

**FILED**

July 10, 2026

**OFFICE OF  
APPELLATE COURTS**

No. A26-0468

---

# State of Minnesota In Court of Appeals

---

APPROVING THE FINDINGS OF FACT AND  
RECORD OF DECISION FOR STEELE  
COUNTY EAST SIDE CORRIDOR PROJECT  
ENVIRONMENTAL ASSESSMENT  
WORKSHEET (EAW) AND NEGATIVE  
DECLARATION CONCERNING THE NEED  
FOR AN ENVIRONMENTAL IMPACT  
STATEMENT (EIS)

---

## RESPONDENT STEELE COUNTY'S BRIEF

---

WINTHROP &  
WEINSTINE, P.A.  
Elizabeth H. Schmiesing, #229258  
Christopher J. Cerny, #0403524  
*Attorneys for Relators*  
Minneapolis, MN 55402  
(612) 604-6400  
eschmiesing@winthrop.com  
ccerny@winthrop.com

IVERSON REUVERS  
Jason J. Kuboushek, #0304037  
Andi R. Gayner, #0505776  
*Attorneys for Respondent*  
9321 Ensign Ave. S.  
Bloomington, MN 55438  
(952) 548-7200  
jasonk@iversonlaw.com  
andi@iversonlaw.com

## TABLE OF CONTENTS

|                                                                                                                                                                                                                                     | <u>Page(s)</u> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| TABLE OF AUTHORITIES.....                                                                                                                                                                                                           | iii            |
| STATEMENT OF LEGAL ISSUES .....                                                                                                                                                                                                     | 1              |
| STATEMENT OF THE CASE.....                                                                                                                                                                                                          | 2              |
| STATEMENT OF FACTS.....                                                                                                                                                                                                             | 3              |
| STANDARD OF REVIEW .....                                                                                                                                                                                                            | 14             |
| ARGUMENT.....                                                                                                                                                                                                                       | 15             |
| <b>I.    THE COUNTY’S DETERMINATION THE PROJECT DID NOT HAVE<br/>          THE POTENTIAL FOR SIGNIFICANT ENVIRONMENTAL EFFECTS<br/>          WAS REASONABLE AND BASED ON SUBSTANTIAL EVIDENCE IN<br/>          THE RECORD .....</b> | 15             |
| A. The County reasonably determined noise generated by the<br>Project does not have the potential for significant<br>environmental effects.                                                                                         |                |
| B. The County’s determination the Project does not have the<br>cumulative potential for significant environmental effects<br>was reasonable in accordance with the law and supported by<br>substantial evidence.                    |                |
| C. The County’s Negative Declaration determination<br>procedure was consistent with other assessments and the<br>process could not be arbitrary or capricious.                                                                      |                |
| <b>II.    THE COUNTY REASONABLY REALLOCATED FEDERAL FUNDS TO<br/>          THE MAIN STREET ROADWAY PROJECT TO MAXIMIZE ROAD<br/>          IMPROVEMENTS ON MAIN STREET.....</b>                                                      | 29             |
| CONCLUSION.....                                                                                                                                                                                                                     | 30             |

## TABLE OF AUTHORITIES

|                                                                                                                                        |                   |
|----------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <b>Statutes</b>                                                                                                                        | <u>Page(s)</u>    |
| Minn. Stat. § 14.69 .....                                                                                                              | 14                |
| Minn. Stat. § 116D. subd. 1a(c) .....                                                                                                  | 15                |
| Minn. Stat. § 116D.04, subd. 10. ....                                                                                                  |                   |
| Minn. Stat. § 116.07, subd. 2a .....                                                                                                   | 17                |
| Minn. Stat. § 375.18, subd. 2 .....                                                                                                    | 29                |
| <b>Cases</b>                                                                                                                           | <u>Page(s)</u>    |
| <i>Citizens Advocating Responsible Dev. (“CARD”) v. Kandiyohi Cnty. Bd. of Comm’rs</i> ,<br>713 N.W.2d 817, 832 (Minn. 2006)           | 1, 14, 15, 18, 22 |
| <i>Friends of Twin Lakes v. City of Roseville</i> 764 N.W.2d 378, 381 (Minn. App. 2009))                                               | 1, 14, 22         |
| <i>In re Am. Iron &amp; Supply Co.’s Proposed Metal Shredding Facility in Minneapolis</i> ,<br>Minn., 604 N.W.2d 140 (Minn. App. 2000) | 22,               |
| <i>In re Denial of Contested Case Hearing Request</i> , 993 N.W.2d 627, 650 (Minn. 2023)                                               | 28,               |
| <i>In re Env’t Impact Statement</i> , 849 N.W.2d 71 (Minn. App. 2014)                                                                  | 15,               |
| <i>Iron Rangers for Responsible Ridge Action v. Iron Range Res.</i> , 531 N.W.2d 874 (Minn.<br>App. 1995)                              | 22,               |
| <i>Pfoser v. Harpstead</i> , 953 N.W.2d 507, 514 (Minn. 2021)                                                                          | 14,               |
| <i>White v. Minnesota Dept. of Natural Resources</i> , 567 N.W.2d                                                                      | 15,               |
| <b>Rules &amp; Regulations</b>                                                                                                         | <u>Page(s)</u>    |
| Minn. R 4410.1000, subp. 1                                                                                                             | 15,               |
| Minn. R. 4410.1300                                                                                                                     | 11, 27            |
| Minn. R. 4410.1700, subp. 6.                                                                                                           | 11, 23            |

|                                       |                    |
|---------------------------------------|--------------------|
| Minn. R. 4410.1700, subp. 7.          | 11, 13, 16, 18, 23 |
| Minn. R. 4410.4300, subp. 22(A) ..... | 10, 27             |



