

Appendix C – Correspondence

Agenda

Marsh Lake Ecosystem Restoration Project
Sponsor Coordination Meeting
December 18, 2009
Start: 9:00 AM

Purpose: Review and resolve outstanding issues related to the project Feasibility Study Report, update sponsor on status of project work items, coordinate efforts to complete study

1. **Recreational Project Features** (Bollman, conference call)
 - a. Overview
 - b. Pedestrian Bridge at Marsh Lake Spillway
 - c. USACE Day Use Facility Improvements
 - d. Pomme de Terre Canoe Access
 - e. Interpretive Signage/Kiosks at Landings
 - f. Other Features for Consideration?
2. **Project Status Update** (Wyatt)
 - a. Funds Status
 - b. Project Schedule/Upcoming Deadlines
3. **Feasibility Study Overview** (Wilcox)
 - a. Review of Feasibility Study Draft
 - b. Discussion Regarding Roles/Responsibilities in Completing the Report
4. **Breakwater Structure Discussion** (Open Discussion)
 - a. Discussion of Form/Function
 - b. Optimized Locations
 - c. Decision
5. **Identification of Regulatory Issues** (Open Discussion)
 - a. Overview of Project Partnership
 - b. Identification of Issues
 - c. Discussion

Marsh Lake Feasibility Study			
Activity ID	Activity Name	Start	Planned Finish
FEA2420	Plan Formulation - Federal	02-May-07 A	4-Jan-10
FEA2429	Feas Scoping Meeting		11-Dec-07
FEA2430	AFB Project Doc	04-Jan-10*	15-Jan-10
FEA2440	AFB Tech Review	19-Jan-10	12-Feb-10
FEA2450	AFB Policy Compl	19-Jan-10	2-Mar-10
FEA2460	Feas Alternative Formulation Briefing (AFB)		16-Apr-10
FEA2470	AFB Guid. Memo	16-Apr-10	30-Apr-10
FEA2480	Draft Feas Rpt/NEPA	18-May-10	13-Jul-10
FEA2492	Conduct ITR (Future)	19-Jan-10	25-May-10
FEA2500	Submit Draft Feas Report		13-Jul-10
FEA2505	HQ Policy Compl Review	13-Jul-10	24-Aug-10
FEA2570	Feas Review Conference (FRC)		24-Aug-10
FEA2571	Feas Proj Guide Memo (PGM)		24-Aug-10
FEA2575	Feas Public Review Period Start	13-Jul-10	
FEA2577	Public Review Comments	13-Jul-10	24-Aug-10
FEA2580	Prepare Final Report & Summary	24-Aug-10	21-Sep-10
FEA2590	Issue Division Engineer's Transmittal Letter		21-Sep-10
FEA2600	All Other Final Feas	21-Sep-10	21-Sep-10
FEA2640	Wash. Level Policy Review	21-Sep-10	19-Oct-10
FEA2650	CWRB Briefing/Approval		19-Oct-10
FEA2655	Prepare Draft Chief's Report	19-Oct-10	26-Oct-10
FEA2657	State & Agency Review	26-Oct-10	6-Jan-11
FEA2658	Feas State/Agency Review Complete		6-Jan-11
FEA2660	Sign Feas Chief's Report		6-Jan-11
FEA2670	ASA(CW) Review	6-Jan-11	20-Jan-11
FEA2700	ASA(CW) Memo to OMB		20-Jan-11
FEA2709	OMB Review & Comment	20-Jan-11	15-Apr-11
FEA2710	Feas Report to Congress		15-Apr-11

MEMORANDUM FOR RECORD

SUBJECT: Marsh Lake Feasibility Study – December 18, 2009 Sponsor Meeting
LOCATION: DNR Regional Office, New Ulm, MN
ATTENDEES: David Trauba (DNR, WMA), Josh Kavanagh (Ducks Unlimited), Ken Varland (DNR, Wildlife), John Schladweiler (DNR, Eco), Kristy Rice (DNR, Parks/Trails), Renee McGarvey (USACE), Chris Domeier (DNR, Fisheries), Michael Wyatt (USACE), Dan Wilcox (USACE), Skip Wright (DNR, Waters), Dorie Bollman (USACE, via conference call), Wendy Frohlich (USACE, via conference call)

INTRODUCTION: Wyatt introduced the USACE Team Members and provided a brief overview of the project, the partnership and the goals of the meeting which focused on resolving several outstanding issues in order to complete a draft of the Feasibility Study Report. The current draft was distributed to the project sponsor prior to the meeting along with a meeting agenda outlining topics for discussion.

1. RECREATIONAL PROJECT FEATURES: Bollman previously conducted a conference call with several DNR Staff to explore alternatives for recreational features associated with the project. Prior to the meeting, Bollman distributed a narrative for three sections of the report for review and comment. Bollman provided a recap of her discussions with DNR Staff as well as an overview of the initial list of recreational alternatives which included a pedestrian bridge at the Marsh Lake spillway, improvements to the USACE Day Use facilities, canoe access on the Pomme de Terre River, and interpretive signage around access points to Marsh Lake.

Domeier indicated that through discussions with Norm Haukos (DNR, Fisheries; not present), that there is interest to increase access to shore fishing opportunities around the lake. Domeier noted that fishing access should consist of constructed access points that include a variety of rustic, natural access points as well as fishing areas that are universally accessible and Americans with Disabilities Act (ADA) compliant. A visual representation of a floating dock was presented to the group, however, it was agreed that shoreline fishing access should consist of a simpler design. Domeier suggested that a gravel footpath and slab rock along the shoreline would suffice for rustic access and that at other sites, the DNR has previously constructed ADA-compliant access composed of a design similar to a 8'x10' box culvert positioned vertically at the shoreline, filled with compacted gravel.

NEXT STEPS: DNR Staff will identify locations and preferred designs for shore fishing opportunities for inclusion in the project. This will likely consist of one access point at Lewisburg Grade Road, three access points off of the upstream side of the spillway and one access point on the downstream side of the spillway. A map will be provided with locations for use in the study report. DNR will specify which of these access points should be ADA compliant.

