DEPARTMENT OF NATURAL RESOURCES

RECORD OF DECISION

In the Matter of the Determination of the Need for an Environmental Impact Statement for the Whitewater River Channel Restoration Project, Winona County, Minnesota

FINDINGS OF FACT, CONCLUSIONS, AND ORDER

FINDINGS OF FACT

1. Whitewater State Park (WSP) is situated about two miles south of Elba, twenty miles west of Winona, and twenty miles east of Rochester, Minnesota. The WSP encompasses 2,733 acres of mostly steep, forested bluffland and river valley. WSP is one of the most popular state parks in Minnesota, receiving over 325,000 visitors in 2013.

2. Minnesota Department of Natural Resources (DNR) proposes a stream restoration project in WSP on the Middle Fork Whitewater (MFW) River in Winona County. The project would restore approximately 1,800 feet of unstable channel to enhance ecological function, reduce water quality impairments, and improve aquatic habitat and public safety. The project includes repositioning approximately 700 feet of stream channel to a former alignment, restoring the stream banks, and installing a series of rock riffle structures.

3. Pursuant to *Minnesota Rules*, part 4410.4300, subpart 1, an environmental assessment worksheet (EAW) must be prepared for projects that meet or exceed the threshold defined in any of the subparts 2 to 37. The threshold for the mandatory completion of an EAW for stream diversion projects, as defined under *Minnesota Rules*, part 4410.4300, subpart 26, is "a realignment of a designated trout stream, or affecting greater than 500 feet of natural watercourse with a total drainage area of ten or more square miles." The Whitewater River Channel Restoration project, which will affect a designated trout stream and up to 1800 feet of natural watercourse, required the completion of an EAW.

4. Pursuant to *Minnesota Rules*, part 4410.0500, subpart 1, for any project listed in part 4410.4300, the governmental unit specified in those rules shall be the responsible governmental unit (RGU) unless the project will be carried out by a state agency, in which case that state agency shall be the RGU. The DNR proposes to undertake the Whitewater River Channel Restoration Project and is delegated RGU status for conducting the environmental review.

5. The DNR prepared an EAW for the project, pursuant to *Minnesota Rules*, parts 4410.1400 and 4410.1500.

6. The EAW was filed with the Minnesota Environmental Quality Board (EQB) and a notice of its availability was published in the EQB Monitor on March 16, 2015. A copy of the EAW was sent to all persons on the EQB Distribution List, to those persons known by the Department to be interested in the proposed project, and to those persons requesting a copy. A press release announcing the availability of the EAW was sent to newspapers and radio and television stations statewide. Copies of the EAW were also made available for public review and inspection at Minneapolis Public Library; the Rochester Library; St. Charles Public Library; and Plainview Public Library; the DNR Central Region Office (St. Paul); and the DNR Library (St. Paul). The EAW was also made available to the public via posting on the DNR's website.

7. The 30-day EAW public review and comment period began March 16, 2015 and ended April 15, 2015, pursuant to *Minnesota Rules*, part 4410.1600. The comment period closed at 4:30 pm. The opportunity was provided to submit written comments on the EAW to the DNR by U.S. Mail, by facsimile, or electronically by email.

8. The EAW is incorporated by reference into this Record of Decision on the determination of need for an environmental impact statement (EIS).

9. During the 30-day EAW public review and comment period, the DNR received written comments on the EAW from agencies and one businessperson. A copy of the comments is included with this Record of Decision as Attachment 1. The Findings No. 10 through No. 12 include further discussion on comments received and responses from the DNR.

    1. Lex Reinke on behalf of First State Tire Recycling (March 19, 2015)
    2. Sarah J. Beimers on behalf of the State Historic Preservation Office (April 10, 2015)
    3. Kevin Kain on behalf of Minnesota Pollution Control Agency (April 15, 2015)

10. One commenter advertised recycled tire engineered aggregate for use as "green aggregate fill." The commenter did not address the accuracy and completeness of the EAW, specific impacts that require further investigation, the potential for significant environmental effects, or the need for an environmental impact statement (EIS).

    The DNR acknowledges the additional information provided by the commenter. Individuals submitting comments in this category will generally find their comments regarding the merits of the proposed project not addressed in this Record of Decision. The comments will be provided to the proposer and to permitting and/or approval entities and/or authorities for their consideration as part of further decisions about whether to permit, approve, and/or implement the project.

