

DEPARTMENT OF NATURAL RESOURCES

RECORD OF DECISION

**In the Matter of the Determination of
the Need for an Environmental
Impact Statement for the Carlos
Avery Brooder Shed Project in Anoka
County, Minnesota**

FINDINGS OF FACT, CONCLUSIONS, AND ORDER

FINDINGS OF FACT

1. The Minnesota Department of Natural Resources (MDNR) proposes the demolition of four 1930's era brooder sheds and the repair of one brooder shed in the Carlos Avery Wildlife Management Area (WMA). The brooder sheds are located within the Carlos Avery WMA Headquarters, which is listed in the National Register of Historic Places (NRHP). Each building consists of a concrete slab, 10 steel-framed pens, and a wood-framed shelter.
2. The purpose of demolishing the brooder sheds is to save the WMA and the taxpaying public the costs associated with keeping buildings in place, which have not been used for their intended purpose since 1988. The MDNR assessed the brooder sheds and determined that they cannot be modified or repurposed to serve other uses at WMA. In addition, the WMA has been paying a yearly maintenance fee for these five buildings because they appear on state building inventory lists. However, the buildings are no longer receiving any regular maintenance and have been deteriorating.
3. The buildings are located within the Carlos Avery Game Farm Historic District. The MDNR discussed the building abatement project with the State Historic Preservation Office (SHPO). The outcome of these discussions is that one of the brooder sheds will be repaired and stabilized to represent the historic game farm that used to operate at the WMA.
4. The proposed project will be carried out by the MDNR. The Environmental Review Program rules designate the state agency that proposes to complete projects listed under *Minnesota Rules*, part 4410.4300 as the Responsible Governmental Unit (RGU) for conducting environmental review for the proposed project (*Minnesota Rules*, part 4410.0500, subpart 1).
5. The MDNR prepared an Environmental Assessment Worksheet (EAW) for the Carlos Avery Brooder Shed Project, pursuant to *Minnesota Rules*, part 4410.4300, subpart 31.
6. The EAW is incorporated by reference into this Record of Decision on the Determination of Need for an Environmental Impact Statement (EIS).

7. The EAW was filed with the Environmental Quality Board (EQB) and a notice of its availability was published in the EQB *Monitor* on June 11, 2012. A copy of the EAW was sent to all persons on the EQB Distribution List and to those persons known by MDNR to be interested in the proposed project. 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 available for public review and inspection at the MDNR Central Region Headquarters, the MDNR Library, the Minneapolis Public Library, and the Hardwood Creek Library in Forest Lake, Minnesota. The EAW was also made available to the public via posting on the MDNR website.
8. The 30-day EAW public review and comment period began June 11, 2012 and ended July 11, 2012 pursuant to *Minnesota Rules*, part 4410.1600. The opportunity was provided to submit written comments on the EAW to the MDNR by U.S. Mail, by facsimile, or electronically.
9. During the 30-day EAW public review and comment period, the MDNR received two comments from members of the public, two comment letters from Minnesota State Agencies, comments from the Metropolitan Council, and a letter from the City of Columbus. The comments are included in this Record of Decision as Attachment A. Each comment submitted is summarized with MDNR's response following each comment.
10. An email comment was submitted by Virginia Martin, an interested member of the public. The comment indicated that no substantive information had been given regarding the brooder sheds, specifically indicating a lack of information regarding shed size, shed specifics, and alternatives to the proposed project. The commenter expressed respect for the value of a listing in the National Register of Historic Places, stated that the review process was long for determining a listing, and indicated support for saving the brooder sheds.

RESPONSE: Brooder shed specifics and size information is included in the EAW. EAW Item 5 includes a reference to EAW Attachment A, showing a photo of a brooder shed and an excerpt from project plans. The EQB Monitor summary in EAW Item 6a included the statement: "Each building consists of a concrete slab, 10 steel-framed pens, and a wood-framed shelter." Size information is provided in EAW Item 7 Project Magnitude Data, indicating square footage of the sheds, building height, and project acreage. Historical information about the brooder sheds is included in EAW Item 25.