The group also discussed the pedestrian bridge over the spillway and the potential for a trail crossing Marsh Lake at the spillway to connect bike trails on either side of the Wildlife

Management Area (WMA). DNR Staff indicated that the current alternative should focus solely on the construction of a bridge over the spillway which is the primary impediment to pedestrian traffic through the area. Any future trail system will be constructed through a future project and will not be included for consideration in the current Marsh Lake Feasibility Study.

The group discussed canoe access at two locations on the site. Canoe access on the Pomme de Terre River will consist of a pull off area on the existing road-way, gravel footpath and rustic canoe launch along the rerouted river channel. It was also noted that portage opportunities should be provided for those traveling from Marsh Lake to lower Lac qui Parle. It was agreed that portage could be allowed through the parking lot at the USACE Day Use Facility on site.

NEXT STEPS: As a new alternative USACE will include a canoe portage at the Day Use Facility parking lot consisting of signage formalizing the portage path, rustic steps downstream of the parking lot, a gravel footpath and an access point on Marsh Lake.

The group reviewed proposed improvements to the existing USACE Day Use Facilities on the site. Incorporation of restrooms on site at the parking lot is the primary feature under consideration. USACE must coordinate with Staff on-site to gauge maintenance requirements capabilities for any improvements.

While not on the initial list of potential improvements, the group also discussed including constructed wildlife observation areas into the project. The group concluded that no such features would be considered within the current Feasibility Study.

NEXT STEPS: The final list of recreational alternatives to be considered in the Feasibility Study includes the following:

- a. Pedestrian bridge at the Marsh Lake spillway – this includes a bridge only, no trail at this time**
 - b. USACE Day Use Facility improvements – USACE will discuss options internally to gauge maintenance capabilities on site for potential improvements**
 - c. Canoe access – includes canoe access on the Pomme de Terre River and a portage site between Marsh Lake and Lac qui Parle**
 - d. Interpretive signage/kiosks at landing sites – five access points were identified around the lake for signage; improvements would include a map referencing location and information regarding the ecology of the area**
- 2. PROJECT STATUS UPDATE:** Wyatt reviewed the current project budget and schedule. A spreadsheet of key milestones was distributed in advance of the meeting. A draft of the Feasibility Study is scheduled to be completed and submitted for internal review within the USACE hierarchy on January 15, 2010. Wyatt noted that the project is currently on schedule however there is a significant amount of material such as construction quantities and cost estimates that must be completed prior to submittal of the draft report for the Alternatives Formulation Briefing. General review and comment by the DNR was requested for the current report draft. Other key milestones highlighted in the schedule included the submittal

of the full draft Feasibility Report on July 13, 2010 and the Civil Works Review Board Briefing on October 19, 2010.

Wyatt noted that all funds from the DNR required for the project have been received and in-kind service records will be important to track throughout the remainder of the study.

The group inquired about critical deadlines for future funding of a potential construction project. Wyatt explained that the Presidential Budget is typically submitted to Congress in February of each year. Congress coordinates with local constituencies regarding budget priorities from February through March and appropriations bills are subsequently drafted following the spring of each year. Wyatt cautioned that few appropriations bills have been approved prior to the September 30th (end of Federal Fiscal Year) deadline in recent years, however, this year the Corps received notice of appropriations fairly early, on November 1, 2009. It was suggested that while on-going coordination with Congressional representatives is important throughout the life of a project, that February to March period is the critical portion of the year in regards to upcoming project appropriations.

3. **FEASIBILITY STUDY OVERVIEW:** Wilcox provided an overview of the ecosystem restoration project components and issues covered in the Feasibility Study report. Wilcox noted that several of the inherent characteristics of the lake such as average depth, length of wind fetch and management of water levels contribute to sediment suspension and lack of water transparency which is in turn reflective of the degraded ecosystem condition of the lake. The overall goal of the project is to improve the water quality, ecosystem state, and fish and wildlife habitat for Marsh Lake. The alternatives evaluated in the report are targeted at achieving the stated goals and optimizing the benefits incurred with the project.

Wilcox reviewed the current project designs as well as the narrative of the various sections of the report, focusing on areas where more information is required from the DNR in order to complete the report.

NEXT STEPS: DNR will provide information related to:

- **Endangered and threatened species in and around the site; species includes both State and Federal listings (Schladweiler)**
- **Future land use (Trauba)**
- **DNR will identify a target elevation for a winter drawdown (Trauba/Varland)**

DNR Staff identified three issues of concern regarding downstream risks to public safety from the presence of a low-head dam, the application of the Habitat Evaluation Procedure (HEP) model and also inquired as to the design for the Lewisburg Road culverts. The Corps will likely design the Lewisburg Grade Road structure to function with removable stop logs, but will clarify the design in the coming weeks.

NEXT STEPS: USACE will investigate ways to minimize the risks to public safety with the low-head dam and finalize a draft design of the Lewisburg Grade Road site. A conference call will be conducted between USACE Staff and DNR (Trauba) to clarify the application of various HEP models for the project.

Wilcox identified project performance criteria (starting on page 109) and requested review and comment from DNR Staff. Performance criteria addresses objectives related to water quality, geomorphology, hydrology/hydraulics, habitat, biota, recreation and public safety.

NEXT STEPS: DNR will review and comment on performance criteria identified within the report.

Wilcox provided a detailed description of the USACE Planning Process identifying all of the alternatives considered for the project and the process by which alternatives were discarded or retained for further consideration within the report. It was generally agreed upon that the existing list of alternatives should be retained for further consideration in the report.