## STATEMENT OF LEGAL ISSUES

- I. **Whether the County reached its decision after engaging in reasoned decision-making and based upon evidence a reasonable mind might accept as adequate to support its decision not to require an environmental impact study.**
- a. *Decision below:* Steele County issued a Negative Declaration and did not require an EIS.
  - b. *Concise Statement of the Issue:* The issue of whether the project required an Environmental Impact Statement ("EIS") was raised through an Environmental Assessment Worksheet. Public agencies and citizens submitted comments about the Project. The Steele County RGU issued a Negative Declaration on the need for an EIS, adopting Findings of Fact and a Record of Decision concluding the Project does not have the potential for significant environmental effects. *Admin R. 471.*
  - c. *How issue was preserved below:* The issue was preserved by the County's publication of its Negative Declaration in the EQB Monitor, and Relators subsequent filing and service of a petition for writ of certiorari challenging the County's decision not more than 30 days after notice of the final decision in the EQB Monitor.
  - d. Most apposite authority:
    - *Citizens Advocating Responsible Dev. ("CARD") v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817 (Minn. 2006)
    - *Friends of Twin Lakes v. City of Roseville*, 764 N.W.2d 378 (Minn. App. 2009)

## STATEMENT OF THE CASE

Respondent Steele County (“County”) is the Responsible Governmental Unit (“RGU”) charged with the environmental review for the proposed East Side Corridor project (“Project”). Relator Owatonna East Side Corridor Residents (“Residents”) challenge the County’s decision regarding the need for an Environmental Impact Statement (“EIS”) for the Project, located in Steele County Minnesota near the eastern most edge of the developed part of the city of Owatonna, and in what is now Owatonna and Clinton Falls Townships.

The County prepared a draft Environmental Assessment Worksheet (“EAW”) for the Project pursuant to Minnesota Law. The EAW was filed with the Minnesota Environmental Quality Board (“EQB”) and circulated for review and comments to the required EAW distribution list. Comments were received through December 31, 2025. After public commentary had closed, the County took comments into consideration, responded to them and modified the project.

On January 22, 2026, the Steele County Highway Department issued Findings of Fact and Conclusion (“FOFC”) determining the EAW was adequate and an EIS is not needed or required. *Admin. R. 442-471*. Five days later on January 27, 2026, the Steele County Board of Commissioners (“Board”) passed Resolution No. 2026-11, incorporating the Highway Department’s FOFC and determined no EIS is needed for the Project. *Admin. R. 2008-2010*. The notice of the County’s

decision regarding an EIS was published in the Minnesota Environmental Quality Board's EQB Monitor on February 10, 2026. Residents filed this certiorari appeal on March 12, 2026.

### **STATEMENT OF FACTS**

#### **A. The Proposed East Side Corridor Project**

The proposed Project includes the construction of approximately 3.4-mile-long new north-south, two-lane county highway between SE 18th St in Owatonna Township to Kenyon Rd in Clinton Falls Township with a bridge over Maple Creek. The Project will realign Claremont Rd to the north to create more space between the new 29th Ave/Claremont Rd intersection and the Canadian Pacific railroad crossing. *Admin R. 442.*

Additional improvements include American with Disabilities Act (ADA) elements, intersection control, and stormwater treatment. Trails for pedestrians and bicyclists will be constructed along the new highway between SE 18th St and 26th NE and portions of SE 18th St and 26th St NE, along with a connection to a trail on Rose St. Portions of 26th St NE, Claremont Rd, and SE 18th St will be reconstructed. *Id.*

The Project will also reconstruct CSAH 34 (26th St NE) from the new 29th Ave to Kenyon Rd/NE 24th Ave in the city of Owatonna. Reconstruction will



include building a trail, making the roadway three lanes (one travel lane in each direction and a center left-turn lane), and making intersection improvements. *Id.*

The proposed project area is primarily rural with agricultural fields and rural residences. The Owatonna High School is located just west of the project near the intersection of SE 18th St and CSAH 48/Bixby Rd. The transportation network in the project area includes east-west roads, but no continuous north-south roads. *Admin R. 444.*

The Project includes these key elements:

- a. Construct 29th Avenue/East Side Corridor
- b. Remove Portion of CSAH 8/Kenyon Road
- c. Reconstruct CSAH 34/26th Street NE
- d. Realign and Reconstruct County Road 180/Claremont Road
- e. Remove County Road 171/Havana Road SE
- f. Reconstruct SE 18th Street
- g. Construct Multiuse Trails
- h. Intersection Treatment
- i. Drainage Culverts
- j. Drainage Ponds and Ditches

The construction methods for the Project would consist of excavation and major grading for the construction and reconstruction of the roadway, bridge, trail, and associated drainage. The Project would not include significant demolition, removal, or remodeling of the existing structures. *Admin R. 447.*

The preparation of an EAW was required for this project under Minnesota Rule 4410.4300, subpart 22(A) (Highway Projects) which states “for construction of a road on a new location over one mile in length that will function as a collector

roadway, the DOT or local government unit is the RGU.” *Admin. R. 93; 2008.* Accordingly, Steele County was designated as the RGU who would then have to make either a negative or a positive declaration of the need for an EIS. Steele County would be required to order an EIS for the Project if it determines the Project has the potential for significant environmental effects. *Id.*; Minn. R. 4410.1700, subp. 1.

**B. The County Publishes the EAW and Invites Public Comment.**

The County prepared an EAW for the Project pursuant to Minnesota Rules Chapter 4410 and contained a list of all federal, state, local, and private permits which must be obtained for the Project.<sup>1</sup> The EAW was filed with the Minnesota Environmental Quality Board (“EQB”) and circulated for review and comments to the required EAW distribution list. A Notice of Availability was published in the EQB Monitor on November 18 and November 25, 2025. *Admin. R. 476.* The Owatonna People’s Press published a press release on November 17, 2025. *Admin. R. 443.* Additionally, a legal notice was published on November 1, 2025. The EAW and legal notice were also posted on the project web page.<sup>2</sup> These notices provide a brief description of the Project and information on where copies of the EAW were available and invite the public to provide comments which would be used in

---

<sup>1</sup> List of permits required found on Table 2-5. *Admin. R. 469-470.*

<sup>2</sup> [www.eastsidecorridor.com](http://www.eastsidecorridor.com)

determining the need for an EIS on the Project. The EAW was made available for public review from November 18 to December 31, 2025 at the Steele County Public Works Facility, Owatonna City Hall, and the Owatonna Public Library.<sup>3</sup> *Admin. R.* 480. The County invited commentary regarding the Project. Comments were received through December 31, 2025.