Regarding alternatives to the proposed project: The EAW process does not evaluate project alternatives. The purpose of an EAW is to assess if a proposed project has significant environmental effects. If a project is determined to have the potential for significant environmental effects, an EIS is ordered for the project and alternatives are evaluated in the EIS. Under the Minnesota Environmental Policy Act, alternatives are only evaluated when a project has been determined to

have the potential significant environmental effects. However, in a separate review referenced in EAW Item 25, the MDNR Division of Fish and Wildlife Cultural Resources Program submitted a cultural resource assessment, titled "Brooder Shed Removal at the Carlos Avery Game Farm" to the State Historic Preservation Office (SHPO) regarding the historic value of the buildings and proposing mitigation for removal of brooder sheds. The report analyzed alternative uses of the brooder sheds and, as discussed in EAW Item 25, concluded that "There are no viable alternative uses for the brooder sheds." Please also review EAW Item 25 for information regarding the SHPO review of the proposed project with regards to listing in the National Register of Historic Places.

The comment regarding saving the brooder sheds does not address the accuracy and completeness of the information in the EAW, potential impacts that warrant further investigation, or the need for an EIS, but rather indicates an objection to the portion of the proposed project including demolishing brooder sheds and possibly support for the portion of the project plans including retaining a brooder shed. The MDNR appreciates the time the commenter contributed to reviewing the EAW and providing feedback.

11. An email comment was submitted by an interested member of the public identified in their email as "tomcamr." The comment indicated support for demolishing the brooder sheds in order to quit spending money on "outdated trash."

RESPONSE: The comment does not address the accuracy and completeness of information, potential impacts that warrant further investigation, or the need for an EIS, but rather states support for a portion of the proposed project involving demolition. The MDNR appreciates the time the commenter contributed to reviewing the EAW and providing feedback.

12. The MDNR received a letter from the Minnesota State Historic Preservation Office (SHPO) stating that the proposed demolition would have an adverse effect on historic values of the site and agreeing that the treatment and mitigation proposed for the property is appropriate. The SHPO stated that the EAW incorporated previous comments from SHPO about appropriate treatment and mitigation, including retention and repair of one brooder house, documentation of the other brooder house prior to demolition, and the addition of an interpretive marker.

RESPONSE: The MDNR agrees with the assessment provided by SHPO and appreciates the time the SHPO contributed to reviewing the EAW and providing feedback.

13. The Minnesota Pollution Control Agency (MPCA) submitted a letter regarding Item 20 of the EAW, noting that because the brooder sheds were painted with lead based paint, the soil in the area beneath or around the sheds may be impacted with elevated concentrations of lead due to flaking paint or past scraping or pressure washing of

the sheds. The MPCA recommends that the project proposer obtain an environmental consultant and work with the MPCA Voluntary Investigation and Cleanup (VIC) Program to identify the presence of contamination in the former location of the sheds and prepare a plan for any remediation or mitigation that may be necessary. Information regarding the MPCA's VIC Program can be found on the MPCA's website at <http://www.pca.state.mn.us/cleanup/vic.html>.

RESPONSE: The Environmental Review Unit at the MDNR will forward the PCA recommendation and information regarding the Voluntary Investigation and Cleanup (VIC) Program to land managers for the Carlos Avery Wildlife Management Area. Though the comment refers to past flaking or other possible removal of lead paint, it is notable that EAW Item 6b describes how lead paint currently present on shed surfaces will be stabilized with a non-hardening paint stabilizer prior to demolition to prevent impacts from the proposed project. The MDNR appreciates the time the MPCA spent reviewing the document and providing recommendations regarding lead paint.

14. The Metropolitan Council reviewed the Carlos Avery Brooder Shed Project EAW and submitted comments stating that staff found the document to be complete and accurate. The Metropolitan Council also stated that an EIS is not necessary for regional purposes.

RESPONSE: The MDNR appreciates the time Metropolitan Council staff spent reviewing the Carlos Avery Brooder Shed Project EAW and providing input considering regional effects.

15. The City of Columbus reviewed the Carlos Avery Brooder Shed Project EAW and submitted a letter stating that they had no comments on the materials presented.

