

# Implications of Tribal Lands Being Designated as Class I Areas

Andrew Skoglund

Paul Taylor

Barr Engineering Co.

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# overview

- what is a Class I area?
- why tribes have said they want to redesignate
- why is this topic relevant now?
- what is the process for redesignation?
- how would redesignation impact the regulated community?

# what is a Class I area?

class	description	examples
Class I	“pristine” areas	<ul style="list-style-type: none"><li>• national parks</li><li>• wilderness areas</li><li>• designated tribal lands</li></ul>
Class II	all areas that are not Class I or Class III	<ul style="list-style-type: none"><li>• everywhere else</li></ul>
Class III	industrial/ planned high growth area	<ul style="list-style-type: none"><li>• none have been designated</li></ul>

# allowable air degradation - increment



# why tribes have said they want to redesignate

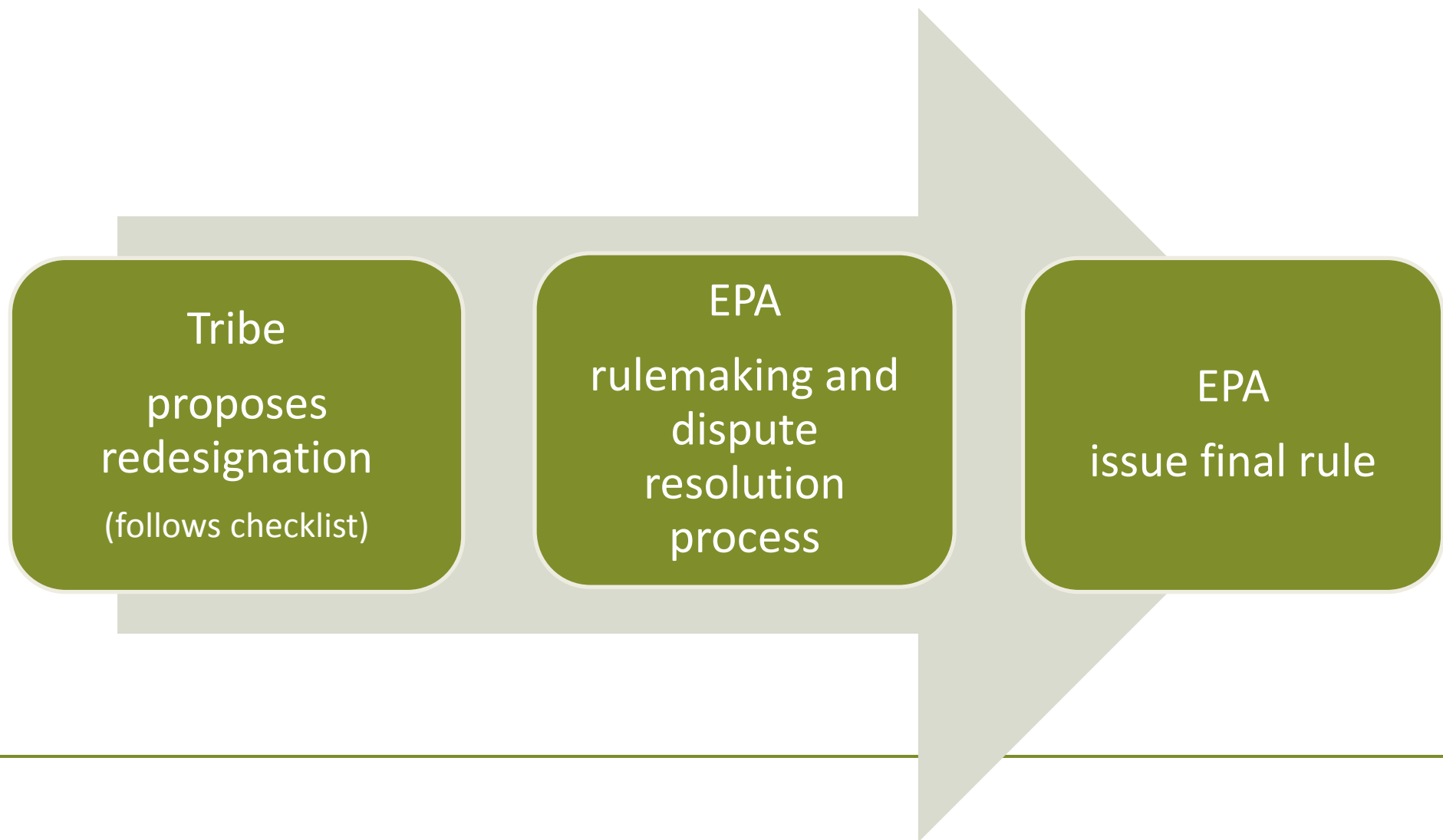
- to protect the air quality on their lands
- to play a greater role in the air permitting of future projects
- to exercise tribal sovereignty