Comment letters and emails were received from three (3) agencies, sixty-seven (67) individuals, and a single neighborhood group during the comment period.<sup>4</sup> All comments received were considered in the determination of the potential for significant environmental impacts. *Admin. R.* 443

After publishing and reviewing public comments, the EAW was revised to contain the following updates:

- The design speed of the new road will be 40 miles per hour, which is considered low speed.
- Lighting will be provided at roundabout intersections.
- Construction activities are anticipated to start in 2027.

*Admin. R.* 448. In addition to the updates, the EAW also reflected the reallocation of federal funds to a separate project, the Main Street Roadway Project. *Id.* The EAW revisions reflect the permits and testing required for state funded projects.

---

<sup>3</sup> *Appendix A, Admin R.* 472-480 contains a copy of each Notice of Availability published in the EQB, an affidavit of publication for the legal notice, and the press release.

<sup>4</sup> Comments received during the comment period and responses to substantive comments are provided in Appendix B. *Admin. R.* 481-1570.

### **C. The County Analyzes Environmental Effects.**

The County supplied the RGU with information regarding impacts, potential impacts, and mitigation efforts. For brevity, the County will only address the categories at issue.

#### **i. County Analyzes Construction and Traffic Noise Effects and Provides Mitigating Measures.**

The County assessed the potential for construction noise. Activities associated with construction of the Project would result in increased noise levels relative to the existing conditions for the duration of the construction period. Primary construction noise impacts would result from the equipment.<sup>5</sup> Elevated noise levels are unavoidable for this type of Project. *Admin. R. 149.* To mitigate construction noise, Steele County would properly muffle equipment, provide advanced notice to affected communities of any planned, abnormally loud construction activities, communicate with local government and property owners when night work is unavoidable, prohibit the use of pile drivers, jackhammers, and pavement sawing equipment over the night hours. Construction noise would be temporary in duration. *Admin. R. 465.*

---

<sup>5</sup> Table 20 shows peak noise levels monitored at 50 feet from various types of construction equipment that would typically be used for the type of Project. *Admin. R. 149.*

Steele County assessed the traffic noise impacts surrounding the Project area, however, it is exempt from state noise standards. Upon assessment, the County concluded the proposed Project would include locations currently not experiencing roadway noise and other locations which are. *Admin. R. 150*. The proposed Project would not generate new trips in the same way as a new development because the roadway improvements proposed are not a destination or end point like a business or residential neighborhood. *Admin. R. 151*. However, the Project introduces a new roadway to the area and provides connections to existing east-west routes, which will increase travel to the Project area.<sup>6</sup> The assessment provides an estimated maximum peak hour traffic would hold 10 percent of traffic to occur in the morning peak between 7:15 to 8:15 am and the afternoon peak between 4:15 to 5:15 pm. *Admin. R. 152*. The existing sound levels vary within the Project area between 26.3 and 64.2 dBA. After public input, cost evaluation, consideration of state noise standards, and impacts on utilities and drainage the County indicated it would incorporate the following mitigating measures: Berming with trees, the design speed of the new roadway would be 40 miles per hour, which is considered low speed, the proposed roundabouts will reduce vehicle speeds and resulting traffic noise, and urban design was used to

---

<sup>6</sup> Table 21 provides a chart with existing traffic volumes and anticipated traffic volumes in 2026, and 2046. *Admin. R. 151*.

minimize the roadway footprint in developed areas and to slow travel speeds.

*Admin R. 466.*

**ii. County Analyzes Visual Impact Assessment and Provides Mitigating Measures.**

The County prepared a visual impact assessment (“VIA”) based on guidance provided on MnDOT’s Transportation Project Development Process and in consultation with MnDOT staff. The VIA has four steps: establishment, inventory, analysis, and mitigation. *Admin. R. 139.* The VIA for the Project established areas visually effected are views of the Project which would be visible as influenced by the presence or absence of topography, vegetation, and structures. The inventory acknowledged natural features within the Project area that contribute to visual quality, such as Maple Creek and associate floodplain and wetlands. The analysis indicated areas where populations are currently located near the proposed Project as vegetation around those areas. The analysis found there would be both long term and short-term visual impacts associated with the Project. Short-term impacts would occur during construction when equipment is present and there could be temporary dust in the air, however short-term impacts would go away after construction. *Admin R. 140.* Long-term impacts include permanent alteration of transportation and the loss of agricultural land use. *Id.* Mitigation for visual impacts were limited because there are limited adverse effects to the viewshed for drivers and for most surrounding areas.

After completion of the VIA and public comment period, the County determined the following visual mitigating measures: berming with trees, similar to what is currently in place along the south side of 26th St NE just east of Deer Trail Ln NE and landscaping with boulevard trees. The County would provide a section of landscaping, including trees and shrubs to be located in the boulevard behind any trails. Berms, trees and landscaping would be in the public right of way. *Admin. R. 449.*

**D. The County Negative Declaration.**

On January 27, 2026, the Steele County Board of Commissioners adopted Resolution No. 2026-11 which stated:

**WHEREAS**, Steele County (the “County”) proposes to construct a new north-south, two-lane county highway between SE 18th Street in Owatonna Township to Kenyon Road in Clinton Falls Township, including a bridge over Maple Creek, a realignment of Claremont Road, Americans with Disabilities Act elements, intersection control, stormwater treatment, pedestrian and bicycle trail, connections to a trail on Rose Street, and reconstruction of portions of 26th Street NE, Claremont Road, and SE 18th Street (the “Project,” also known as the “East Side Corridor Project”); and