11. The Minnesota State Historical Preservation Office (SHPO) commented that, if the project is considered for federal assistance, or requires a federal license or permit, Section 106 of the National Historic Preservation Act of 1966 and 36CFR8700 rules may apply. The SHPO looks forward to reviewing the formal archaeological reconnaissance survey and assessment of potential adverse effects to cultural resources.

    Under Item No. 8 of the EAW, the DNR has indicated that Section 10 of the Rivers and Harbor Act and Section 404 of the Clean Water Act would be applicable and, under Item No. 11.b.iv.b (Other Surface Waters) of the EAW, that the U.S. Army Corps of Engineers' (the Corps') regional general permit (RGP-003-MN) for the state of Minnesota would likely apply. As stipulated under Item No. 6 of the terms and conditions of the RGP, "the Corps review will include a determination regarding compliance with Section 106 of the National Historic Preservation Act (NHPA), as appropriate. The National Register of Historic Places will be consulted to determine the presence or absence of known cultural resources. Corps staff will consult cultural resources staff concerning projects with the potential to affect cultural resources. Corps staff will consult with the State Historic Preservation Office as appropriate. Cultural resources surveys will be required where necessary and in most cases, the District will require that the project proponent conduct the investigation (survey), which may consist of investigations described under 33 CFR Part 325 Appendix C.5(e)." The DNR will coordinate with the Corps and SHPO to assist in the Section 106 compliance process and provide them a copy of the cultural resource reconnaissance survey report when it is completed by the Minnesota State Parks and Trails Cultural Resource Management Program of the Minnesota Historical Society.

12. The Minnesota Pollution Control Agency (MPCA) reviewed the EAW and a "no comment" letter was provided.

The DNR appreciates MPCA's project review. As the final project configuration is established, the DNR will further coordinate with the MPCA regarding its applicable regulations.

13. Based upon the information contained in the EAW, the DNR has identified the following topics of potential environmental effects associated with the project:

    a. Project Magnitude, Scheduling, and Construction
    b. Compatibility with Plans, Ordinances, and Land Uses
    c. Compatibility with Transportation
    d. Surface Waters
    e. Groundwater
    f. Invasive Species Management and Control
    g. Wildlife and Habitat
    h. Rare Features & Native Plant Communities
    i. Hazardous Waste Historical Presence
    j. Hazardous Materials Used
    k. Construction and Municipal Wastes
    l. Vehicle Emissions
    m. Odors and Dust
    n. Noise
    o. Visual Impacts
    p. Cumulative Potential Effects

    Each of these environmental effects is discussed in more detail below. A list of applicable item numbers in the EAW that provide reference to each topic is provided in the topic heading.

a. Project Magnitude, Scheduling, and Construction (EAW Item No. 6b, 11, 13, and 18)

The proposed channel restoration project would reposition the current channel into the pre-2007 flood channel alignment and enhance aquatic habitat along the reach by creating several riffle, glide, pool, and run sequences. The 8 ac project area includes an 1800-foot reach of the MFW River within WSP. The construction of the upper weir would be included as a bid alternate to subdivide funding. Earth moving equipment such as track hoes, cranes, bull dozers, trucks, and skid steers would be used to create rock riffles (weir), excavate the new channel, fill and restore the old channel, and landscape the disturbed areas of the flood plain.

Project designs are based on Rosgen's Natural Channel Design approach, an alternatives analysis and modeling of potential effects on the river hydrology. The reroute would be scheduled, sequenced, and phased to minimize environmental effects to surface waters. Boulder placement would be established prior to commencing with excavation of the new channel to reduce the risk of erosion in the event of unseasonal high flows. A two to four week construction period is scheduled prior to the trout spawning season in September to early October of 2015, coinciding with the river's low-flow. Construction would be monitored under the authority of a licensed engineer. The DNR Stream Habitat Program would monitor the condition and trend of the geomorphic and biological changes over time. Adaptive management would be pursued if deterioration occurs.