# why is this topic relevant now?



- Fond du Lac (FDL) Band of Lake Superior Chippewa declared their intent to redesignate their core Reservation land to Class I status on July 28, 2014
- FDL is actively pursuing redesignation
- Bad River Band of Lake Superior Chippewa has also declared their intent to redesignate

# what is the process for redesignation?



# status of FDL Class I redesignation

<input checked="" type="checkbox"/>	notify affected states, tribes, FLMs	8/5/2014
<input checked="" type="checkbox"/>	document reasons for and impacts from redesignation (technical report)	8/5/2014
<input checked="" type="checkbox"/>	hold public hearing	10/2/2014 public comment ended 11/10/2014
<input checked="" type="checkbox"/>	consult with affected <u>government</u> agencies (tribal, federal, state, local)	10/8-10/2014



# EPA process follows tribe submittal

- review tribal submittal including comments and responses
- begin dispute resolution process
  - designated process for EPA administrator to resolve disputes per 40 CFR 52.21(t)
- hold public hearings
- respond to public comments
- issue final redesignation rule



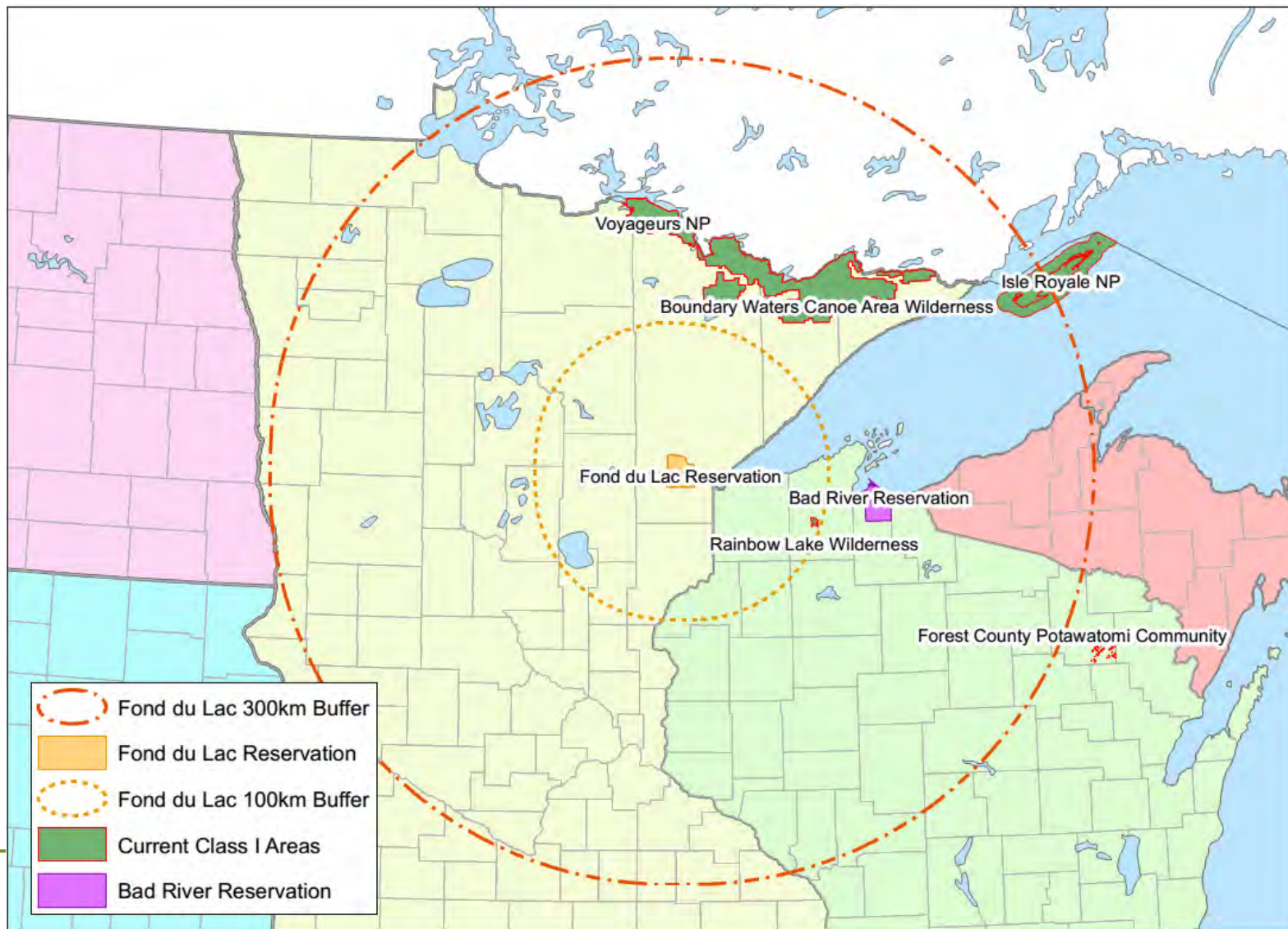
# how would redesignation impact the regulated community?