**WHEREAS**, the Project crosses the threshold of a mandatory environmental assessment worksheet (“EAW”) for construction of a road on a new location over one mile in length that will function as a collector roadway, per Minnesota Rules, part 4410.4300, subpart 22(A); and

**WHEREAS**, per the Minnesota Environmental Policy Act and Minnesota Rules, part 4410.4300, subpart 22(A), the County is the Responsible Government Unit (the “RGU”); and

**WHEREAS**, the EAW was prepared by WSB & Associates, Inc. on behalf of the County; and

**WHEREAS**, the EAW was prepared using the form approved by the Minnesota Environmental Quality Board (the “EQB”) for EAWs in accordance with Minnesota Rules, Part 4410.1300; and

**WHEREAS**, the County submitted a copy of the EAW to all public agencies on the EAW distribution list and published the EAW for public comment in the EQB Monitor on November 18 and November 25, 2025, in accordance with applicable state laws, rules, and regulations; and

**WHEREAS**, the public comment period continued from November 18, 2025, to December 31, 2025; and

**WHEREAS**, during the public comment period, three (3) regulatory agencies, sixty-seven (67) individuals from the public, and one (1) neighborhood group submitted written comments; and

**WHEREAS**, the County acknowledges the comments received from the Minnesota Department of Transportation, the Minnesota Department of Natural Resources, and the City of Owatonna, and the members of the public; and

**WHEREAS**, in addition to the public comment period, the County also issued one press release on November 17, 2025 and one public notice on November 18, 2025 in the Owatonna Peoples Press on the availability of the EAW, met and corresponded with stakeholders, and held three open houses to gather input and understand specific concerns related to the Project; and

**WHEREAS**, Minnesota Rules, Part 4410.1700, subpart 6 require the County to determine whether the Project has the potential for significant environmental effects (“EIS”); and

**WHEREAS**, Minnesota Rules, Part 4410.1700, subpart 7 further require the County to consider the following factors in making such determination:



- a. Type, extent, and reversibility of environmental effects;
- a. Cumulative potential effects: whether the cumulative potential effect is significant; whether the cumulative potential effect is 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;
- b. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and
- c. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the Project Proposer, including other environmental impact statements; and

**WHEREAS**, at its meeting on January 27, 2026, the County Board considered the Findings of Fact and Conclusions, including the EAW Comments and Responses and all of the administrative record, which are publicly available on the Project website at [www.eastsidecorridor.com](http://www.eastsidecorridor.com) (the "Record of Decision"), which are hereby incorporated into this Resolution; and

**WHEREAS**, County staff reviewed the Record of Decision and find[s] them to be consistent with the evidence submitted to the County and the applicable statutes and regulations, to the best of their knowledge, and recommends the County Board approve them and determine that no EIS is necessary, reasonable or warranted with respect to the Project under the circumstances; and

**WHEREAS**, the County Board hereby does desire to make and approve the Record of Decision and determine that no EIS is required with respect to the Project ("Negative Declaration").

**NOW, THEREFORE, BE IT RESOLVED** after careful consideration and based on all of the evidence presented to the County, and other persons or otherwise known to the RGU, the County Board adopts and approves the Record of Decision for the Environmental Assessment Worksheet in the form presented to the County Board.

**BE IT FINALLY RESOLVED**, the County Board further determines that the EAW was prepared in compliance with the procedures of the Minnesota Environmental Policy Act and Minnesota Rules, Parts 4410.1000 to 4410.1700.

**BE IT FINALLY RESOLVED**, the County Board further determines that the EAW satisfactorily addressed the issues for which existing information could have been reasonably obtained.

**BE IT FINALLY RESOLVED**, the County Board further determines that the Project does not have the potential for significant environmental effects based upon the above findings and the evaluation of the criteria in accordance with Minnesota Rules, part 4410.1700, subpart 7.

**BE IT FINALLY RESOLVED**, the County Board further determines that the Negative Declaration is appropriate and no EIS is required for the Project pursuant to the Minnesota Environmental Policy Act or Minnesota Rules, Chapter 4410.

**BE IT FINALLY RESOLVED**, that the County staff, consultants, and legal counsel are hereby authorized and directed to take all necessary steps and actions, including the execution of necessary documents, to otherwise complete the environmental review process and to accomplish the intent of this Resolution and the Negative Declaration. County staff, consultants, and legal counsel are specifically authorized and directed to mail a copy of this Resolution to anyone who submitted timely and substantive comments within five days of the date it was adopted. County consultants and legal counsel are also specifically authorized and directed to submit this Resolution for distribution in the EQB Monitor found on the EQB's website and to upload a copy of this Resolution

This certiorari appeal follows.

### **STANDARD OF REVIEW**

When faced with “a negative declaration regarding the need for an EIS,” the Court reviews “the proceedings before the RGU decision-making body[.]” *Friends of Twin Lakes v. City of Roseville*, 764 N.W.2d 378, 381 (Minn. App. 2009), this Court must affirm the City’s conclusion if it “is reasonable on the basis of the record.” *Pfoser v. Harpstead*, 953 N.W.2d 507, 514 (Minn. 2021). The Court’s role is to determine whether the RGU took “a hard look at the problems involved, and whether it has genuinely engaged in reasoned decision-making.” *Citizens Advocating Responsible Dev. (“CARD”) v. Kandiyohi Cnty. Bd. of Comm’rs*, 713 N.W.2d 817, 832 (Minn. 2006) (quotation omitted).

In doing so, the Court accords “substantial deference” to the RGU’s decision. *Id.* The decision is only reversed if it reflects “an error of law, the findings are arbitrary and capricious<sup>7</sup>, or the findings are unsupported by substantial evidence.<sup>8</sup>” *Id.* (citing Minn. Stat. § 14.69). The party challenging an RGU’s

---

<sup>7</sup> A ruling is arbitrary and capricious if the RGU “(a) relied on factors not intended by the legislature; (b) entirely failed to consider an important aspect of the problem; (c) offered an explanation that runs counter to the evidence; or (d) the decision is so implausible that it could not be explained as a difference in view.” *CARD*, 713 N.W.2d at 832 (Minn. 2006) (quotation omitted).