The design, construction, and scheduling of the project would have temporary, local, and minor environmental effects on the project area.

b. Compatibility with Plans, Ordinances, and Land Uses (EAW Item No. 9)

Project actions were evaluated for compatibility with plans, ordinances, and nearby land uses through document reviews and coordination with local, federal, and state agencies, including

Winona County, the Corps, MPCA, Minnesota Department of Transportation (MnDOT) and various DNR resource specialists and administrative staffs.

The Whitewater State Park Management Plan (1979) and the Winona County Comprehensive Plan (2014) identify the need for natural resource protection in the Agriculture-Natural Resource (ARC) Zone. The project occurs within WSP near the Cedar Hill campground that is being threatened by an unstable river bank. The project is located in the Agriculture-Resource Conservation zone of the Winona County comprehensive plan. One segment of the Whitewater Country Loop Trail may cross the project area but no effects are anticipated.

No structures would be constructed within shorelands. Considering potential flood hazard to nearby structures, the proposed weir construction was modeled to determine effects on river level. A minor increase in river flood levels was identified. The weir structure would not impact the existing water surface elevation at the Trunk Highway (TH) 74 bridge. The extent of the rise would be contained within the WSP and does not impact any structures. Temporary closure of the pedestrian bridge and Gooseberry Glen campground and construction noise level at the nearby Cedar Hill campground would affect some park visitors. The present rough riparian area would be smoothed out to improve visitor safety. The construction period would be scheduled for a period of low demand to limit the potential effects on park visitors. Minor effects are anticipated.

The project is compatible with plans, ordinances, and land uses in the project locale and in Winona County in general.

c. Compatibility with Transportation (EAW Item Nos. 6b and 18)

The potential project effects on traffic levels and the management of the current and proposed Highway 74 bridge have been evaluated for compatibility. The regional transportation systems would incur a minor increase in traffic level in the vicinity of the project for movement of crew, equipment, and construction materials. Most of the materials used for the channel construction would not be brought from a remote location but would be harvested from the project area. A minor increase in the local traffic level is anticipated. Although the upper weir structure would be placed within the highway right-of-way easement, the MnDOT bridge design group has concurred that the project would not affect the management of the TH 74 bridge or the construction of its replacement, possibly slated for completion within the next decade.

The project is compatible with the use and management of the local public transportation infrastructure.

d. Surface Waters (EAW Item Nos. 6b and 11)

Physical effect on surface waters, vulnerability of the MFW River to erosion and sedimentation due to soil disturbance are summarized under this topic. A small area of wetlands located below the ordinary high water level (OHWL or bankfull) (0.17 ac) would be destroyed by construction. Project disturbances would be isolated to 3.7 ac of the floodplain above the OHWL and 2.1 ac of river channel below OHWL (old channel and created wetland), for a total of 5.8 ac. No wastewater would be generated and no dewatering is proposed as part of the project. The MFW River is listed on the current MPCA 303d Impaired Waters List for the following: aquatic recreation, due to fecal coliform; aquatic life, due to turbidity; and drinking water, due to nitrates.

Project phasing would limit in-water construction to a few actions, including the placement of boulders for construction of the upper weir and the construction of the channel block for redirecting flow into the new channel. The rest of the work would be completed on dry/moist

floodplain soils. The coarse gravel-cobble substrate along this reach of the river is stable and less prone to create sedimentation.

Realignment of the channel would result in significant benefits in improved river stability, with an estimated 90 percent reduction in erosion occurring along river banks, especially along the bank below Cedar Hill campground. The flow pattern created by the rock riffles would also improve sediment transport downstream and help reduce downstream head and bank under cutting. Construction phasing would assure that river turbidity does not occur on a continual basis while construction equipment is active in both the new and old channels. The contractor would be instructed as follows: construction to occur only during low flows, as guided by the project engineer; in-stream movement of machinery to be kept to a minimum; imported boulders and gravel required free of dirt and debris at delivery; and best management practices (BMPs) such as silt fencing, biologs, floating silt booms, flocculants and other materials that provide capture and filtration capability to be selected and installed whenever in-water construction occurs. Post project monitoring of stream bank erosion rates and channel stability would be carried out to determine effectiveness of modeling and project designs.