RESPONSE: The MDNR appreciates the time the City of Columbus spend reviewing the Carlos Avery Brooder Shed Project EAW.

16. Based upon the information contained in the EAW the MDNR has identified the following potential environmental effects associated with the project:

- a. Construction activities
- b. Fish, wildlife, and ecologically sensitive resources
- c. Floodplains
- d. Geological Hazards and Soil Conditions
- e. Nearby resources
- f. Plans and land use

Each of these environmental effects is discussed in more detail below.

- a. Construction activities. This topic was addressed in EAW Item No. 6, EAW Item No. 7, EAW Item No. 20, EAW Item No. 21, EAW Item No. 22, EAW Item No. 23, and EAW Item No. 24. Five brooder sheds at approximately 1,132 square

feet each are located in the project area. Four will be removed and one will be repaired. This project will begin by rehabilitating one of the five existing brooder sheds. Then four brooder sheds will be demolished.

A rehabilitated brooder shed will be maintained on site as a representative example of the historic purpose of the brooder sheds for the propagation of game birds by the MDNR. Rehabilitation will be accomplished by washing exterior surfaces and replacing any damaged components of the building by salvaging parts from the other buildings where those parts are in better condition. All construction work during the rehabilitation portion of this project will be completed with hand tools. No heavy equipment will be used. All brush and tree limbs will be cut back eight feet from the building to allow for building repair and maintenance and to prevent future damage from contact by woody vegetation. This portion of the project is anticipated to take approximately two weeks and is planned for the summer of 2012.

Once the rehabilitation of the one brooder shed is complete, four remaining brooder sheds will be demolished. The buildings are painted with a lead-based paint. Prior to demolition, the exterior painted surfaces will be stabilized using a non-hardening paint stabilizer. A backhoe will be used to remove roofs and walls. All metal will be placed in 30-yard dumpsters to be recycled. All non-metal parts will be placed in dumpsters and hauled to a construction debris landfill. Only the above ground portions of the brooder sheds will be removed. The concrete foundations will remain and will be used for storage of outside equipment. Any soil disturbance will be minor. The demolition portion of the project is anticipated to take approximately one week and is planned for the summer of 2012.

Solid waste resulting from demolition will be disposed of in 30-yard dumpsters. All metal will be placed in dumpsters to be recycled. All non-metal waste will be placed in dumpsters and hauled to a construction debris landfill.

Approximately one to three additional vehicles will be present during repair and demolition activities. Currently, enough parking spaces are present in the nearby parking lot to hold these vehicles and the normal parking volume. Contractors and employees may also park along a road adjacent to the project area that is closed to the public.

Additional vehicles would be present during daylight hours, likely from approximately 7:00 AM to 5:00 PM with possible occasional work in the early evening. Vehicles would be present for approximately three weeks. No significant impacts are anticipated from the relatively minor vehicle use at the project area.

Contractors may use a small generator during project activities. Impacts would be minor and temporary.

Building repair and demolition activities would temporarily cause noise during daylight hours from approximately 7:00 AM to 5:00 PM for a total of approximately three weeks. This may temporarily affect the experience of visitors to the WMA or nearby Wildlife Science Center, a wildlife research and educational facility located within the WMA. No substantial odors or dust are expected from project activities. Effects from construction activities are expected to be limited in extent and temporary.

b. Fish, wildlife, and ecologically sensitive areas. This topic was addressed in Item No. 11 of the EAW. The project is located in the Carlos Avery WMA, containing approximately 23,000 acres and consisting of about two thirds wetlands and one third uplands. The WMA is managed primarily for deer, waterfowl, and turkeys. There are 20 pools where water is actively managed to produce habitat for waterfowl. The area also includes approximately 4,500 acres posted as a Wildlife Sanctuary. The project area is located in an upland portion of the WMA in an area with lawn and concrete land cover.

Swallows were found nesting in a brooder shed during the summer of 2011. Active swallow nests are protected by the Migratory Bird Treaty Act, administered by the United States Fish and Wildlife Service (USFWS). Swallows were not found present this year to date. If they successfully build any nests during the breeding season, construction schedule and practices would need to be adjusted to avoid impacting nests during breeding season. Alternatively, a permit would be required for any nest disturbance from the MDNR and the USFWS. Measures for discouraging swallow nesting can also be used and are described in Attachment B of the EAW.