NEXT STEPS: The Feasibility Study will include the following alternatives:

- **Restore the Pomme de Terre River to its historic channel**
 - **Modify Marsh Lake dam to attain target water levels/construct fishway**
 - **Growing season drawdowns to restore emergent aquatic plants**
 - **Winter drawdowns to reduce carp abundance**
 - **Install gated culverts, Lewisburg Grade Road**
 - **Breach dike at abandoned fish pond**
 - **Construct islands in Marsh Lake**
 - **Recreational project features (discussed above)**
4. **BREAKWATER STRUCTURE DISCUSSION:** In November, Wilcox arranged for a site visit for Varland and Trauba at Pool 10 on the Mississippi River where the Corps (in conjunction with the U.S. Fish & Wildlife Service) had previously constructed breakwater structures similar to those considered for Marsh Lake. Varland provided a photo-journal of the site visit to illustrate how the structures looked and functioned in the river ecosystem. The consensus between Varland and Trauba was that the breakwater structures on the Mississippi River appeared to serve the intended beneficial purpose to the wildlife habitat of the area and the application could be transferrable to Marsh Lake. Kavanagh noted that Ducks Unlimited had previously voiced concerns regarding the costs of the breakwater structures, but does not dispute the use of structures in principle. It was suggested that there is a significant supply of granite slabs in close vicinity to the project area that may suffice as a base to the breakwater structures and given the availability, it is likely the slabs could be acquired at a discount. Wilcox noted that islands were constructed in Mud Lake in conjunction with the Lake Traverse project in the winter by a contractor for Ducks Unlimited. Islands in Marsh Lake could also be constructed in winter after the lake is drawn down using locally-procured rock. The USACE will investigate appropriate construction methods.

NEXT STEPS: USACE will include the breakwater structures as an alternative measure in the overall ecosystem restoration plan for the project (included above). A plan-view layout will be provided which identifies wildlife feeding and resting areas throughout the lake. In the design criteria, USACE will investigate whether granite slabs (3'x4') could be utilized at the base of the breakwater structures.

5. IDENTIFICATION OF REGULATORY ISSUES: Wyatt inquired as to any regulatory concerns with the project. It was suggested that changes to the dam operation may result in changes to the Ordinary High Water (OHW) elevation, a legal jurisdictional elevation established by the State of Minnesota.

RESOLVED: DNR Waters will evaluate any necessary changes to the OHW or operations requirements during the design phase of the project.

Wyatt also noted that based on a previous conversation between USACE and DNR Staff, it was unclear how impacts to mussel communities should be addressed with the rerouting of the Pomme de Terre River. USACE had previously proposed that mussels affected by the reroute could be harvested with a mussel dredge and relocated in upstream areas of the Pomme de Terre River. Downstream areas within the historic river channel would be monitored as an experiment to evaluate the distribution of mussels over time as mussels recolonize the historic river channel. This approach has been documented in the Draft Feasibility Report for DNR consideration and targets are identified in the performance criteria section of the report.

NEXT STEPS: DNR will review and comment on the report language and performance criteria related to mussels. Wilcox will prepare a draft experimental design and cost estimate for the mussel relocation, monitoring and evaluation. This will be provided to the DNR for review.

If there are any questions, please contact the Project Manager, Michael Wyatt at 651.290.5216 or email at michael.d.wyatt@usace.army.mil.



Minnesota
Historical Society

STATE HISTORIC PRESERVATION OFFICE

June 3, 2010

Attn: Terry Birkenstock
Environmental & Economic Analysis Branch
U.S. Army Corps of Engineers
190 5th Street East
St. Paul, MN 55101-1638

RE: Marsh Lake Ecosystem Restoration, Lac Qui Parle WMA
Big Stone, Lac Qui Parle, and Swift counties
SHPO Number: 2009-0850

Dear Mr. Birkenstock:

Thank you for the opportunity to review and comment on recent revisions to the above project. They have been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

We have the following comments on the revised proposal:

1. We note that the bank stabilization measures initially planned as part of this project have been deleted. Therefore, we find that the project will have **no adverse effect on archaeological resources** eligible for listing or included in the National Register of Historic places.
2. The Marsh Lake Dam has previously been determined eligible for inclusion in the National Register of Historic Places. We find that any of the **proposed spillway modification alternatives would constitute an adverse effect on the dam** because these modifications will substantially change the way the dam operates. Further, **the proposed channel modifications will adversely affect the historic setting of the dam.**

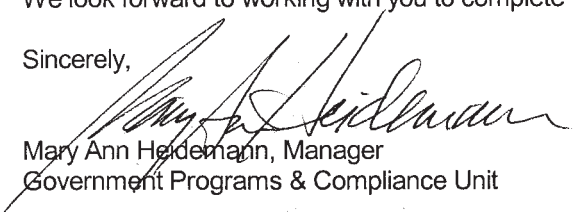
If you have not already done so, please notify the Advisory Council on Historic Preservation (ACHP) of the adverse effect, per the requirements of 36CFR800, to begin the consultation process.

From our standpoint, the stipulation we would like to see in the anticipated Memorandum of Agreement for this project would simply be the requirement to document the historic dam in its original condition, prior to making the proposed habitat improvement alterations. For this purpose, we ask that you use the Minnesota Property Record Guidelines, which were revised and updated last year. A Level II documentation should be sufficient for this purpose.

Virginia Gnabasik had suggested a conference call to further discuss the MOA contents. However, by dropping the bank stabilization aspects, you have simplified the project from an historic resource standpoint. Once the ACHP is contacted, and appropriate public outreach efforts are made, I think the MOA itself can be very straightforward and focus on documentation of the historic dam.

We look forward to working with you to complete this review. Contact us at (651) 259-3456 with questions or concerns.