Disturbance of the areas above the OHWL would require erosion control and stormwater management. Top soils, live grass/shrub mats (if feasible), and some clumps of trees would be stockpiled for use in stabilizing exposed soils disturbed during construction. Construction phasing would limit amount of exposed soils at any time. Banks would be graded and smoothed to less than 12 percent slopes, fortified with riprap where necessary, and covered with vegetation mats and erosion control blankets or hydro-mulch. Winter wheat or another cover crop would be used to reduce length of soil exposure of other disturbed areas. Permanent cover would be seeded as conditions warrant, using native weed-free seed mixes. About one-half acre of the disturbance zone would be replanted with trees to establish riparian forest cover for improved wildlife habitat and soil protection. Soil protection measures would be maintained until riparian vegetation has sufficiently recovered.

Project effects on wetlands would be evaluated by the area Technical Evaluation Panel As part of permitting. Sensitive spring seeps and channels found along the construction zone would be avoided. The springs would be demarcated and flagged as part of the no-go zone, where construction equipment would not be allowed to enter. According to the applicable wetland replacement ratio of 2:1, the DNR proposes that 0.17 acres of wetlands impacted by construction be replaced by the creation of at least 0.34 acres of wetland marsh vegetation and reseeding with sedges and other wetland species, with the final mitigation requirements described in the Corps RGP and the Work in Public Waters permit.

Avoidance, minimization, and mitigation through provisions of the Section 404 (includes Section 401) Clean Water Act (CWA) RGP permit (RGP-003-MN), Work in Public Waters permit, NPDES/SDS Construction Stormwater general permit, including Appendix A for Special and Impaired Waters and the Stormwater Pollution Prevention Plan (SWPPP) would be applied to protect surface waters and help contain erosion and sedimentation. The BMPs to control erosion would be identified in the SWPPP and applied in coordination with the Winona County Soil and Water Conservation District, as stipulated in Winona County ordinances. In addition, the contractor would be required to complete a Spill Prevention and Cleanup Plan.

The environmental effects on surface waters from in-water construction and other soil disturbances would be local, minor, and temporary.

e. **Groundwater (EAW Item Nos. 6b, 10, and 11)**

A review of groundwater resources, including major aquifers, was completed to determine their characteristics and potential environmental effects on these resources. Information on nearby wells was provided in the EAW. No karst features are known within or near the project area. The proposed project is not located within a Minnesota Department of Health (MDH) wellhead protection area. No dewatering or water appropriations would be included in project development.

The contractor would be required to complete a Spill Prevention and Cleanup Plan. The environmental effects of any spills are anticipated to be limited and local.

f. Invasive Species Management and Control (EAW Item No. 13c)

Invasive species have been identified to occur in and around the project area. The most problematic species to control will likely be reed canary grass, which is locally widespread and can quickly spread and become established on disturbed soils. In addition, garlic mustard control is a major focus throughout WSP. Construction activities that expose and move soil can contribute to the spread of invasive species. Initial grubbing and grading during preparation of the construction site would increase sunlight for invasive species. Existing seed banks of invasive species would be present and exposed during construction.

DNR Operational Order 113 provides guidance and directives on agency procedures for implementing site-level invasive species management. The DNR Division of Parks and Trails has guidelines specific to its administered areas. Approved methods of applying herbicides are described on the herbicide label and under DNR Operational Order 59. Pesticide application must be preceded by a Natural Heritage Information Database (NHIS) review to insure endangered or threatened species or significant native plant communities are not harmed.

Integrated pest management and BMPs would be used for species control and DNR Operation Order No. 113 would be applied by staff and contractors. Inventory, treatment, and monitoring of the site would be carried out until the native vegetation has become established and thereafter by inclusion of the project area in routine invasive species management conducted within WSP. To reduce the potential establishment and spread of invasive species, all equipment would be cleaned thoroughly prior to and after each introduction to the site; construction materials brought onsite must be clean and free of organic matter; a cover crop of winter wheat would be planted after construction and during the following spring; and a high seeding rate of sedges, cordgrass, and other wet meadow species would be used along the river banks and wetland areas to promote a quicker establishment.

Some spot treatments of invasive species would be necessary in priority areas. Monitoring and retreatment of persistent invasive species would be done as necessary. Trees planted in the area would eventually help shade out some concentrations of invasive species.

