

Attachment 2

Pool 2 Placement Capacity as of 11 December 2018

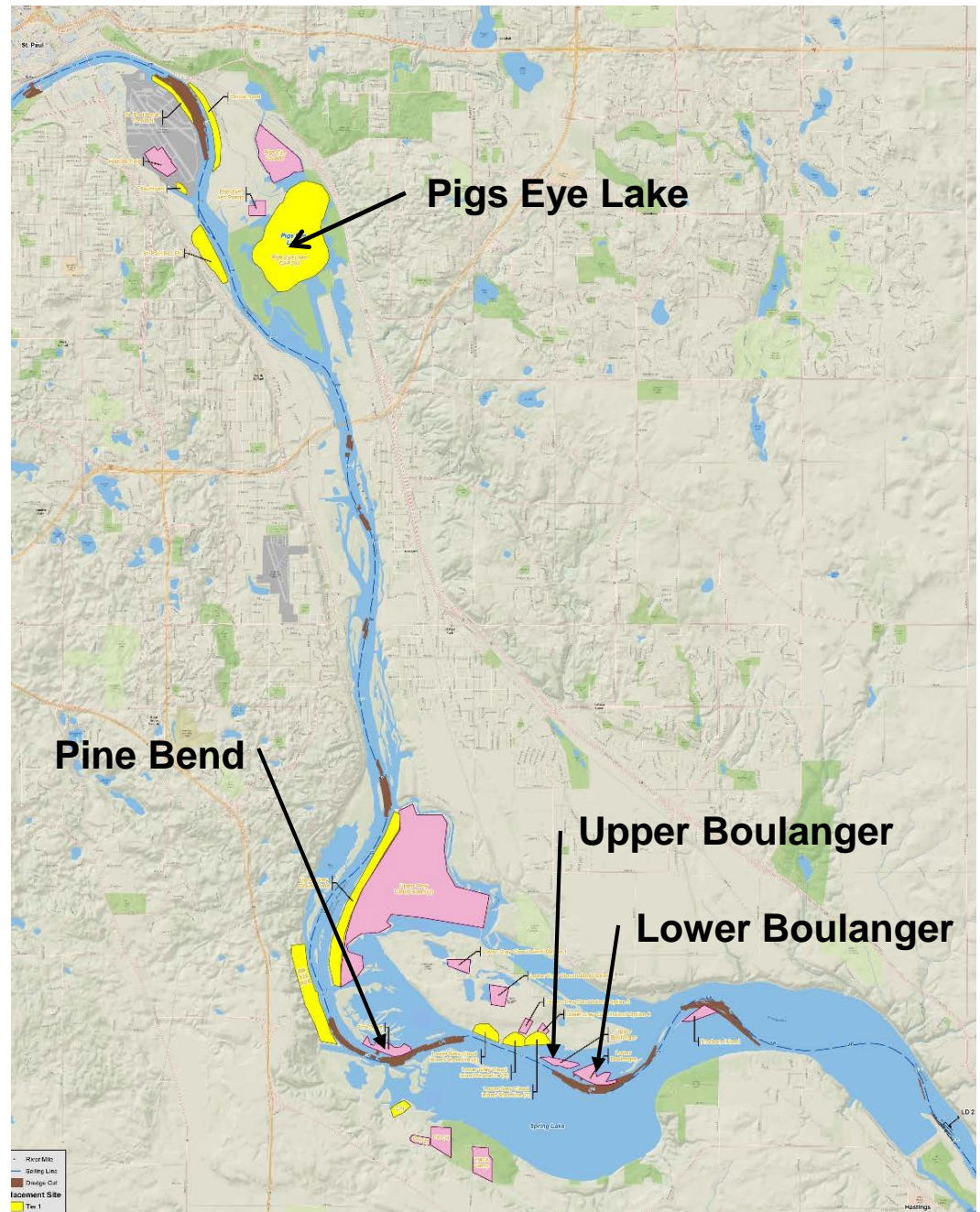
Pig's Eye Islands – 400k cu yds

Pine Bend island – 125k cu yds

Upper Boulanger – 50k cu yds

Lower Boulanger – 125k cu yds

Total 700 cu yds



Attachment 3:

**Comments Received during the EAW Public Comment Period
(June 26, 2017- July 26, 2017)**

Comment Letter 1

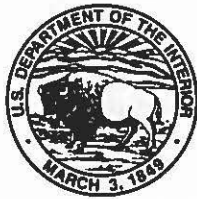
From: Dw744@aol.com
To: [MN Review, Environmental \(DNR\)](#)
Subject: Mississippi dredging
Date: Monday, June 26, 2017 10:38:24 PM

The Army Corps of Engineers feels that its alright to just "take" peoples homes"as its convenient for them to deposit the dredged material. How is it that the people that pay for governmental projects always get the shaft?