- projects within 10 km are more likely to require a "PSD" air permit
  - 40 CFR 52.21(b)(23)(iii)
- other projects that could impact the Class I area must perform additional analyses
  - must show compliance with Class I increment and AQRVs

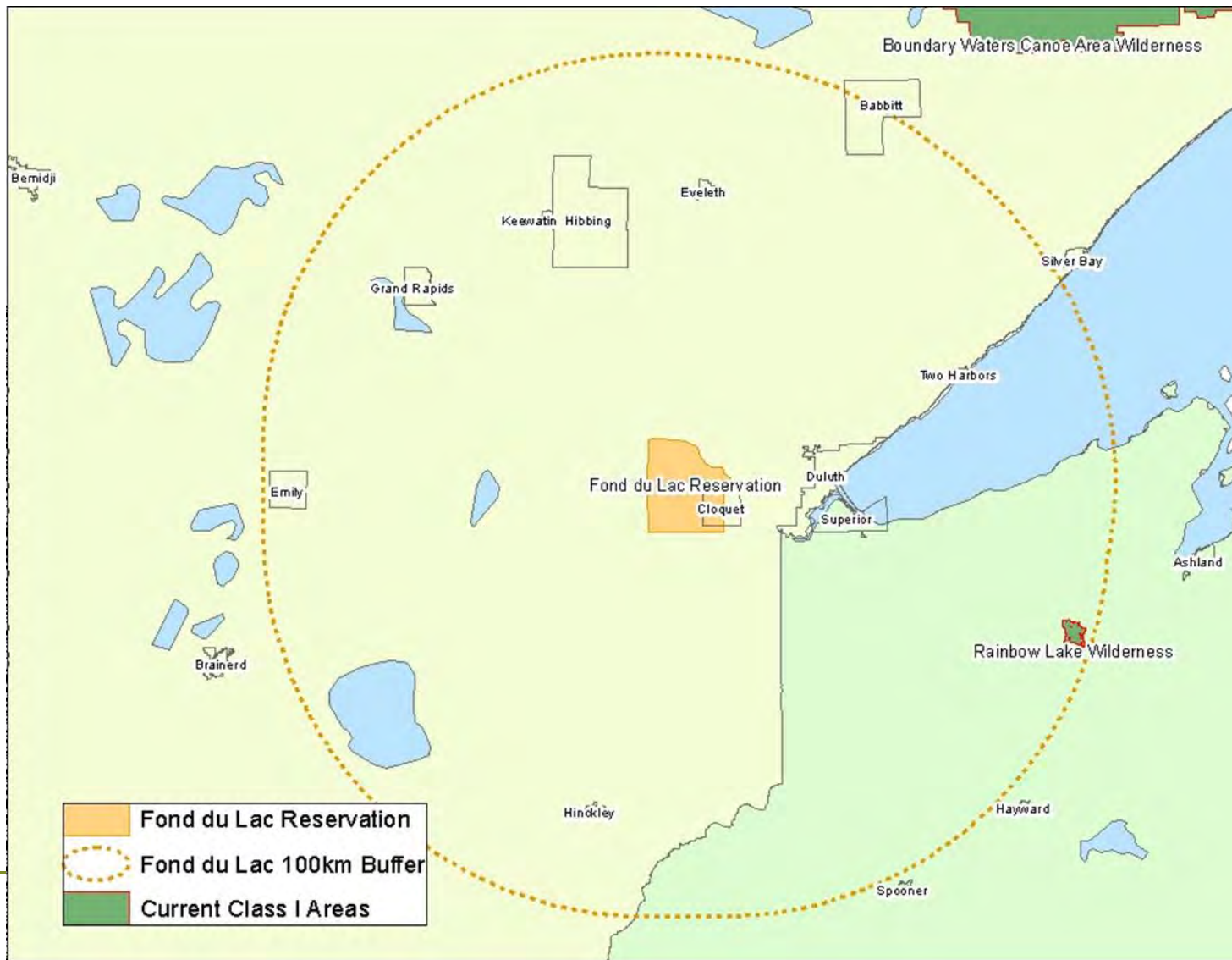
# how would redesignation impact the regulated community?

