before we discuss the project further.

Let me know if you have any questions – thank you.

Chris

**Chris Bates, Development Manager**  
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**From:** Chad Ronchetti <[cronchetti@hermantownmn.com](mailto:cronchetti@hermantownmn.com)>

**Sent:** Wednesday, October 23, 2024 11:28 AM

**To:** Brandon Kohlts <[Brandon.Kohlts@wlssd.com](mailto:Brandon.Kohlts@wlssd.com)>; Chris Bates <[Chris.Bates@mortenson.com](mailto:Chris.Bates@mortenson.com)>

**Cc:** David Bolf <[david@nce-duluth.com](mailto:david@nce-duluth.com)>

**Subject:** WLSSD/Project Loon Team

**Sensitivity:** Private

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Brandon,

I figured I'd connect you directly with the Chris Bates. He is the Project Loon contact with the development lead at Mortenson.

Ahead of our meeting on 10/30, Loon would like to have WLSSD in an NDA. The City of Hermantown is under one now. You two can coordinate details there.

Thanks for making time for the meetings. Our meeting on the 30<sup>th</sup> with the Loon team will be at the Allele HQ at 30 W Superior St.