Sincerely,



Mary Ann Heidemann, Manager
Government Programs & Compliance Unit

cc: Virginia Gnabasik, Corps of Engineers



Minnesota
Historical Society

STATE HISTORIC PRESERVATION OFFICE

June 3, 2010

Attn: Terry Birkenstock
Environmental & Economic Analysis Branch
U.S. Army Corps of Engineers
190 5th Street East
St. Paul, MN 55101-1638

RE: Marsh Lake Ecosystem Restoration, Lac Qui Parle WMA
Big Stone, Lac Qui Parle, and Swift counties
SHPO Number: 2009-0850

Dear Mr. Birkenstock:

Thank you for the opportunity to review and comment on recent revisions to the above project. They have been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

We have the following comments on the revised proposal:

1. We note that the bank stabilization measures initially planned as part of this project have been deleted. Therefore, we find that the project will have **no adverse effect on archaeological resources** eligible for listing or included in the National Register of Historic places.
2. The Marsh Lake Dam has previously been determined eligible for inclusion in the National Register of Historic Places. We find that any of the **proposed spillway modification alternatives would constitute an adverse effect on the dam** because these modifications will substantially change the way the dam operates. Further, **the proposed channel modifications will adversely affect the historic setting of the dam.**


If you have not already done so, please notify the Advisory Council on Historic Preservation (ACHP) of the adverse effect, per the requirements of 36CFR800, to begin the consultation process.

From our standpoint, the stipulation we would like to see in the anticipated Memorandum of Agreement for this project would simply be the requirement to document the historic dam in its original condition, prior to making the proposed habitat improvement alterations. For this purpose, we ask that you use the Minnesota Property Record Guidelines, which were revised and updated last year. A Level II documentation should be sufficient for this purpose.

Virginia Gnabasik had suggested a conference call to further discuss the MOA contents. However, by dropping the bank stabilization aspects, you have simplified the project from an historic resource standpoint. Once the ACHP is contacted, and appropriate public outreach efforts are made, I think the MOA itself can be very straightforward and focus on documentation of the historic dam.

We look forward to working with you to complete this review. Contact us at (651) 259-3456 with questions or concerns.

Sincerely,



Mary Ann Heidemann, Manager
Government Programs & Compliance Unit

cc: Virginia Gnabasik, Corps of Engineers



Minnesota
Historical Society

STATE HISTORIC PRESERVATION OFFICE

October 21, 2010

Attn: Randall D. Devendorf
Environmental and GIS Branch
U.S. Army Corps of Engineers
180 5th Street East, Suite 700
St. Paul, MN 55101-1638

RE: Marsh Lake Ecosystem Restoration, Lac Qui Parle WMA
Big Stone, Lac Qui Parle, and Swift counties
SHPO Number: 2009-0850 Draft MOA

Dear Mr. Devendorf:

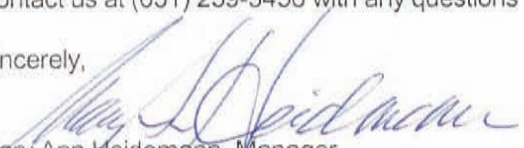
Thank you for the opportunity to review and comment on the draft Memorandum of Agreement prepared for the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

We have the following comments:

1. We are satisfied with the draft language as proposed. You may send a signature copy here when you are ready to proceed.
2. You mentioned that you have contacted the Advisory Council about the MOA, but had received no reply. We received a back copy of an ACHP reply dated April 9, 2010. A copy of that letter is enclosed for your reference. Unfortunately, the ACHP reply mentions a Programmatic Agreement, not an MOA. This is because your original Corps contact letter, dated March 22, 2010, mentioned a PA, rather than an MOA. I would advise contacting the ACHP and getting another letter with the correct reference.
3. Please be aware that the Minnesota Department of Transportation has just finished a major research document prepared to identify and evaluate the Lac Qui Parle Flood Control Historic District, as part of a bridge project in the area. This document includes much of the historic context information you will need in order to write the narrative portion of the documentation for the Marsh Lake Dam that is required by this MOA. You can probably save your historian time and money by getting a copy of the MnDOT study, and incorporating appropriate portions of that study into the Marsh Lake Dam documentation. The MnDOT project manager for the Lac Qui Parle Flood Control Historic District study is Jackie Sluss in the MnDOT Cultural Resources Unit. Jackie's phone number is (651) 366-3624. No sense reinventing the wheel with taxpayer dollars.

We look forward to working with you on the execution of this MOA, and completion of the required documentation. Contact us at (651) 259-3456 with any questions or concerns you may have.

Sincerely,



Mary Ann Heidemann, Manager
Government Programs & Compliance Unit

enclosure

cc: Virginia Gnabasik, Corps of Engineers



Preserving America's Heritage

April 9, 2010

Mr. Terry J. Birkenstock
Chief, Environmental and Economic Analysis Branch
Department of the Army
St. Paul District, Corps of Engineers
190 Fifth Street East, Suite 401
St. Paul, MN 55101-1638

***Ref: Proposed Marsh Lake Dam Ecosystem Restoration Project
Swift, Lac qui Parle, and Big Stone Counties, Minnesota***

Dear Mr. Birkenstock:

On March 26, 2010, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the development of a **Programmatic Agreement (PA)** for the referenced undertaking. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to develop this agreement is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), a Tribal Historic Preservation Officer, an affected Indian tribe, a consulting party or other party, we may reconsider this decision. Additionally, should circumstances change and you determine that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the **final PA**, developed in consultation with the Minnesota SHPO and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the PA and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the opportunity to review this undertaking. If you have any questions or need assistance, please contact Tom McCulloch at 202-606-8554, or via email at tmcculloch@achp.gov.

Sincerely,

Raymond V. Wallace
Historic Preservation Technician
Office of Federal Agency Programs



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS

180 FIFTH STREET EAST, SUITE 700

ST. PAUL, MN 55101-1678

October 29, 2010

Regional Planning and Environment Division North
Environmental and GIS Branch

SUBJECT: Marsh Lake Dam Ecosystem Restoration Project, Minnesota River, Swift, Lac qui Parle, and Big Stone Counties, Minnesota

Dr. Tom McCulloch
Office of Federal Agency Programs
Advisory Council on Historic Preservation
Old Post Office Building, Suite 803
1100 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Dr. McCulloch:

On March 22, 2010, the St. Paul District, U.S. Army Corps of Engineers sent you a letter describing their proposed Marsh Lake Dam Ecosystem Restoration Project on the Minnesota River in Swift, Lac qui Parle, and Big Stone Counties, Minnesota. In that letter we inquired per 36 CFR Part 800, section 800.11, whether the Advisory Council on Historic Preservation wished to become involved with this undertaking and its associated programmatic agreement. The Advisory Council's response letter, dated April 9, 2010, indicated that their participation in the consultation to develop the programmatic agreement was not needed (copy attached).