<sup>8</sup> “Substantial evidence consists of: 1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; 2) more than a scintilla

decision, “has the burden of proving that its findings are unsupported by the evidence as a whole.” *Id.* at 833; *see also In re Env’t Impact Statement*, 849 N.W.2d 71, 75 (Minn. App. 2014) (same).

## **ARGUMENT**

### **I. THE COUNTY REASONABLY DETERMINED THE PROJECT DOES NOT HAVE THE POTENTIAL FOR SIGNIFICANT ENVIRONMENTAL EFFECTS.**

An EAW is “a brief document which is designated to set out the basic facts necessary to determine whether an environmental impact statement is required” for a particular project. Minn. Stat. § 116D. subd. 1a(c) (2024). The Minnesota Environment Policy Act of 1973 (MEPA), Minn Laws Ch. 412 (1973) requires an RGU prepare an EIS before engaging in any major governmental action that creates the “potential for significant environmental effects.” *Id.*, subd. 2a. The Minnesota Court of Appeals has noted an EAW is not intended to be a detailed analysis of potential environmental impacts; it is a brief document designed to rapidly assess environmental effects to help determine whether an EIS is needed. *White v. Minnesota Dept. of Natural Resources*, 567 N.W.2d 724, 731 (Minn. App. 1997) (quoting Minn. R. 4410.1000, subp. 1 (1993))

---

of evidence; 3) more than some evidence; 4) more than any evidence; and 5) evidence considered in its entirety.” *CARD*, 713 N.W.2d at 832 (Minn. 2006) (quotation omitted).

The Minnesota Environment Quality Board (EQB) has set forth four criteria a RGU is required to analyze when determining whether a proposed project has the potential for significant environmental effects: (1) the type, extent, and reversibility of the environmental effects; (2) the cumulative potential effects of related or anticipated future projects; (3) the extent to which the environmental effects are subject to mitigation 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 undertaken by public agencies or the project proposer, including other EISs. Minn. R. 4410.1700, subp. 7.

Here, the County conducted a thorough environmental review, followed the mandatory EAW process, considered public comments, and issued a declaration on the need for an EIS. The County analyzed the requisite criteria and determined: “The Project does not have the potential for significant environmental effects and that an EIS is not required for the Owatonna East Side/29th Ave Corridor Project.” *Admin. R.* 471.

**A. The County reasonably determined noise generated by the Project does not have the potential for significant environmental effects.**

Relator has asserted Steele County “did not even attempt to evaluate the duration, quantities, and intensity of traffic noise generated during operation of the Project.” *Relator’s Brief*, p. 17. This is false. Not only did Steele County look at

the applicable state noise standards, which it is exempt from, but Steele County did look at the noise associated with road construction and traffic.

With regard to Steele County being exempt from the state noise standards, it is undisputed local governments must take reasonable measures to avoid approving land uses which would violate applicable noise standards when the land use is established. However, because Steele County would own the proposed Project and the Project would not include full control of access, it is exempt from Minnesota's state noise rules:

**(a) No standards adopted by any state agency for limiting levels of noise in terms of sound pressure which may occur in the outdoor atmosphere shall apply to:**

\* \* \*

**(3) except for the cities of Minneapolis and St. Paul, an existing or newly constructed segment of a road, street, or highway under the jurisdiction of a road authority of a town, statutory or home rule charter city, or county, except for roadways for which full control of access has been acquired;**

Minn. Stat. § 116.07, subd. 2a (2024) (emphasis added).

Despite this clear exemption, and contrary to Relator's assertion, the County evaluation of noise did not end here. Rather, the record reflects the County conducted further review of the potential construction noise and traffic noise. It also implemented noise-mitigation measures.

## 1. Construction Noise.

The EAW noted “[a]ctivities associated with construction of the proposed Project would result in increased noise levels relative to existing conditions for the duration of the construction period.” *Admin. R. 148*. This noise would be associated with construction equipment.<sup>9</sup> However, noise related to construction of the Project would be limited and only during certain hours of the day. Moreover, to the extent the construction noise is related to the high-impact equipment – i.e. pile driving, pavement sawing, or jack hammering – this noise is unavoidable but its duration is even more limited.

After identifying the “sources, characteristics, duration, quantities, and intensity of noise...”, Steele County identified the noise mitigation and commitments. For example, it is noted the Project would be built consistent with Steele County and MnDOT State Aid Design Requirements. *Admin. R. 324*. To further mitigate construction noise, Steele County would properly muffle equipment; provide advance notice to affected communities of any planned, abnormally loud construction activities; communicate with local government and property owners when night work is unavoidable; and prohibit the use of pile

---

<sup>9</sup> Table 20 shows peak levels monitored at 50 feet from various types of construction equipment. This construction equipment is primarily associated with site grading/site preparation which is generally the roadway construction phase with the greatest levels of noise.

drivers, jackhammers, and pavement sawing equipment over the night hours. Moreover, the County also noted all major work on the Project would occur during the day and generally construction would be limited to daylight hours. Finally, the County also determined construction noise would be temporary in duration. *Admin. R. 149-150; 465.*

Based upon these mitigation measures, the project would not have the potential for significant environmental effects.

## **2. Traffic Noise.**

With regard to the traffic noise associated with the Project, Steele County noted the proposed Project would construct a roadway on a new alignment along with reconstructing existing roadways. *Admin. R. 150.* The existing areas experience traffic sound levels within the Project area between 26.3 and 64.2 dBA. *Admin. R. 150.* These levels would not change.

As to the new roadway segments, the EAW noted:

Much of the land along the new roadway portion of the Project is largely undeveloped or in agricultural production or has a limited number of nearby farmsteads or small residential clusters. There is a portion of the new roadway alignment that goes near a larger existing residential development between Rose St and Briarwood Pl NE, as shown on Figures 13 and 14 in Attachment A. There is also a smaller neighborhood adjacent to the existing eastern limits of 26th St NE that is near an existing roadway, but it is currently not a county highway.