The project will have temporary, local, and minor environmental effects on the potential of increasing the presence of invasive species in the project area.

g. Wildlife and Habitat (EAW Item Nos. 6b, 11, and 13)

A small amount of wooded area, including one cluster of cottonwood and willow, would be impacted by project construction. The construction would result in the loss of a small area of wetlands and temporary loss of in-stream aquatic habitat, stream bank vegetation and woody cover. The project area is located near an area of biodiversity significance.

Fisheries mitigation would include working in the fall to winter period, before the trout spawning season and after the peak season of park use. The riffle-pool sequence would help to reestablish the natural pattern and process of the river and enhance fish habitat without destabilizing the new stream channel. The rock riffles would create beneficial habitats for migrating fish such as a "step pool" habitat and would anchor a series of three typical riffle-pool sequences. The existing channel would be abandoned and partially flooded by design to serve as a backwater area that would provide habitat for a variety of aquatic species, including fish, amphibians, reptiles, invertebrates, and birds.

Wildlife friendly erosion control blankets would be positioned as needed. The disturbance zone above the OHWL would be reseeded with a locally sourced seed mix approved for riparian habitats. Forest cover would be reestablished by replanting 0.5 acres of wooded riparian habitat that existed prior to construction and reseeding with woodland species. One area with a south facing aspect would be seeded with a prairie mix seed lot.

Restoration of this reach would restore stability, lessen erosion, improve water quality, enhance habitat conditions, revive natural structure and function, and result in an overall more productive and higher quality natural system. Better stream stability and habitat improvements would provide long-term benefits to desirable aquatic invertebrate populations in the river. Numerous wildlife species would benefit from the combination of a more stable river channel and the restoration of adjacent riparian areas. Nearby fish, wildlife, and aquatic habitat connectivity along the MFW River would be improved by this design and by the permanent closure of Gooseberry Glen Campground in the future. The project design has incorporated avoidance measures to protect the nearby high quality native plant communities.

Wildlife impacts would be local, minor, and temporary, i.e. limited to construction and establishment phases of project. Substantial long-term beneficial effects for wildlife are anticipated.

h. Rare Features & Native Plant Communities (EAW Item No. 13)

The DNR reviewed the potential to disturb wildlife and rare features in the vicinity of the project area. The Minnesota NHIS database identified potential rare features in the vicinity. Potential effects of the project on the brook lamprey (Special Concern), the pickerel frog (Greatest Conservation Need), and the timber rattlesnake (State Threatened) have been identified because they may reside, in or range into, the aquatic or riparian habitats that would be destroyed or relocated. Direct impacts would occur to the brook lamprey and pickerel frog if they are present in the project area during construction. A low potential for encountering a rattlesnake in project area is evident by their absence from the busy campground area adjacent to the project. Minor effects on other features are described.

Minor effects are anticipated for several plants and summer-resident animals in the vicinity of the project area. Bats are summer residents in an artificial roost created at the park, rare plants occupy dry rock outcrops, areas of biodiversity significance and high quality native plant communities are nearby, migrant birds (Cerulean warbler, Acadian flycatcher, Louisiana waterthrush, Peregrine falcon, and others) forage or nest in the vicinity of the project, and the glade mallow (State threatened) resides in riverine wetlands resembling shoreline habitat that once existed along this reach and is now proposed for creation. The project would have minimal effects on these rare features due to their distance of separation from the project area, their ability to temporarily flee area and forage elsewhere, DNR's proposed avoidance measures and the plan to schedule work during the non-breeding seasons.

Mitigation for avoiding and minimizing environmental effects on reptiles, amphibians and the brook lamprey would include: construction work conducted near the end of their active season; the use of wildlife friendly erosion control mesh; and designs for wetland creation that are attractive to these species and provide potential suitable habitat for the globe mallow. The flooded pools are designed to provide better habitat for aquatic species including the pickerel frog. The creation of more stable aquatic habitat, beneficial to the brook lamprey, would provide long term benefits to the lamprey populations, as the river stabilizes and habitat improves. It is likely that most reptiles and amphibians would still be active when construction is initiated. They should be able to escape from active construction areas. Additional monitoring of reptiles and amphibians would be implemented during construction. Staff monitors would relocate turtles, amphibians, and other wildlife, if necessary and as resources allow. If a rattlesnake is observed within the construction zone during project operations, the snake will either be left alone or relocated to areas known to contain rattlesnakes.