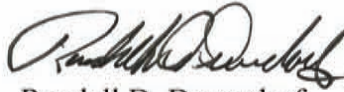
Since that date, the proposed Marsh Lake Dam Ecosystem Restoration Project has changed in that the shoreline protection measure has been dropped from consideration due to a natural armoring of the reservoir's shoreline area by glacial rocks previously eroded out and deposited along that shoreline. With this change in project plans, unevaluated archeological site 21BS67 on the shoreline of an island in lower Marsh Lake will not be affected by shoreline protection construction. In addition, the proposed stoplog or gated structures on the Louisburg Grade Road culverts will be used to maintain the existing pool level on upper Marsh Lake during any future drawdowns on lower Marsh Lake. Water level drawdowns are not necessary on upper Marsh Lake as it already has an abundance of aquatic vegetation for waterfowl use. Thus, unevaluated archeological sites 21LP36, 21BS42, 21BS47, and the historic granite quarry on upper Marsh Lake will not be affected by future drawdowns of either upper or lower Marsh Lake. All other proposed ecosystem restoration measures remain unchanged from our original coordination letter.

Marsh Lake Dam, which has been determined eligible to the National Register under criterion A, is now the only historic property which will be adversely affected by the proposed ecosystem restoration measures. As a result of this change in the proposed project, a Memorandum of Agreement (MOA) between the St. Paul District, U.S. Army Corps of

Engineers and the Minnesota State Historic Preservation Officer will be negotiated to cover mitigation of the impacts to Marsh Lake Dam, instead of the previously stated Programmatic Agreement. The Minnesota Department of Natural Resources, who is the non-Federal sponsor of this ecosystem restoration project, will be a concurring party to the MOA.

Because the potential impacts to possible National Register eligible archeological sites along the Marsh Lake shoreline will no longer occur as a result of the revised Marsh Lake Dam Ecosystem Restoration Project, the St. Paul District, U.S. Army Corps of Engineers is hereby asking if the Advisory Council wishes to be involved with the revised undertaking and its associated Memorandum of Agreement to cover mitigation of adverse effects to National Register-eligible Marsh Lake Dam. Please provide your response by November 30, 2010. If you have any questions on any of the ecosystem restoration measures, please contact St. Paul District Corps archeologist Virginia Gnabasik at (651) 290-5262 or by email at virginia.r.gnabasik@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall D. Devendorf", written in a cursive style.

Randall D. Devendorf
Acting Chief, Environmental and GIS Branch

Enclosure
ACHP ltr dated 4/9/10



Preserving America's Heritage

April 9, 2010

Mr. Terry J. Birkenstock
Chief, Environmental and Economic Analysis Branch
Department of the Army
St. Paul District, Corps of Engineers
190 Fifth Street East, Suite 401
St. Paul, MN 55101-1638

**Ref: Proposed Marsh Lake Dam Ecosystem Restoration Project
Swift, Lac qui Parle, and Big Stone Counties, Minnesota**

Dear Mr. Birkenstock:

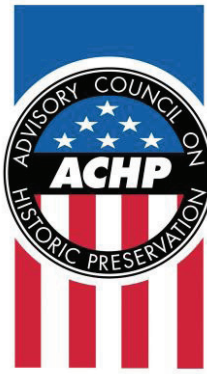
On March 26, 2010, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the development of a Programmatic Agreement (PA) for the referenced undertaking. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to develop this agreement is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), a Tribal Historic Preservation Officer, an affected Indian tribe, a consulting party or other party, we may reconsider this decision. Additionally, should circumstances change and you determine that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final PA, developed in consultation with the Minnesota SHPO and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the PA and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the opportunity to review this undertaking. If you have any questions or need assistance, please contact Tom McCulloch at 202-606-8554, or via email at tmcculloch@achp.gov.

Sincerely,

Raymond V. Wallace
Historic Preservation Technician
Office of Federal Agency Programs



Preserving America's Heritage

November 15, 2010

Mr. Randall D. Devendorf
Acting Chief, Environmental and GIS Branch
Department of the Army
St. Paul District, Corps of Engineers
190 Fifth Street East, Suite 401
St. Paul, MN 55101-1638

***Ref: Proposed Modifications to the Marsh Lake Dam Ecosystem Restoration Project
Swift, Lac qui Parle, and Big Stone Counties, Minnesota***

Dear Mr. Devendorf:

On November 2, 2010, the Advisory Council on Historic Preservation (ACHP) received your notification and additional supporting documentation regarding the adverse effects of the referenced undertaking on properties listed or eligible for listing in the National Register of Historic Places. Based upon this additional information you have provided, we continue to believe that our participation to resolve adverse effects and develop an agreement document is not needed for this project. However, should circumstances change, and you determine that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the Minnesota State Historic Preservation Office (SHPO) and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the opportunity to review this undertaking. If you have any questions or need assistance, please contact Tom McCulloch at 202-606-8554, or via email at tmcculloch@achp.gov.