*Admin. R. 150.* Since it would be a new roadway section, Steele County did conduct a traffic study to identify the amount of traffic which would use the new



corridor and key connecting routes. *Admin. R. 151.* This study was then incorporated into the EAW. *Id.*

Additionally, Steele County evaluated the public input, project design, costs, consideration of state noise standards, and impacts on utilities and drainage. *Admin. R. 466.* After its evaluation, the County noted the following mitigation measures would be incorporated into the project:

- Berming with trees – similar to what is currently in place along the south side of 26th St NE just east of Deer Trail Ln NE. Berms and trees would be in the public right of way.
- The design speed of the new roadway would be 40 miles per hour, which is considered low speed.
- The proposed roundabouts (see Section 3.1.2) will reduce vehicle speeds and resulting traffic noise.
- An urban design was used to minimize the roadway footprint in developed areas and to slow travel speeds.
- A portion of the urban section roadway between School St and Dane Rd where the roadway passes near an existing neighborhood (and the ROW narrows to approximately 100 feet) has been shifted east (away from the neighborhood) compared to previous design iterations, while remaining within the ROW.

*Admin R. 466. See Minn. R. 4410.1700, subp. 7* (indicating when determining whether a project has the potential for significant environment effects the RGU should evaluate “the extent to which the environmental effects are subject to mitigation by ongoing public authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project”.) These mitigation

measures are specific as they are designed to reduce speeds and resulting vehicle noise and move the project further away from an existing neighborhood. Thus, they are not conclusory.

Relators further argue a *Draft Traffic Noise Analysis*<sup>10</sup> “demonstrated that traffic noise from the Project will be significant....” *Relator’s Brief*, p. 22.

However, nothing in the *Draft Traffic Noise Analysis* states this. *Admin. R. 601 to 743*. Moreover, the evidence in the record reflects Steele County did evaluate this analysis. *See Admin. R. 485 and 492*. Based upon this study and the associated public comments, the Steele County, along with the City of Owatonna, developed options which would screen homes from the roadway and provide mitigation. *Admin. R. 485*. The County also noted a noise wall was not required “under state standards.” Thus, the County had “a concrete idea of what

---

<sup>10</sup> Relators argue the County transferred federal funding to “avoid federal environmental review and costly mitigation”, however, this is incorrect. Rather, as the County noted in its March 27, 2025 request to MnDOT State Aid to have the funding transferred, the reasons for the transfer were: “timing of funding - the county was concerned that the environmental document would not be completed and even if it was, there was not enough time to complete final design and right of way acquisition. Additional concerns regarding meeting the deadline included coordination with the railroad and opposition to the project from a neighborhood group. Delays would put the federal funding at risk, and the county wanted to utilize the federal funding. Main Street already had federal funding included and would meet the fiscal 2026 deadline. Please also see Comments 248 and 249 regarding federal funding.” *Admin. R. 486*.

problems may arise and how they may specifically be addressed by ongoing regulatory authority.” *CARD*, 713 N.W.2d at 835.

Furthermore, “where there are *technical disputes* and *uncertainties*, the court **must** assume that **the** agency or **RGU has exercised its discretion appropriately.**” *Iron Rangers for Responsible Ridge Action v. Iron Range Res.*, 531 N.W.2d 874, 881 (Minn. App. 1995)(emphasis added). When, as here, the County received and considered all evidence, gave all sides an opportunity to be heard, and could reasonably decide either way, courts defer to the RGU’s judgment on conflicting evidence, “even though [the court] may have reached a different conclusion had it been the fact-finder.” *In re Am. Iron & Supply Co.’s Proposed Metal Shredding Facility in Minneapolis, Minn.*, 604 N.W.2d 140, 144 (Minn. App. 2000); *see also Friends*, 764 N.W.2d at 381–82. The reason the Court must assume an RGU has exercised its discretion appropriately in the face of technical disputes and uncertainties is readily apparent from Relators’ burden of proof. *Iron Rangers*, 531 N.W.2d 874, 881 (Minn. App. 1995).

An RGU must only engage in a “reasoned analysis of the evidence before it[,]” *id.*, and as such it is Relators’ burden to prove the County’s decision is unsupported by, and contrary to, the evidence; or, if there is conflicting evidence, prove the record evidence is so compelling and one-sided it only leaves room for one reasonable conclusion. *Friends*, 764 N.W.2d at 381. But if the record evidence

leaves room for different, but equally reasonable opinions, Relators do not carry their burden. *Id.* Here, the record evidence shows there is evidence of traffic noise **and** specific mitigation measures to address those issues. Thus, it was appropriate for the County to determine the noise associated with or from the project did not have the potential for significant environment effects.

**B. The determination the Project does not have the cumulative potential for significant environmental effects was reasonable in accordance with the law and supported by substantial evidence.**

MEPA requires an RGU to consider the cumulative potential effects of related or anticipated projects. *See* Minn. R. 4410.1700, subp. 6.B. In determining whether a project's cumulative potential effects has the potential for significant environments effect, an RGU considers:

[W]hether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to 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 propose to minimize the contributions from the project.

Minn. R. 4410.1700, subp. 7.B.

Relators claim the County failed to analyze cumulative potential effects. This is incorrect. The analysis required by Minn. R. 4410.1700, subp. 7.B implies other projects in the surrounding area interacting with the proposed project to create a cumulative potential effect. Cumulative effects are “the effect on the

environment that results from the incremental effects of the 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 planned or for which the basis of expectation has been laid, regardless of who undertakes the projects or what jurisdictions have the authority over the project.”