Effective May 4, 2015 the U.S. Fish and Wildlife Service listed the northern long-eared bat as threatened under the Endangered Species Act (ESA) and implemented an interim 4(d) rule. As there are no known northern long-eared bat hibernacula or roost trees within 0.25 miles of the proposed project, the incidental take that might result from the minimal tree removal associated with this project is exempted under the 4(d) rule. No further action is needed to comply with ESA prohibitions to protect northern long-eared bats.

The environmental effects on rare features in the project area and vicinity would be temporary, local, and minor.

i. Hazardous Waste Historical Presence (EAW Item No. 12b)

No known contamination or environmental hazards have been identified to occur within the project area. Nearby hazardous waste sites are closed or would not be affected by the proposed project. No potential environmental effects have been identified.

j. Hazardous Materials Used (EAW Item No. 12c)

During project construction and operation of the channel restoration, incidental releases of toxic or hazardous substances may occur. Major spills or releases are unlikely. Use of petroleum products is typically the largest potential source of toxic or hazardous materials. Refueling spills and equipment breakdowns, such as broken hydraulic lines, could introduce contaminants into the soil during construction.

Equipment operators are cognizant of precautions necessary during refueling. Refueling would be conducted away from surface waters and equipment would be regularly inspected and repaired to prevent inadvertent loss of fuels, oils, or other hazardous fluids. Any spills would be reported to the Minnesota Duty Officer (MDO) and the DNR supervisor of the work being performed. The MDO would in-turn contact appropriate officials, depending on the nature of the spill.

The NPDES Construction Stormwater permit requires a site specific SWPPP to be completed for construction. This SWPPP would include pollution prevention measures for solid waste and hazardous material spills that occur during construction.

The environmental effects of the increase in hazardous material use would be low risk, temporary, local, and minor.

k. Construction and Municipal Wastes (EAW Item No. 12b)

Development of the site during clearing and grubbing would generate organic debris, typical of slash produced during logging operations. Some general construction wastes would also be generated.

All excavated channel material and organic debris would be used on-site to create the permanent channel block or redistributed within the old river channel. This would avoid the need to move construction materials offsite. General construction wastes would be managed by the contractor and disposed off-site at a qualified disposal area.

The increases in solid wastes from construction would be temporary, local, and minor.

l. Vehicle Emissions (EAW Item No. 16)

Gasoline and diesel powered vehicles would generate air emissions during the construction and operation of the channel restoration project. The exhaust emissions contain pollutants such as carbon monoxide, nitrogen oxides, reactive organic gasses, sulfur dioxide and suspended particulate matter, all of which may carry associated health risks. Project construction activities would temporarily increase these airborne pollutant levels.

The increases in air emissions from construction would be temporary, local, and minor.

m. Odors and Dust (EAW Item No. 16)

Construction activities would create dust and odors during daytime operations. During periods of heavy traffic and windy conditions, the dust might become airborne and create an annoyance to nearby residents.

To minimize impacts, construction phasing would be implemented to limit the size of the active work zone. As well, DNR would limit work to weekdays and daytime hours. No construction work would be allowed during park quiet hours, holidays, and weekends.

The increases in odors and dust from construction would be temporary, local, and minor.

n. Noise (EAW Item No. 17)

The existing low noise level in the MFW River valley is generated by traffic on TH 74, occasional operation of farm equipment above the bluff line, the movements of the local campers, and noise generated from routine park operations and maintenance activities. Ambient noise within the state park is typical for wildlife and recreational areas.

Construction activities that require the use of large equipment would temporarily increase noise levels in the MFW River valley. Park campsites are the nearest sensitive receptor sites, approximately 300 feet away. The nearest private residences are about 900 feet away.

The combination of the existing vegetative cover and distance to receptors would allow noise to diffuse prior to reaching the receptor sites. Vehicles would be operated with standard noise arrestor devices in good working condition. The DNR would establish limited daily work hours to minimize noise disturbance to park patrons, area residents, and wildlife. No construction work would be allowed during park quiet hours, holidays, and weekends. The DNR would monitor noise generation if complaints arise. All construction work would conform to state noise standards.