Sincerely,

Raymond V. Wallace
Historic Preservation Technician
Office of Federal Agency Programs

**MEMORANDUM OF AGREEMENT
BETWEEN THE U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT,
AND THE MINNESOTA STATE HISTORIC PRESERVATION OFFICER
REGARDING MITIGATION OF ADVERSE EFFECTS TO MARSH LAKE DAM
RESULTING FROM THE MARSH LAKE ECOSYSTEM RESTORATION PROJECT,
SWIFT, LAC QUI PARLE AND BIG STONE COUNTIES, MINNESOTA**

[Final – November 2010]

WHEREAS, the St. Paul District, U.S. Army Corps of Engineers (Corps) is conducting a feasibility study of ecosystem restoration measures at Marsh Lake on the Minnesota River in Swift, Lac Qui Parle, and Big Stone Counties, Minnesota; and

WHEREAS, the State of Minnesota, Department of Natural Resources (DNR) is the main landowner around Marsh Lake, as the Lac Qui Parle Wildlife Management Area, and is the non-Federal sponsor of this ecosystem restoration feasibility study; and

WHEREAS, the Corps and Minnesota DNR are proposing an ecosystem restoration project at Marsh Lake on the Minnesota River (Project) with the following primary features (a-g) and optional features (h-j) (see Figures 1 and 2):

- a. Restoring the Pomme de Terre River to its former (pre-dam) channel by excavating an opening through the Marsh Lake Dam embankment and constructing three earthen berms or cutoff dikes across two low areas and the abandoned diverted river channel above the dam embankment to prevent Marsh Lake from spilling into the restored river channel;
- b. Constructing a bridge over the restored Pomme de Terre River channel at the embankment to allow continued vehicle access to the dam;
- c. Modifying Marsh Lake Dam at its outlet by excavating a 2.1-foot-deep, 30-foot-wide notch into the existing fixed ogee crest spillway and constructing a nine-tier rock-ramp fishway to allow fish passage between Marsh Lake and the Lac Qui Parle Reservoir downstream;
- d. Constructing a new 90-foot-wide gated water control structure with 12 bays at the existing emergency spillway to enable future water level management of Marsh Lake;
- e. Adding walkways over the existing fixed crest spillway and fishway and over the gated water control structure to allow access across the entire dam, which walkways could serve a secondary recreational purpose as part of the Minnesota River State Trail for pedestrian and bicycle traffic;
- f. Breaching the abandoned fish rearing pond levee below the dam embankment to allow it to change water level with the rest of upper Lac Qui Parle Reservoir to provide seasonally variable habitat for fish and shorebirds;
- g. Constructing three linear, rock wave-barrier islands in Marsh Lake between the dam and Louisburg Grade Road to reduce wind fetch and thereby shoreline erosion;
- h. Adding stoplog structures to the six concrete culverts through Louisburg Grade Road to enable separate water level management in upper Marsh Lake;
- i. Improving the recreation area at Marsh Lake Dam, including adding an interpretive kiosk, adding a canoe and kayak landing/launch area near the spillway for access to the Pomme

de Terre River and Minnesota River/upper Lac qui Parle Reservoir, and adding shoreline fishing and wildlife viewing platforms; and,

j. Improving recreational and educational features at six existing boat ramps (Upper Pool Landing, Minnesota River Landing, Correll Landing, Killen Landing, Cabin Site Landing, and Peterson Landing) on Marsh Lake by adding interpretative kiosks and shoreline fishing/wildlife viewing platforms. Additional parking would also be provided at the Minnesota River Landing.

WHEREAS, Marsh Lake Dam (SW-APT-003) has been determined individually eligible to the National Register of Historic Places under Criterion A for its association with the Lac Qui Parle Flood Control Project, a Works Progress Administration project of the Federal Relief Programs following the Great Depression in 1929, and retains its integrity of original location, design, setting, materials, workmanship, feeling and association, and will be directly affected by proposed ecosystem restoration features a, b, c, and d, and restoration/recreation feature e, which will substantially change the historic setting of the dam and the way the dam operates and;

WHEREAS, proposed ecosystem restoration features c and d will also change the way Marsh Lake Dam is operated;

NOW, THEREFORE, the Corps, the Minnesota Department of Natural Resources, and the Minnesota State Historic Preservation Officer (SHPO) agree that upon filing this Memorandum of Agreement (MOA) with the Advisory Council on Historic Preservation, and upon the Corps' decision to proceed with the Marsh Lake ecosystem restoration project, the Corps shall ensure that the following stipulations are implemented prior to construction in order to mitigate the effects of the undertaking on the National Register eligible Marsh Lake Dam and comply with Section 106 of the National Historic Preservation Act, as amended.

STIPULATIONS

The Corps, as the Federal agency undertaking the Project, shall ensure the following stipulations are complied with prior to construction of ecosystem restoration features a, b, c, d, and e to mitigate adverse effects to Marsh Lake Dam's integrity of design, setting, and feeling. The proposed spillway modifications will also substantially change the way the dam operates.

A. The Corps or its contractor will document the historic Marsh Lake Dam property in its original and present condition, using Level II documentation as described in the *Minnesota Historic Property Record Guidelines* (updated June 2009 version). Level II documentation consists of: 1) a Minnesota Historic Property Record (MHPR) Background Data Form; 2) a brief two-page narrative description of the historic property (i.e., Marsh Lake Dam, SW-APT-003), its history, and a bibliography; and 3) documentation photography (black-and-white, 35 mm Kodak TMAX ISO 100 print film) covering historic photographs of Marsh Lake Dam, of the existing dam with its embankment and related features, and of historic plans and drawings of Marsh Lake Dam. Photographic documentation will follow the requirements given in Appendix E in the MHPR Guidelines.

B. The Corps will provide copies of the completed MHPR Level II documentation for Marsh Lake Dam to the Minnesota SHPO, to the Minnesota DNR's Regional Office, to the Lac qui

Parle Wildlife Management Refuge, and to the Swift, Big Stone, and Lac Qui Parle County Historical Societies.

C. Dispute Resolution. Should any of the signatory parties to this MOA object to any plans, documents, or reports prepared under the terms of this MOA within 30 days after receipt, the Corps shall consult with the objecting party to resolve the objection. If the Corps determines that the objection cannot be resolved, the Corps shall forward all documentation on the dispute to the Advisory Council on Historic Preservation. Any recommendation or comment provided by the Advisory Council will be understood to pertain only to the subject of the dispute. The Corps' and the Minnesota DNR's responsibilities to carry out all actions under this MOA that are not the subject of the dispute will remain unchanged.

D. Amendments. Any signatory party to this MOA may request that it be amended, whereupon the parties will consult to consider such amendment.

E. Termination. Any signatory party to this MOA may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

F. Anti-Deficiency Provision. All obligations on the part of the Corps shall be subject to the availability and allocation of appropriated funds for such purposes. Should the Corps be unable to fulfill the terms of this agreement, it will immediately notify the Minnesota SHPO and the Minnesota DNR and consult to determine whether to amend or terminate the MOA pending the availability of resources.