Comment Letter 2

From: walleyebrooks@aol.com
To: [MN Review, Environmental \(DNR\)](#)
Subject: Hastings river channel
Date: Wednesday, July 05, 2017 9:23:04 PM

How does this effect the back waters below Hasting? Already filling in and Changing. We give up Habitat to keep big money going. We still pay for it. Learn to drive your barge. Sorry I'm in a bad mood. Let it take its course.



IN REPLY REFER TO

L3303

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

July 18, 2017

St. Paul District
U.S. Army Corps of Engineers
Attn: Mr. Aaron McFarlane
CEMVP-PD-E
180 Fifth Street East, Suite 701
St. Paul, MN 55101

RE: draft Environmental Assessment, Lower Pool 2 Channel Management Study; Boulanger Bend to Lock and Dam No. 2

Dear Mr. McFarlane:

The National Park Service (NPS) is pleased to provide comments on the draft Environmental Assessment, Lower Pool 2 Channel Management Study; Boulanger Bend to Lock and Dam No. 2. The proposed project would lie completely within the boundary of the Mississippi National River and Recreation Area (NRRA). Congress established the Mississippi NRRA in 1988 to preserve, protect, and enhance the significant values of the Mississippi River Corridor in the Twin Cities metropolitan area. Our comments are as follows:

Under 1.2 Project Location and Study Area (pg. 5) please include a reference to the NRRA.

"...southeastern edge of the Minneapolis-St. Paul Metropolitan area and is entirely within the boundaries of the Mississippi National River and Recreation Area, a unit of the National Park Service."

Under 2.4 Resource Significance (pg. 30) please also reference the NRRA under Institutional Recognition:

"... as one of only three large river-floodplain ecosystems so designated. In 1988, the Mississippi National River and Recreation Area, a unit of the National Park Service, was established by Congress to protect, preserve, and enhance the historic, natural, cultural, scenic, recreational, scientific, and economic resources within the Mississippi River Corridor in the Twin Cities metropolitan area. 16 U.S.C. § 460zz-3(b)(1) sets forth a process by which Federal agencies are to consult and coordinate with the Secretary of the Interior (and, by delegation, with the NPS) to ensure their actions within the NRRA are compatible with the area's comprehensive management plan."

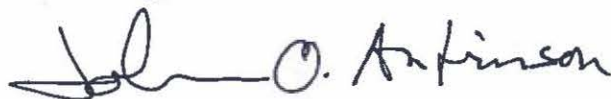
Having reviewed the document and the various alternatives, the NPS has two primary areas of concern:

1) disposal of the significantly larger quantity of dredge material that would be necessary under the preferred alternative due to widening of the channel. It appears this will be addressed in the 2017 Pool 2 Dredged Material Management Plan when it is completed. We are interested in reviewing this Plan when it becomes available.

2) impacts on mussel populations in the area, with project construction killing approximately 85,200± 25,800 individual mussels, including individuals representing four species of conservation concern in the State of Minnesota. It appears that of the alternatives considered (excluding the no action alternative), this alternative has the least impact on mussel populations. We are pleased to see there is a Mussel Mitigation Plan in place, and that divers will collect and relocate as many mussels from the footprint as possible. We encourage movement of as many individuals as possible to retain species variability and support the more abundant mussel community found here as compared to other areas in Lower Pool 2. We would like to be notified before the relocation. We would also like to be kept informed on species found, numbers relocated and any other significant findings.

Thank you for the opportunity to comment on this draft EA. If you any questions regarding these comments, please contact my staff, Alan Robbins-Fenger at alan_robbsins_fenger@nps.gov or by calling 651-293-8438.