Rare species present in the vicinity of the project area include the state-listed threatened Blanding's turtle, and the cross-leaved milkwort, a state-listed endangered plant. The MDNR Division of Ecological and Water Resources Endangered Species Review Coordinator was consulted and it was determined that due to the nature and location of the proposed project, negative effects to state-listed species are not anticipated. No additional survey work was completed to gather data for this project.

Building repair noises such as hammering, and demolition noises such backhoe use, may temporarily affect nearby wildlife in the WMA or in captivity at the Wildlife Science Center. Effects to fish, wildlife, and ecologically sensitive areas are expected to be limited in extent and temporary.

c. Floodplain. This topic was addressed in EAW Item 14. The project area is located within the delineated 100-year Federal Emergency Management Agency (FEMA) floodplain. No soil removal is proposed for this project. Removal of the four brooder sheds would provide slightly more floodplain capacity. Effects to the 100-year floodplain would be minor and may be beneficial.

d. Geologic hazards and soil conditions. This topic was addressed in EAW Item 19. The project is located in the Anoka Sand Plain. The project area is located in upland, sandy soils. Proposed activities may include the presence of a small generator, demolition equipment, and vehicles such as cars or trucks. A small risk exists of groundwater contamination due to equipment or vehicle leaks. Mitigation for possible spills includes refueling all vehicles offsite. Impacts related to geologic hazards and soil conditions will likely not occur or would be limited in extent.

e. Nearby resources. This topic was discussed in Item no. 25 of the EAW. The structures proposed to be restored and removed, have been identified as elements contributing to the NRHS – listed Carlos Avery Game Farm (SHPO Number 2009-1929). The MDNR Division of Fish and Wildlife Cultural Resources Program submitted a cultural resource assessment, titled “Brooder Shed Removal at the Carlos Avery Game Farm” to the State Historic Preservation Office (SHPO) regarding the historic value of the buildings and proposing mitigation for removal of brooder sheds. The assessment explains that the Game Farm complex, which currently houses the Carlos Avery WMA headquarters, was placed on the National Register of Historic Places in 1991. The structures were once used for the propagation and “hardening” of game birds destined for the replenishment of dwindling populations throughout the state. The MDNR no longer raises game birds for introduction to the wild and now focuses on efforts to maintain game bird populations through habitat preservation rather than captive breeding and re-introduction. The MDNR cultural resource assessment concluded the following:

- The undertaking has little potential to encounter significant intact archaeological deposits;

- The undertaking would adversely affect the NRHP-listed Carlos Avery Game Farm;

- There are no viable alternative uses for the brooder sheds.

- The retention and stabilization of a single brooder shed would be the most appropriate strategy for mitigating the adverse effects to the NRHP property.

The SHPO responded to the assessment submitted by the MDNR, agreeing that retaining one brooder shed in place as an example of the property type would be the most effective and practical mitigation approach. The SHPO agreed with stabilization and repair plans included in the cultural resource assessment and stated that building repair and stabilization should be completed in accordance with the Secretary of Interior’s Standards of Rehabilitation.

The SHPO requested that all five brooder sheds be recorded prior to demolition, using the Minnesota Historic Property Record Level II Guidelines. A sign

identifying the repaired building as a brooder shed, noting date of construction and indicating that it was constructed with Works Progress Administration funding was also requested. The brooder sheds have been documented to the level suggested by the SHPO. The recommended signage will also be included in the scope of work for the repair project. Effects to the NRHP-listed Carlos Avery Game Farm would be limited and mitigated by repair of a brooder shed.

The project is located within the Carlos Avery WMA, which is a designated recreational area. Designation as a WMA is compatible with recreational uses including hunting, trapping, observation, interpretation, and understanding wildlife populations and habitats. Visitors may be temporarily affected by construction noise. Effects will be minor and temporary.