G. Sunset Clause. This MOA will continue in full force and effect until the mitigation of adverse effects to the National Register-eligible Marsh Lake Dam by the proposed ecosystem restoration features has been completed as stipulated above, unless the proposed features are not constructed or authorization for their construction is rescinded.

Execution and implementation of this Memorandum of Agreement evidences that the Corps has satisfied its Section 106 responsibilities for all aspects of this undertaking.

ST. PAUL DISTRICT, U.S. ARMY CORPS OF ENGINEERS

BY: 

Col. Michael J. Price, District Engineer

Date: 22 November 2010

MINNESOTA STATE HISTORIC PRESERVATION OFFICER

BY: 

Britta Bloomberg, Deputy State Historic Preservation Officer

Date: 11/30/10

Concur:

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

BY: _____
Mark Matuska, Regional Director

Date: _____

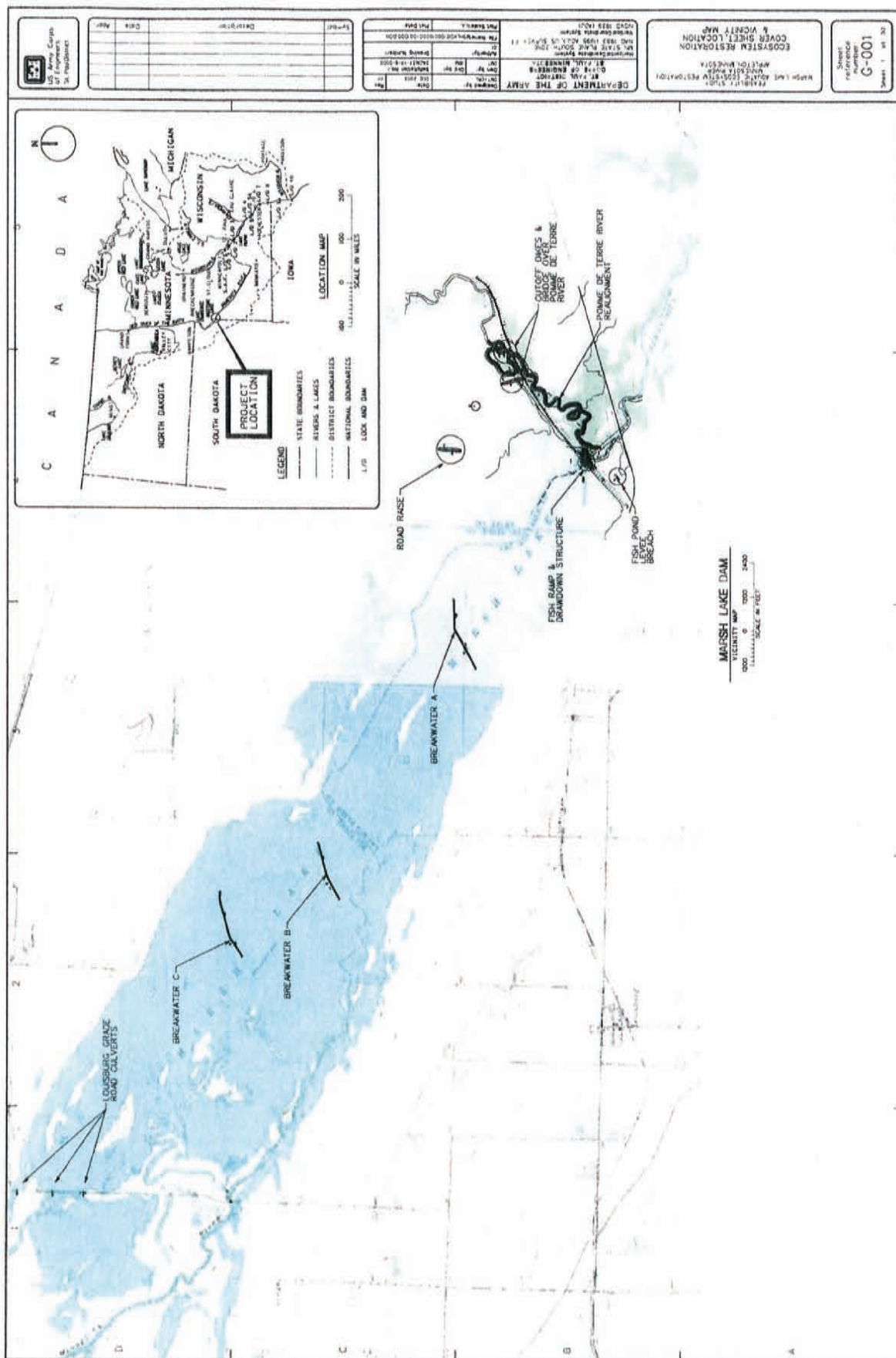


Figure 1. Marsh Lake Ecosystem Restoration Project, location of features a through h.



Figure 2. Marsh Lake Ecosystem Restoration Project, location of recreation features i and j.

Wyatt, Michael MVP

Subject: FW: Marsh Lake MN River Ecosystem Restoration Project (UNCLASSIFIED)

-----Original Message-----

From: Wilcox, Daniel B MVP

Sent: Monday, January 24, 2011 3:09 PM

To: Richard Davis (Richard.Davis@fws.gov)

Cc: Wyatt, Michael MVP; Clark, Steven J MVP; Ken Varland (Ken.Varland@dnr.state.mn.us); David Trauba (David.Trauba@dnr.state.mn.us)

Subject: Marsh Lake MN River Ecosystem Restoration Project (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: FOUO

Richard,

Good to talk to you today. This is a request for ESA coordination.