Sincerely,

A handwritten signature in black ink, appearing to read "John Anfinson". The signature is fluid and cursive, with a large initial "J" and a distinct "O" in the middle.

John Anfinson
Superintendent

cc:

Kate Fairman, MN DNR

PAS ASSOCIATES, LTD.
2565 Walnut St.
Roseville, MN 55113
(651) 361-6440 Fax (651)361-6807

July 25, 2017

Kate Fairman
EAW Project Manager
EWR Environmental Policy / Review Unit
Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4025

RE: Draft EAW - Lower Pool 2 Channel Management Study:
Boulanger Bend to Lock and Dam No. 2.
Upper Mississippi River Dakota and Washington Counties, Minnesota

PAS Associates Limited Partnership submits the following comments to the Department of Natural Resources regarding the Corps' draft Environmental Assessment for a channel project and the establishment of a 40-year solid waste facility in a lake on Grey Cloud island. MDNR is the RGU. Agency approval of the project based on the Corps' environmental assessment (EA) and state adoption of it would be an error of law, unsupported by substantial evidence, and arbitrary and capricious.

Background / Introduction

The Schilling family and its partnership, PAS, have owned approximately 2,600 acres on Grey Cloud Island, an island in the Mississippi River, for more than 75 years, since 1940. The property is in Washington County and the City of Cottage Grove. Since the 1950's, it has been mined for aggregate and will continue to be for about 15 years by Aggregate Industries. The approximately 200-acre lake is within a couple hundred yards of the main channel of the Mississippi. Over decades ownership, the family has observed the unison changes in lake and river levels which have also been seen in its tenant's floating dredge mining operations in the lake.

Since 1992, PAS has had development plans for its property, once mining ends. It has submitted its plans annually to the city for decades, retained a Certified Lake Manager for years, and begun meeting with Cottage Grove on the initial planning stages of its development. The lake is a focal point of PAS' future development plans which includes park designations by regional authorities.

The US Army Corps of Engineers dredging project in the Boulanger Bend is one that is a connected phased action with its establishment of a long-term solid waste facility for dredged material with 10 million cubic yards of storage capacity. In a meeting during the comment period on July 11, 2017, the Corps advised PAS that it intends to condemn the lakebed on PAS' property for a 40-year in-water solid waste facility. The Corps' plans from 1996 involved upland disposal sites which are now scarce or lacking. Its present plans are for in-water disposal of solid waste into the lake immediately adjacent the Mississippi's main channel.

Recent Case Law

Two recent decisions by the U.S. Supreme Court and the Court of Appeals highlight the inadequacies of the Corps' EA.

In May of 2016, in a case out of Minnesota involving the Clean Water Act, the Supreme Court ruled on final jurisdictional determinations of the "the waters of the United States" by the Corps, the extensive fact finding need to make them, and the important legal consequences that flow from such determinations. *Army Corps of Engineers v. Hawkes Co. Inc.*, 578 U.S. ____ (2016) The Court held that "it can be difficult to determine whether a particular parcel of property contain such waters" and that such determinations are "issued after extensive factfinding by the Corps regarding the physical and hydrological characteristics of the property". Important consequences follow both positive or negative determinations, including regulation by the Corps and the EPA, increased costs for owners and possible civil and criminal penalties. *Id.*

In June of 2017, the Court of Appeals ruled on violations of the Clean Water Act (CWA) and the evidence supporting a MDNR public waters permit to itself for a project on property owned by MDNR. The court considered whether the DNR satisfied the evidentiary criteria to grant itself a public waters permit based upon a " cursory review" by MPCA of the water quality data from the lakes. *W. McDonald Lake Ass'n v. Minn. Dep't of Natural Res.* p. 10-11 (Minn. App., 2017) It ruled that the DNR "cannot credibly claim that the proposed project will not adversely affect the character of the waters because the record contains no analysis of whether the proposed project would have any effect on the physical or biological character of the water." *W. McDonald Lake Ass'n v. Minn. Dep't of Natural Res.* (Minn. App., 2017) That is the same situation here with the Corps' EA as the basis for its project to store solid waste in the lake on Grey Cloud island for the next 40 years on property which it has yet to acquired. .