The Wildlife Science Center is a unique resource in the vicinity of the project. The Wildlife Science Center is a wildlife research facility and educational center located adjacent to the Carlos Avery Wildlife Management Headquarters. The facility houses wildlife including wolves, foxes, lynx, and raptors. Visitors to the facility may be temporarily affected by construction noise. Captive wildlife at the facility may also be temporarily affected by construction noise. Effects will be minor and temporary in nature.

f. Plans and land use. This topic was addressed in Item No. 27 of the EAW. The project is subject to the Carlos Avery Wildlife Management Area Master Plan (Plan). The Plan, published in 1977, describes the primary goal of the management area as preservation, development, and management of wetland habitat for the production of waterfowl. The plan also describes the history of the WMA, including the bird propagation program. Though the Carlos Avery WMA Headquarters site was not listed on the NRHP at the time the Plan was written, the Plan does emphasize the importance of historical knowledge to natural resource management. Retaining one brooder shed to encourage understanding of historic natural resource management practices corresponds well with the goals described in the Carlos Avery WMA Master Plan.

The project is also within the NRHP-listed Carlos Avery Game Farm Complex Historic District. See Finding 15. e. for a description of the assessment completed by the MDNR, coordination with the SHPO and mitigation for effects to the Historic District.

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

<u>Unit of Government</u>	<u>Type of Application</u>	<u>Status</u>
MN Department of Labor and Industry	Building and Electrical Permit	Pending

CONCLUSIONS

1. The Minnesota Environmental Review Program Rules, *Minnesota Rules*, part 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. *Type, extent, and reversibility of environmental effects*

Based on the Findings of Act above, the MDNR concludes that the following potential environmental impacts, as described in Finding No. 16, will be limited in extent, temporary, or reversible:

- a. Construction activities
- b. Fish, wildlife, and ecologically sensitive resources
- c. Floodplains
- d. Geological Hazards and Soil Conditions
- e. Nearby resources
- f. Plans and land use

Based on the Findings of Fact above, the MDNR concludes the following potential environmental effects of the project, as described in Finding No. 16 will be beneficial:

Removal of four brooder sheds would provide slightly more floodplain capacity. Also, visitors to the Carlos Avery WMA may benefit from understanding the historic value of the restored brooder shed.

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

Contact was made with the Carlos Avery WMA Area Manager. No other impacts are proposed to the geographic area identified as the NRHP-listed Carlos Avery Game Farm Complex Historic District that would contribute to the historic effect from this project, resulting in cumulative potential effects.

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 MDNR has determined that the following environmental effects, as described in Finding No. 16, are subject to mitigation by ongoing public regulatory authority:

Effects to nearby resources are addressed by the cultural resource assessment, titled “Brooder Shed Removal at the Carlos Avery Game Farm” submitted by the MDNR Division of Fish and Wildlife Cultural Resources Program to the SHPO regarding the historic value of the buildings and proposing mitigation for removal of brooder sheds. The SHPO and the MDNR agreed that one of the brooder sheds will be repaired and stabilized to represent the historic game farm that used to operate at the WMA as mitigation for impacts the NRHP-listed site (See Finding 16.e.)

Construction environmental effects would also be addressed by a Building Permit from the Minnesota Department of Labor and Industry (see Finding 17).

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 MDNR Division of Fish and Wildlife Cultural Resources Program submitted a cultural resource assessment, titled “Brooder Shed Removal at the Carlos Avery Game Farm” to the SHPO regarding the historic value of the buildings and proposing mitigation for removal of brooder sheds. This document analyzed alternatives and assessed impacts to the NRHP-listed Carlos Avery Game Farm (See Finding 16.e.).

Activities within the Carlos Avery WMA are also guided by the Carlos Avery Wildlife Management Area Master Plan (See Finding 16.f.).

6. The MDNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an environmental impact statement on the proposed Carlos Avery Brooder Shed Project.
7. Based on considerations of the criteria and factors specified in the Minnesota Environmental Review Program Rules (*Minnesota Rules*, part 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 MDNR determines that the proposed Carlos Avery Brooder Shed 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 Carlos Avery Brooder Shed Project in Anoka 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 20th day of August, 2012.

**STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES**



Mary McConnell
Assistant Commissioner