*Id.*

There are currently no other proposals regarding the area affected by the Project. *Admin. R. 155*. However, it is reasonable to anticipate future projects in the area which are not currently proposed. Thus, to further address the County’s efforts to analyze cumulative effects, the County categorizes the Project area into two categories. *Admin. R. 155*. There are two general geographic scales relevant to the Project. Some effects are limited to the area disturbed by the proposed Project. Areas outside the Project could also be influenced by the Project. There are also two timeframes in which the effects could occur, the construction period and the long-term operational effects. *Id.* Table 22 of the EAW, shown below, provides the project-related environmental effects which could combine with other environmental effects (i.e. cumulative potential effects).

| Reference (EAW Item) | Topic                               | Project-Related Environmental Effects                                                                                                                                                         | Geographic Extent and Future Potential Impacts                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Item 10              | Land Use                            | Farmland Conversion                                                                                                                                                                           | Throughout Project area. Additional growth and development along 29th Ave/East Side Corridor and connecting roadways would result in converting existing farmland to other uses. The timing of these potential effects is unknown.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Item 11              | Geology, Soils, and Topography      | Ground/soil disturbance                                                                                                                                                                       | Throughout Project area.<br>Additional soil disturbance outside the Project footprint is possible because of future growth and development along 29th Ave/East Side Corridor and connecting roadways. The timing of these potential effects is unknown.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Item 12              | Water Resources                     | <ul style="list-style-type: none"> <li>Wetland fill</li> <li>Increase in impervious surface area</li> <li>Water appropriation during construction</li> <li>FEMA Floodplain impacts</li> </ul> | Wetland fill at locations discussed in Item 12. Increase in impervious surface throughout the Project area. Water appropriation may be required to complete culvert work near wetlands and bridge work.<br>As discussed in the "Land Use" topic above, there is potential for future development along 29th Ave/East Side Corridor and connecting roadways outside the Project footprint. The conversion of farmland and/or natural areas adjacent to the corridor to more intensive land uses would result in new areas of impervious surface, potential wetland impacts, and a potential need for water appropriation. The timing of these potential effects is unknown.<br>FEMA floodplain impacts at Maple Creek and Izaak Walton Creek.                                                                                                                                                                                                                                                                                     |
| Item 13              | Contamination / Hazardous Materials | Low risk for disturbance of potentially contaminated soils                                                                                                                                    | Risk of contamination is low within the Project area, as there were only feedlots and one minor agricultural spill.<br>As discussed in Land Use above, there is potential for future development along 29th Ave/East Side Corridor and connecting roadways. Other sites in the area could have contaminants that are unknown at this time.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Item 14              | Fish and Wildlife                   | Tree removal (potential impacts to Northern Long Eared Bat habitat)                                                                                                                           | Tree removal at select locations within the Project.<br>Planned future development (see Item 10) adjacent to 29th Ave/East Side Corridor and connecting roadways could result in additional tree removal outside the Project footprint. As noted in the "Water Resources" topic above, these developments could also create new areas of impervious surface outside the Project footprint. Additional impervious surface could impact the quality and volume of water entering wetlands. The timing of these potential effects is unknown.<br>Prairie Lands near Project area - Native prairie remnants near the Project area are unlikely to be affected due to their location within and adjacent to the railroad ROW, which restricts development and construction. These areas are protected by the ROW management practices of the railroad company, which does not allow construction activities within their boundaries. Cumulative impacts to prairie lands or associated species are unlikely due to these protections. |
| Item 19              | Noise                               | The project will generate noise                                                                                                                                                               | Planned future development outside the Project footprint but adjacent to 29th Ave/East Side Corridor and connecting roadways has the potential to generate additional traffic and associated traffic noise on 29th Ave/East Side Corridor, connecting routes, and nearby highways. Future developments were considered in analyzing future traffic within the Project area. If future highway expansion projects receiving federal funds are proposed in the area, noise impacts would have to be evaluated as part of these projects. Steele County and/or MnDOT would evaluate noise impacts as part of future projects on county highways and US Highway 14.                                                                                                                                                                                                                                                                                                                                                                  |
| Item 20              | Transportation                      | Disruptions to traffic flow during construction                                                                                                                                               | Temporary construction impacts would occur at and around roadways and intersections that are being reconstructed and/or realigned. Because 29th Ave/East Side Corridor is a new route, traffic disruptions would be negligible on that part of the Project.<br>Traffic operations in downtown Owatonna would be improved with the removal of through trips that would now be using 29th Ave/East Side Corridor and overall community connectivity would be enhanced with a more robust local roadway network.<br>Walkability and bikeability for residents located along and near the new 29th Ave/East Side Corridor would be improved with the Project, providing better connections to nearby neighborhoods, existing and future schools, and existing parks and trails.                                                                                                                                                                                                                                                      |

Additionally, the County noted "[t]he existing and future land use maps in the comprehensive plan for the City of Owatonna outlines plans for the development of presently vacant and agricultural areas (refer to Section 10) into low-density residential zones, mixed-use, commercial, and a potential future school." *Admin. R. 155*. Contrary to Relator's position, the County did evaluate the cumulative effects this development, additional traffic and additional noise would have on the project. *Admin. R. 150 (traffic noise); 151 (future traffic volumes); 153 (Future Volumes and Congestion); 156 (table future potential impacts, including land use, noise and transportation)*. Ultimately, the County noted:

As discussed in Item 21 of the EAW, the cumulative potential effects were considered, and the proposed Project has minimal potential for cumulative impacts to the resources directly or indirectly affected by the Project. Given the laws, rules, and regulations in place as well as local regulatory requirements and comprehensive planning and

zoning laws, substantive adverse cumulative impacts to resources are not anticipated.

*Admin. R. 468.*

Finally, Relator never considered climate change, air quality or GHG emissions in the EAW and in relation to cumulative potential effects. The record of the decision, however, reflects otherwise. For example, Paragraph 17 of the EAW and the Findings of Fact addressed air quality and how it would the project which redistributes traffic volumes would support growth and development while creating minimal air quality impacts. *Admin. R. 463.* Paragraph 17 also provided specific data showing a reduction of total annual emissions from 202 to 2060. *Admin. R. 141-142.* Similarly, Paragraph 18 reviewed the Greenhouse Gas (GHG) Emissions/Carbon Footprint of the project and discussed mitigation measures. *Admin. R. 145-146.* Clearly, the County took a hard look at the issues, including the related scientific data, when evaluating whether there was the potential for significant environmental effects which including reviewing the cumulative potential effects of anticipated future projects.