Policy and Purpose

The CWA's purpose "is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." *Minn. Ctr. for Envtl. Advocacy v. City of Winsted* (Minn. App., 2017) Under state and federal law, the MPCA is the Minnesota state agency charged with enforcing and administering the CWA and its regulations which include adopting rules designed to protect Minnesota rivers, streams and waters. Minn.Stat. § 115.03, subds. 1, 5; 40 C.F.R. § 123.25(a) MPCA has separate authority pursuant to Minnesota's water pollution statutes.

In Minnesota, [p]ollution, impairment or destruction" means "any conduct which materially adversely affects or is likely to materially adversely affect the environment. Minn. Stat. 116B.02 Subd. 5 "Waters of the state" are defined as all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof. Minn. Stat. § 115.01 Subd. 22

The purpose of MEPA (Minnesota Environmental Protection Act) is to force agencies to take a "hard look" at their own impartial evaluation of environmental considerations before reaching their decisions. *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808 Preparation of an EAW, the decision to require an EIS, and the ultimate preparation of it are essentially an information gathering and analytical process. *Minn. Ctr. for Envtl. Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 468 (Minn. 2002)

Arbitrary and capricious means if the agency (a) relied on factors the legislature never intended it to consider, (b) entirely failed to consider an important aspect of the problem, (c) offered an explanation for the decision that runs counter to the evidence, or (d) rendered a decision so implausible that it could not be ascribed to a difference in view or the result of agency expertise. *Watab Twp. Citizen Alliance v. Benton Cnty. Bd. of Comm'rs*, 728 N.W.2d 82, 89 (Minn. App. 2007), review denied (Minn. May 15, 2007).

MAPA (Minnesota Administrative Procedures Act), lists six factors for reviewing agency actions. Minn. Stat. 14.69. At least three are at issue in MDNR's review as the RGU of the Corps' project including errors of law, unsupported by substantial evidence and arbitrary and capricious. Courts evaluate "whether the RGU took a hard look at the salient issues, but defer to the RGU's decision unless the decision reflects an error of law, is arbitrary and capricious, or is unsupported by substantial evidence." *Friends of Twin Lakes v. City of Roseville*, 764 N.W.2d 378, 381 (Minn. App. 2009) (quotation omitted).

The state agencies may rely on the comments and other agencies, but must not merely represent the agency's will. *Nat'l Audubon Soc'y*, 569 N.W.2d at 215. And a "combination of danger signals which suggest the agency has not taken a hard look at the salient problems" and a lack of articulated standards and reflective findings in an agency's decision suggest that it is not supported by substantial evidence in the record. *In re Claim for Benefits by Meuleners*, 725 N.W.2d 121, 123 (Minn. App. 2006).

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 of evidence; (3) more than some evidence; (4) more than any evidence; and (5) evidence considered in its entirety. *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817, 832 (Minn. 2006)

Minnesota Rules Section §4410.170 provides in relevant part the criteria to consider including: A. type, extent, and reversibility of environmental effects; B. cumulative potential effects; C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and D. 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 Subd. 7 If there is insufficient information, the RGU should postpone or make a positive declaration within the scope of an EIS. Minn. R. 4410.1700 Subd. 2a

Analysis

Jurisdictional

The Supreme Court's ruling in *Hawkes*, highlights the fundamental inadequacy of the Corps' EA which is the lack of a jurisdictional determination of whether the 200-acre lake on Grey Cloud is a water of the United States. In doing so, the Corps' EA entirely failed to consider an important aspect of the problem. The MPCA and MDNR have adopted the Corps' EA pursuant to state administrative rules. Any agency action based on it would be arbitrary and capricious.

The Corps is the federal agency that is directly responsible determining whether a water is a water of the United States. That determination requires extensive fact finding as to the existence or nonexistence of a hydrologic or geologic "significant nexus" between the 200-acre lake and the Mississippi's main channel which are separated by a couple of hundred yards.

PAS has never granted, nor did the Corps ever request, access to its property for the extensive fact finding needed for such a jurisdiction determination. PAS is aware of a recent bathymetry of the lake which, as it learned in a July 11th meeting with the Corps, was apparently used as part of creating an in-water solid waste disposal site in the lake. PAS has been using it in conjunction with its certified lake management consultant and its long term planning. Proximity, family observations over decades, and common sense, certainly evidence a nexus.