- obtaining an air permit for impacted projects will take longer and cost more
  - additional analyses and negotiation
  - may require additional capital investment
- could discourage projects

# potential area of impact



# potential area of impact



# example affected facilities

- power plants / electrical generators
- pulp and paper mills
- industrial steam generators
- oil refineries
- mining and processing operations

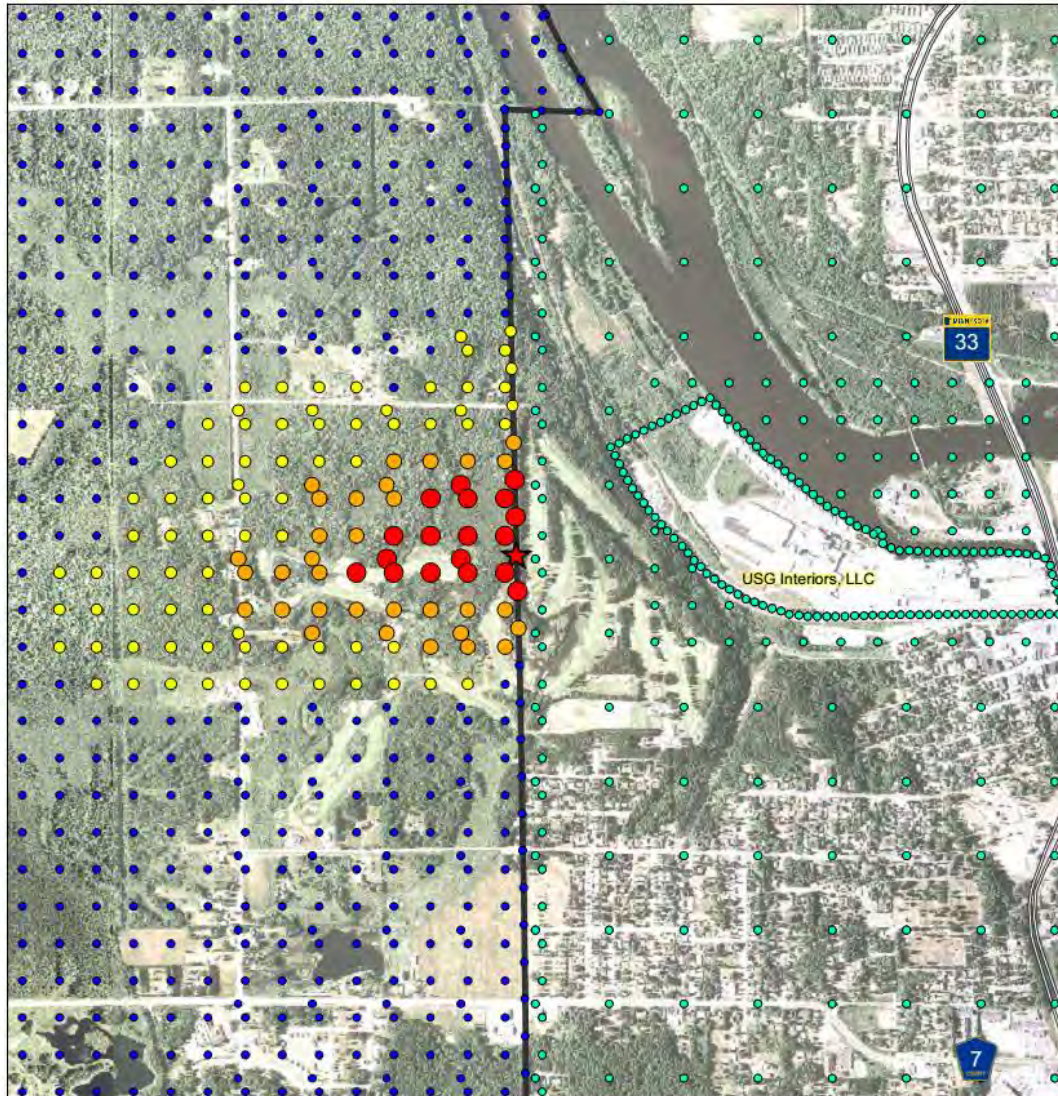
# increment

- the allowable increase in pollutant concentrations after “baseline date(s)”
- baseline dates vary by pollutant

# uncertainties regarding increment

- redesignated area could be subject to existing Minnesota (county-based) minor source baseline dates
- redesignated area could have its own minor source baseline dates
- FDL's reports are inconsistent on the issue of minor source baseline dates and increment analyses.





**Legend**

**Class II Increment**

● <50%

**Class I Increment**

● <50%

● 50-75%

● 75-100%

● >100%

★ Maximum FDL Receptor

□ FDL Reservation Boundary

PM<sub>2.5</sub> 24-Hour Increment  
 High 2nd High Concentration  
 Class II - 9 ug/m<sup>3</sup>  
 Class I - 2 ug/m<sup>3</sup>

Maximum FDL  
 2nd High Concentration  
 3.54 ug/m<sup>3</sup>



Meters

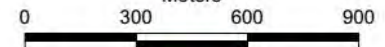


Figure 1  
 PM<sub>2.5</sub> 24-Hour Increment Results  
 USG Interiors, LLC  
 2012 Permit  
 Cloquet, MN

- Air Quality Related Values (AQRVs)
  - visibility
  - water (deposition)
  - and more ...
- generally the limiting factor in Class I analysis
  - definition not required for redesignation
  - current FDL proposal doesn't address directly

# providing input to redesignation process

<b>type</b>	<b>who</b>	<b>when</b>
public comment	anyone	tribal process – closed Nov. 10 EPA process - TBD
negotiation	anyone	tribal discretion
consultation	state and local governments	tribal process – ongoing(?)
mediation	states	EPA dispute process

# public comments received by FDL

- effects modeling did not include nearby and/or existing sources
  - need to determine minor source baseline dates and impacts on increment availability
  - concerns regarding undefined AQRVs
  - concerns about economic assessment methods and assumptions
  - more time needed to evaluate implications
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# presumed next steps

- FDL responds to comments
- FDL may engage in further consultations
- FDL submits request for redesignation to EPA
- EPA review and rulemaking process begins

questions

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# Contact information

Andrew Skoglund

- (952) 832-2685
- askoglund@barr.com

Paul Taylor

- (952) 832-2671
  - ptaylor@barr.com
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