Construction activities would be a temporary and cause minor annoyances to humans in proximity to the work zone. Resident wildlife might be temporarily disturbed by noise emitted by

large equipment operation. Noise from construction activities would be temporary, limited to normal daily work periods, and manageable.

o. Visual Impacts (EAW Item No. 15)

The proposed project area may be visible from some state park overlooks. Visual impacts would be obvious during the construction and early establishment phases of the proposed project. The condition of the riparian area is rough and is difficult to access for some pedestrians.

The rough landscape in the construction zone would be smoothed and naturalized with native vegetation to improve the aesthetics of the area.

Project developments would have minor and temporary effects on scenic views and aesthetics of the project area.

p. Cumulative Potential Effects (EAW Item No. 19).

Construction-related disturbances will cause soil disturbance over 5.8 acres of riparian area along an 1800-foot reach of the MFW River. A temporary increase in sedimentation might occur while work is completed in-water and riparian vegetation becomes reestablished. It would take one to two years to sufficiently stabilize soil on the floodplain and decades for the planted forest to mature. High flows during project construction would cause an increase in sedimentation, but the risk is minor as flow is typically lowest during the fall season of the year.

The potential environmental effects related to the proposed project could combine with environmental effects from other past, present, or reasonably foreseeable future projects for which a basis of expectation has been laid. The proposed project might contribute to the cumulative potential effects on water quality of the MFW River, which is listed on the current MPCA 303d Impaired Waters List.

The potential for significant environmental effect on water quality was identified in the Whitewater State Park Campground Development EAW in 2014. Projects included in the previous analysis of cumulative effects on water quality of surface waters are the Whitewater State Park Campground Development, Gooseberry Glen Campground Closure, Whitewater River Channel Restoration Project, Whitewater Country Loop (WCL) State Trail – segment from St. Charles to Elba, and Cedar Hill Campground Improvements.

Conclusions drawn at that time were described in the Record of Decision that the projects' cumulative effects on water quality would not be significant. The additional information obtained during the production of this EAW does not change this determination. The small risk of a temporary increase in river sedimentation of the Whitewater River Channel Restoration project is far out-weighed by the probable long term reduction of bank erosion and sedimentation in this reach, possibly as much as a 90 percent reduction.

All projects proposed would require NPDES/SDS Construction Stormwater general permits and the accompanying SWPPP developments. These permits would include the requirements of Appendix A, thus maintaining higher standards for pollution prevention through the implementation of more rigorous BMPs. A minor increase in erosion and sedimentation might occur from the campground and trail projects due to the increases in impervious surfaces and soil disturbances. However, BMPs that would be installed to contain such increase at the point of origin, the dispersed nature of the development, and the greater presence of natural cover adjacent to the developments should provide effective containment. Generally the projects would occur over a time period that is not concurrent with the proposed project but likely would be

constructed in a series straddled over several years, with periods of time available for each project to re-establish native vegetation.

The cumulative potential effects on water quality of the MFW River would be temporary and minor in comparison to other contributions in the watershed.

14. The EQB granted a 15-day extension for completion of Record of Decision.

15. The following permits and approvals are needed for the project:

Unit of government	Type of application	Status
Winona County	SWCD Application Floodplain Compliance	Coordination in progress
Minnesota Pollution Control Agency	NPDES/SDS Construction Stormwater General Permit (GP)	Anticipated
Minnesota Department of Transportation	Right-of-Way/Utilities	Not yet applied
Department of Natural Resources	Public Waters Work Permit	Application pending
U.S. Army Corps of Engineers	RHA, Section 10, CWA Section 404 Regional GP, and Section 106 NHPA compliance	Pending determination and S.106 compliance included in permit

CONCLUSIONS

1. The Minnesota Environmental Review Program Rules, *Minnesota Rules*, chapter 4410.1700, subparts 6 and 7 set forth the following standards and criteria, to which the effects of a project are to be compared, to determine whether it has the potential for significant environmental effects.

   In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

   a. type, extent, and reversibility of environmental effects;
   b. cumulative potential effects of related or anticipated future projects;
   c. extent to which the environmental effects are subject to mitigation by on-going regulatory authority; and
   d. the extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by agencies or the project proposer, including other EISs.