Per *Hawkes*, important consequences follow both positive or negative determinations. A determination either way has costs and benefits for both PAS and for the State of Minnesota. For PAS they include increased costs, safe harbors, binding 5-year determinations and possible civil and criminal penalties. Identifying agencies with jurisdiction and regulatory authority is absolutely essential to the duties of state agencies charged with protecting and regulating the state's environment.

For the State of Minnesota, the stakes are statewide and much greater. They include much greater regulatory environmental protection of the state pursuant to the Clean Water Act (CWA). Without it, the state's environmental regulatory protection authority would be roughly halved, as a water of the United States determination is a prerequisite for MPCA's federal authority as the EPA authorized administrator of the Clean Water Act.

In its January 17th, 2017 report to the legislature, DNR reported that there are differences in waters regulated under Minnesota laws compared to waters of the United States which complicate, create uncertainty and include "gaps in state permitting program jurisdiction over other waters (non-wetland) compared to the CWA". The lake is not listed the state's public waters inventory map and hasn't been determined to be a water of the United States. The 200-acre lake could fall into such a gap which would mean that it would not be fully regulated and environmentally protected by state and federal water pollution and environmental laws like the CWA. Section 401 certification and NPDES permitting are examples.

Inadequate Substantial Evidence

As for substantial evidence in support the project, the preparation of an EAW, the decision to require an EIS, and the ultimate preparation of one are essentially an information gathering and analytical process. *Minn. Ctr. for Envtl. Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 468 (Minn. 2002) 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 of evidence; (3) more than some evidence; (4) more than any evidence; and (5) evidence considered in its entirety. *Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs*, 713 N.W.2d 817, 832 (Minn. 2006)

Nature of the Evidentiary Inadequacies

The evidence, or lack thereof, at issue here includes, any evidence of a significant nexus between the lake and main river channel, pollution impacts to the lake or river from solid waste disposal in the lake, the market rate of disposal costs, real estate acquisition costs, and consideration or study of the cumulative pollution impacts from in-water solid waste disposal for the next 40 years.

The state Court of Appeals' ruling in *McDonald Lake* addresses the inadequacies of "substantial evidence". The court considered whether the DNR satisfied the criteria to grant itself a public waters permit based upon a "cursory review" by MPCA of the water quality data. It ruled that the DNR "cannot credibly claim that the proposed project will not adversely affect the character of the waters

because the record contains no analysis of whether the proposed project would have any effect on the physical or biological character of the water.” *W. McDonald Lake Ass’n v. Minn. Dep’t of Natural Res.* p. 10-11 (Minn. App., 2017)

As in *McDonald Lake*, the Corps required jurisdictional determination is simply a cursory conclusion, not a review of evidence after completion of extensive factfinding, as required in *Hawkes*. And like *McDonald Lake*, that jurisdictional determination is solely within its control. The Corps’ EA simply concludes the following:

The dredged material would be placed in the waterlogged mining pit created by recent aggregate mining on Lower Grey Cloud Island. The pit is a water-filled depression created by excavating in a previously upland area, and is therefore excluded from consideration as a Water of the United States for purposes of jurisdiction under the Clean Water Act. p.83

Per the definition of substantial evidence in *Citizens Advocating*, the extensive fact finding in *Hawkes*, the cursory evidence per *McDonald Lake*, the Corps’ conclusion is not even a scintilla what’s required for a jurisdictional determination. First there is no who, what or when regarding the date or times of the Corps’ extensive factfinding. The Corps never requested and PAS never authorized the Corps to enter its property for that purpose. Nor is there evidence that they ever did.

More critically, there was no extensive factfinding or discussion of the of hydrologic or geologic facts that were found to support either a positive or a negative jurisdiction determination of a significant nexus between the lake and the main channel. The evidence in the Corps’ EA on jurisdiction, regarding a purported waterlogged mining pit, is not evidence, let alone substantial evidence. It is simply an incorrect statement about the lake followed by a cursory conclusion about the waters of the United States: “therefore”. There is no analysis whatsoever. The EA entirely failed to consider the important aspects including the extensive factfinding needed for the jurisdiction determination. That has important consequences for PAS and the State.