The St. Paul District is preparing a feasibility report about an ecosystem restoration project at Marsh Lake, part of the Lac Qui Parle Flood Control Project on the Minnesota River. The Minnesota DNR is the non-federal cost share partner on this project. The primary project area is in the Lac Qui Parle Wildlife Management Area. Ken Varland (telephone 507/359-6030) and Dave Trauba (telephone 320-734-4451 x227) are our primary contacts with the MN DNR. Alice Hanley (telephone 320-273-2191), Refuge Manager of the Big Stone National Wildlife Refuge has participated in the planning of this project. An initial draft of the feasibility report/EA is available on our .ftp server at:

<ftp://ftp.usace.army.mil/pub/mvp/MarshLakeFeasibilityReportEA/>

I would like to coordinate ESA for this project with you by email. If you need a formal letter, please let me know.

The project within the MN DNR Lac qui Parle Wildlife Management Area. There are no federally-listed threatened or endangered species that may be found in the project area.

Please provide a response to this determination. We would like to have documentation of ESA coordination from you by email by February 9 for the Alternatives Formulation Briefing (a planning policy review of the project with our Division and Headquarters).

Also please advise on anything else we need to provide to fulfill our requirements for the project under the federal ESA and the FWCA.

Please call if you have any questions. Thanks for your help with this promising project.

Dan

Daniel B. Wilcox
Fisheries Biologist
Environmental and GIS Branch
US Army Corps of Engineers
St. Paul District
180 5th St. East
Suite 700
St. Paul MN 55101-1678



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Twin Cities Field Office
4101 American Blvd E.
Bloomington, Minnesota 55425-1665

July 12, 2011

Terry Birkenstock, Chief
Environmental and GIS Branch
St. Paul District Corps of Engineers
180 5th Street East, Suite 700
St. Paul, Minnesota 55101-1678

Re: Draft Marsh Lake Ecosystem Restoration Project Feasibility Report
Fish and Wildlife Coordination Act Correspondence
FWS TAILS #32410-2011-CPA-0088

Dear Mr. Birkenstock:

Pursuant to the Fish and Wildlife Coordination Act (FWCA), the Service and the U.S. Army Corps of Engineers (Corps) must coordinate and determine potential biological and ecological impacts of proposed projects. To date, Manager Alice Hanley of the Big Stone National Wildlife Refuge has participated with the Corps staff in the planning process for this project. This letter is intended to provide a singular document identifying the Service's input to date.

The following comments are being provided pursuant to the Endangered Species Act (ESA), the Migratory Bird Treaty Act (MBTA), the Bald and Golden Eagle Protection Act, and the Fish and Wildlife Coordination Act. This information is being provided to assist the Corps in making an informed decision regarding wildlife issues, site selection, project design, and compliance with applicable laws.

Federally-listed Threatened, Endangered, and Candidate Species

Currently, the Dakota skipper (Candidate) is present within Big Stone, Lac qui Parle, and Swift Counties, Minnesota. Our records do not indicate any Dakota skippers within the proposed project area. The Poweshiek skipper is currently under consideration to be listed as a Candidate species under the Endangered Species Act, and there are records of Poweshiek skippers within the proposed project area. Dakota and Poweshiek skippers prefer native prairie habitats. It is our understanding that the proposed project will not affect, directly or indirectly, any native prairie areas.

If at any point during project planning, construction, or operation, additional information on listed or proposed species becomes available, or new species are listed that may be affected by the project, consultation should be reinitiated with the Twin Cities Field Office.

Migratory Birds

The Migratory Bird Treaty Act (16 U.S.C. 703-712; MBTA) implements four treaties that provide for international protection of migratory birds. The MBTA prohibits taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. Bald and golden eagles are afforded additional legal protection under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d). Unlike the Endangered Species Act, neither the MBTA nor its implementing regulations at 50 CFR Part 21 provide for permitting of "incidental take" of migratory birds.

Our records indicate the presence of one bald eagle nest in close proximity to the abandon fish-rearing pond referenced in the Draft Report, which could be affected by the project. Verification of the location and the activity status of the nest should be completed prior to completing any construction within 660 feet of the nest site.

Records indicate the past and/or current use of Marsh Lake by several colonial water-nesting bird species; American pelican, great blue heron, great egret, double crested cormorant, Forester's tern, black crowned night heron, and ring billed gulls. Development of a construction timeline to minimize impacts to these areas during prime nesting times should be considered. The Service recommends that proposed construction and excavation within potential bird nesting habitat be completed outside of the primary nesting period (April 1 to August 31) when possible and feasible. Attempts to minimize impacts to potential migratory bird nesting habitats should be made at all times during construction and excavation.

Service-owned Lands

The Hastad, Hegland, and Plover Waterfowl Production Areas (WPAs) are within the proposed project area. Several private land tracts held under Conservation and Wetland Easement by the Service are also within the project area. Proposed project activities are not anticipated to have a negative impact on Service-owned or easement lands.

The proposed project should provide benefits in the way of wetland habitat improvement, aquatic vegetation establishment, increased fish passage, and increased species diversity. Thank you for the opportunity to provide comments on this proposed project. Please contact Fish and Wildlife Biologist Rich Davis at 612-725-3548 (ext. 2214) or me (ext. 2201) if we may be of further assistance.

Sincerely,



Tony Sullins
Field Supervisor

Cc: Alice Hanley, Project Leader - Big Stone NWR/WMD

CORPS OF ENGINEERS RESPONSE TO FISH AND WILDLIFE SERVICE FWCA RECOMMENDATIONS

The U.S. Fish and Wildlife Service made two recommendations regarding avoiding or minimizing effects on Migratory Bird:

1. Verify the location and activity status of the currently known Bald Eagle nest that is in proximity of the abandoned fish rearing ponds before initiating any construction within 660 feet of the nest.

Response: The location and status of any known eagle nests in the project area will be evaluated prior to initiating construction. Coordination will be initiated with the USFWS if active eagle nests are located in or near proposed construction area.

2. Construction timing should be developed to minimize impacts of colonial nesting bird that may use the area.

Response: If possible/feasible, construction will be timed to avoid disturbance during critical nesting/rearing periods. BMP's will be used to minimize impacts to migratory bird nesting habitats during construction.