2. Based on the Findings of Fact above, the DNR concludes that the following potential environmental effects, as described in Findings 13a through 13p, would be limited in extent, temporary, or reversible:

   a. Project Magnitude, Scheduling, and Construction
   b. Compatibility with Plans, Ordinances, and Land Uses
   c. Compatibility with Transportation
   d. Surface Waters
   e. Groundwater
   f. Invasive Species Management and Control
   g. Wildlife and Habitat

h. Rare Features & Native Plant Communities
i. Hazardous Waste Historical Presence
j. Hazardous Materials Used
k. Construction and Municipal Wastes
l. Vehicle Emissions
m. Odors and Dust
n. Noise
o. Visual Impacts
p. Cumulative Potential Effects

3. *Cumulative potential effects of related or anticipated future projects.*

   The effects of all past projects comprise the existing conditions of the project area. Cumulative environmental effects add to the existing condition, the proposed project, and future projects.

   Cumulative environmental effects for future projects are assessed by evaluating the effect on the environment resulting from the incremental effects of the project under review plus similar effects from certain future projects that overlap spatially or temporally with the proposed project.

   Based on the Findings of Fact above, the DNR concludes that cumulative potential effects on resources including water quality from stormwater runoff and sedimentation, as described in Findings 13a through 13p, are not significant.

4. *Extent to which environmental effects are subject to mitigation by on-going public regulatory authority.*

   Based on the information in the EAW and Findings of Fact above, the DNR has determined that the following environmental effects, as described in Findings 13a through 13p, are subject to mitigation by ongoing public regulatory authority.

   When applying standards and criteria used in the determination of the need for an environmental impact statement, the DNR finds that the project environmental effects on surface waters are subject to regulatory authority through floodplain ordinances (Winona County) and permits for 1) construction stormwater management (MPCA), 2) work in public water (DNR), 3) Section 10 of RHA (control over obstructions to navigable waters) (Corps), and 4) Section 404 of the CWA (regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters) (Corps) to sufficiently mitigate potential environmental effects on surface waters through measures identified in the EAW that are specific and reasonably expected to occur.

   When applying standards and criteria used in the determination of the need for an environmental impact statement, the DNR finds that the project environmental effects on historical properties are subject to oversight of the SHPO through compliance with public regulatory authorities as follows: the NHPA Section 106 (Corps) (federal law pertaining to the protection of cultural resources, including establishment of the National Register of Historic Places) and the State requirements for coordination and compliance with the Minnesota Field Archaeology Act (requires state agencies to submit development plans to the State Archaeologist) and the Minnesota Historic Sites Act (requires that state agencies consult with the Minnesota Historical Society before undertaking or licensing projects that may affect properties on the Network or on the State or National Registers of Historic Places).

5. *Extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or other EISs.*

The DNR has recently planned and completed EAWs for work in public waters and on projects adjacent to the project area, including:

- 2014. Whitewater State Park Campground Development EAW. DNR.
- 2013. Gilmore Creek Restoration Northshore Mining East Pit Progression EAW. DNR.
- 2013. Reducing localized impacts to river systems through proper geomorphic sizing of on-channel and floodplain openings at road/river intersections. DNR Stream Habitat Program.
- 2011. Minnesota Falls Dam Removal EAW. DNR.
- 2010. Reconnecting rivers: natural channel design in dam removals and fish passage. DNR. DNR Stream Habitat Program.

6. The DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an environmental impact statement on the proposed Whitewater River Channel Restoration project.

7. Based on considerations of the criteria and factors specified in the Minnesota Environmental Review Program Rules (*Minnesota Rules*, chapter 4410.1700, subpart 6 and 7) to determine whether a project has the potential for significant environmental effects, and on the Findings and Record in this matter, the DNR determines that the proposed Whitewater River Channel Restoration project does not have the potential for significant environmental effects.

ORDER

Based on the above Findings of Fact and Conclusions:

The Minnesota Department of Natural Resources determines that an Environmental Impact Statement is not required for the Whitewater River Channel Restoration project in Winona County, Minnesota.

Any Findings that might properly be termed Conclusions and any Conclusions that might properly be termed Findings are hereby adopted as such.

Dated this 26th day of May, 2015.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

Barb Naramore

Barb Naramore
Assistant Commissioner