First, it establishes the extent of the state and federal environmental regulatory authority. The State, in accord with its environmental policy, has a duty and interest in regulatory oversight of the Corps’ 40-year solid waste disposal project and its cumulative impacts on water pollution. Without a determination on U.S. waters, the MPCA will not have federal regulatory authority under the CWA to analyze for cumulative impacts for a project with a useful life of 40 years. For PAS, a determination affects its costs, potential safe harbors from regulation and civil and criminal liability exposure. All of them affect its development plans and property value.

Combination of Danger Signals

Courts evaluate "whether the RGU took a hard look at the salient issues, but defer to the RGU's decision unless the decision reflects an error of law, is arbitrary and capricious, or is unsupported by substantial evidence." *Friends of Twin Lakes v. City of Roseville*, 764 N.W.2d 378, 381 (Minn. App. 2009) (quotation omitted) A "combination of danger signals which suggest the agency has not taken a hard look at the salient problems" and a lack of articulated standards and reflective findings in an agency's decision suggest that it is not supported by substantial evidence in the record. *In re Claim for Benefits by Meuleners*, 725 N.W.2d 121, 123 (Minn. App. 2006). The state agencies may rely on the comments and other agencies, but must not merely represent the agency's will. *Nat'l Audubon Soc'y*, 569 N.W.2d at 215

There are several “danger signals” in the Corps’ EA including the failures in investigating impacts from in-water disposal, properly planning, purchasing or accounting for the disposal costs and real estate purchases for its disposal needs, and studying the cumulative impacts of in-water disposal for 40 year.

First comments to MDNR show that it did not even assess the environmental impacts of solid waste disposal in the lake, because the understanding was that disposal would **not** be in the water, but rather upland on a 56 acre site on PAS’ property. Consequently, the impacts were never investigated.

In Appendix A, the EA reveals changing disposal locations from “in-water” to upland and now back to “in-water” per a recent meeting with Corps. Interagency review of MDNR letter of May 17, 2013 after completion of its technical review includes the following:

“as presented, the EA document provides an inadequate description of disposal options for the dredge materials, opportunities for mitigation, and a lack of discussion on cumulative effects; therefore, materials presented to the DNR thus far would be incomplete for the EAW”

Annotated comments ask: “Should the **effects** of the loss of Gray Cloud Island pond due to filling be included?” The response was: “In-water placement in this pond is no longer being considered, **so no impacts** would occur.” Another noted: “A material placement site has been identified...” The EA does not include extensive factual findings of environmental impacts, good or bad, from “in-water” redepositing of dredged materials into the lake.

As for disposal costs and sites, the upland site that was identified is on Grey Cloud. In a meeting with the Corps on July 11th, 2017, the Corps sought a 56-acre easement from PAS of upland area on the island but did not offer any consideration for it. As the meeting concluded, the Chief Planning & Acquisition MVD officer from Illinois unilaterally announced that the Corps would condemn the lake bottom to create a 40-year “in-water” disposal site for dredged material. Neither the upland easement, the condemnation or the disposal costs are disclosed, discussed or considered in the EA. Appendix L and Appendix C, respectively detail the inadequacies of the EA’s cost estimates and disposal costs.

In meetings with the Corps, well before publication of its EA, PAS raised the issue of market rate disposal costs in the metropolitan area. It has cited the costs in a public project in 2011 in the Lower Minnesota River. Excerpts of “Section 4.3 Offsite Disposal” are below:

Costs of off-site disposals at these facilities can vary. The Burnsville Sanitary Landfill would charge \$8.50 to \$12 per ton, with upfront fee of \$680 for the material. On the opposite side of the cost range, the Pine Bend Sanitary Landfill in Inver Grove Heights charges \$45 per ton with an additional \$28 per ton in taxes. The amount of tons in each cubic yard of dredge material varies depending on sediment types and water content. Generally, there is approximately 1.5 to 2.0 tons per cubic yard of sediment leading to disposal cost ranges of \$13.20 to \$146 per cubic yard (plus loading and trucking).