Courts accord substantial deference to agency decisions and ask whether the agency took a hard look at the problems involved and genuinely engaged in reasoned decision-making, it is clear the County provided sufficient evidence to analyze cumulative potential effects and to support a Negative Declaration.

**C. The County's Negative Declaration determination procedure was consistent with other assessments, and the process was not arbitrary or capricious.**

Steele County completed the EAW in accordance with Minnesota Rules, part 4410.4300, subpart 22(A), the EAW was prepared using the form approved by the EQB in accordance with Minnesota Rules, Part 4410.1300, the County published the EAW, invited public commentary, reviewed public commentary, responded to public commentary and revised the EAW to address public concern. All processes consistent with other assessments.

At the January 27, 2026, meeting, the County Board considered the Findings of Fact and Conclusions, including the comments and responses and all of the administrative record. The County staff reviewed the Record of Decision, finding them to be consistent with the evidence submitted to the County and to applicable statutes and regulations. Furthermore, the County board determined the EAW was prepared in compliance with the procedures of the Minnesota Policy Act and Minnesota Rules, Parts 4410.1000 to 4410.1700. The County further determines the EAW satisfactorily addressed the issues for which existing information could have been reasonably obtained and determined the Negative Declaration is appropriate. Thus, no EIS is required for the project pursuant to the Minnesota Environmental Policy act or Minnesota Rules, Chapter 4410. *Admin. R. 2009-2010.*



After taking all appropriate steps in the determination process, the determination is then made. The process is consistent with rules and regulations, the deciding body is within authority to make this determination and reasonably did so based on the findings in the EAW. Therefore, the process could not be arbitrary and capricious.

Relator's attempt to argue the process was irregular should be rejected. To support their position, Relator argues the County's failure to timely provide government data pursuant to the Government Data Practices Act "thwarted public participation" in the EAW process. However, the Administrative Record does not support this position. Rather, the record shows the *Draft Traffic Noise Analysis*, which Relator asserts should have been in the record for review, is in the Administrative Record and had been commented on by the public and responded to by the County. *Admin. R. 601 to 743*.

Moreover, the failure to provide documents in a separate data request does not compare to "(1) the agreement the MPCA made to delay EPA comments on the draft permit during the public comment process; (2) the failure of the MPCA to document in the administrative record either its request or the EPA's concerns about the draft permit; (3) the lack of explanation in the administrative record regarding if or how the MPCA resolved the EPA's concerns; and (4) the general deficiencies in the administrative record regarding communications between the

MPCA and the EPA.” See *In re Denial of Contested Case Hearing Request*, 993 N.W.2d 627, 650 (Minn. 2023). The actions in *In re Denial of Contested Case Hearing Request*, which the Court amounted to a lack of documentation with an agency overseeing the process, was an “irregularity in procedure that constitutes a danger signal of arbitrary and capricious decision-making.” No such “irregularity” exists in this case and Relator’s argument must be rejected.

## **II. THE COUNTY REASONBLY REAOLLOCATED FEDERAL FUNDS TO THE MAIN STREET ROADWAY PROJECT TO MAXIMIZE ROAD IMPROVEMENTS ON MAIN STREET.**

Relators continuously note the decision to reallocate federal funding to the Main Street Roadway Project. The presumption the transfer of funding occurred to avoid federal review is merely an opinion to fit their narrative and not supported by the facts or the law. Furthermore, projects that are federally funded are required to complete additional assessments not required by the state of Minnesota. When the federal funds were reallocated, all federal assessments were no longer required. Allocating the federal funding to the Main Street roadway project was done to maximize road improvements on Main Street for best use of funds. *Admin. R.* 1028. The County has the authority to manage public funds. Minn. Stat. § 375.18, subd. 2. Therefore, any attempt to weaponize the reallocation of federal funding and arguments regarding use of partial assessments are irrelevant.

## CONCLUSION

The County took the requisite hard look at the criteria and analyzed all of the environmental aspects of the Project, including the physical activities required to complete and maintain the Project, the environmental impacts of those activities, and appropriate mitigation measures. The administrative record, including an extensive environmental assessment worksheet and specific responses to numerous written comments, contains substantial evidence supporting the County's determination the proposed project does not have the potential for significant environmental effects. In light of the record and the deferential standard of review, the Court should affirm the County's determination an environmental impact statement was unnecessary for the Project.

Dated: July 10, 2026

Respectfully submitted,

s/ Jason J. Kuboushek

Jason J. Kuboushek, #0304037

Andi R. Gayner, #0505776

IVERSON REUVERS

*Attorneys for Respondent*

9321 Ensign Avenue South

Bloomington, MN 55438

(952) 548-7200

jasonk@iversonlaw.com

andi@iversonlaw.com

## CERTIFICATE OF COMPLIANCE

I hereby certify Respondent's brief conforms to the requirements of Minn. R. App. P. 132.01 subd. 1. I further certify Respondent's brief complies with the word limitations of Minn. R. App. P. 132.01 subd. 3(a). The brief was prepared using Microsoft Word 365, which reports the total word count to be 6,932 words, exclusive of the captions, tables of contents, table of authorities, and the signature block. The font used is Book Antiqua 13 point font.

Dated: July 10, 2026

s/Jason J. Kuboushek  
Jason J. Kuboushek, #0304037  
Andi R. Gayner, #0505776  
IVERSON REUVERS  
*Attorneys for Respondent*  
9321 Ensign Avenue South  
Bloomington, MN 55438  
(952) 548-7200  
jasonk@iversonlaw.com  
andi@iversonlaw.com