Since the Burnsville Sanitary Landfill is the closest and most cost effective, a preliminary estimate of dredged material hauling and disposal costs would include approximately \$1.87 per cubic yard for loading and \$7.05 per cubic yard for hauling as described in the Beneficial Use Section 4.2.4 above (RS. Means); and the estimated Burnsville Sanitary

Landfill disposal cost would be \$8.50 per ton or approximately \$13.20 per cubic yard. Therefore, the cost of loading, hauling and disposing of dredged material at the closest landfill without factoring any additional cost savings would be approximately \$22.12 per cubic yard. Since the Cargill East River (MN-14.2 RMP) site has been estimated to potentially store as much as 193,600 cubic yards (or more) of dredged material, a total site cleanout that includes disposal at the Burnsville Sanitary Landfill would be approximately \$4.3 million based on the estimated costs summarized above.

Lastly, given the conclusion of “so no impacts” in the comments to MDNR, the impacts to the lake or cumulative ones were not investigated. Until the Corps disclosed it the July meeting, disposal sites were to be on uplands. Per the EA, the Corps plans to dispose of 10 million cubic yards in the lake.

Given the sedimentation volumes in the EA, the cumulative impacts could be very substantial. Its 2017 Pool 2 Material Management Plan found increased sedimentation throughout and noted the lack of long-term upland dredged material placement sites. The EA estimates disposal needs in Pool 2 for average annual volumes of 144,600 cubic yards and 309,000 from this specific project alone. Planning constraints for nearby placement sites for dredged material are expected to be increasingly difficult to secure. Upland disposal sites are lacking/ scarce, while disposal costs are steep. Clearly, its 1996 Channel Maintenance Plan and EIS are nearing obsolescence.

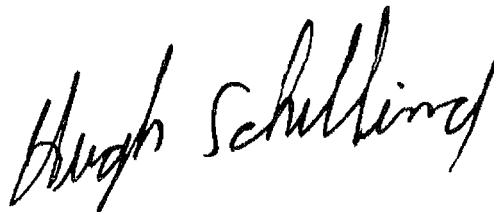
The biggest dangers are long term as reflected in last minute changes regarding upland verses in-water disposal, unacquired disposal sites, incomplete cost information and most importantly the complete lack of an investigation or analysis of the impacts to the lake or cumulative ones for a project with a 40-year useful life.

Conclusion

The Corps’ EA entirely fails to consider an important aspect of its project in failing to make a jurisdictional determination of the waters of the United States. The substantial evidence in the EA is either cursory, never investigated or considered, or completely lacking. Given recent case law and Minnesota Rules Section 4410.1700, the MDNR, as RGU, has two options. Make a positive declaration and include within the scope of the EIS appropriate studies to obtain the lacking information or postpone for no more than 30 days. In terms of the extensive factfinding that is needed, postponing is not an option. Agency action on the Corps’ project for the channel or solid waste facility based its on EA would be an error of law, unsupported by substantial evidence, and arbitrary and capricious.

An EIS is required for extensive factfinding, jurisdictional determinations, and ultimate protection the state’s environmental resources.

PAS Associates Limited Partnership

A handwritten signature in black ink, reading "Hugh Schilling". The signature is written in a cursive, flowing style with a large initial "H".

Hugh K. Schilling
Managing General Partner

Comment Letter 5



520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

July 26, 2017

Ms. Kate Fairman
EAW Project Manager
MNDNR Division of Ecological and Water Resources
500 Lafayette Road
St. Paul, MN 55155-4025

RE: Lower Pool 2 Channel Management Study: Boulanger Bend to Lock and Dam No. 2
Environmental Assessment

Dear Ms. Fairman:

Thank you for the opportunity to review and comment on the Environmental Assessment (EA) for the Lower Pool 2 Channel Management Study: Boulanger Bend to Lock and Dam No. 2 project (Project) located in Dakota and Washington Counties, Minnesota. The Project consists of the construction of two new channel training structures on the Mississippi River near the city of Hastings to improve navigability and maintain the channel width. Minnesota Pollution Control Agency (MPCA) staff has reviewed the EA and have no comments at this time.

We appreciate the opportunity to review this project. Please provide the notice of decision on the need for an Environmental Impact Statement. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EA, please contact me by email at Karen.kromar@state.mn.us or by telephone at 651-757-2508.

Sincerely,

A handwritten signature in black ink that reads 'Karen Kromar'.

Kären Kromar
Planner Principal
Certification, Environmental Review & Rules Section
Resource Management & Assistance Division

KK:mb

cc: Dan Card, MPCA, St. Paul
Teresa McDill, MPCA, St. Paul