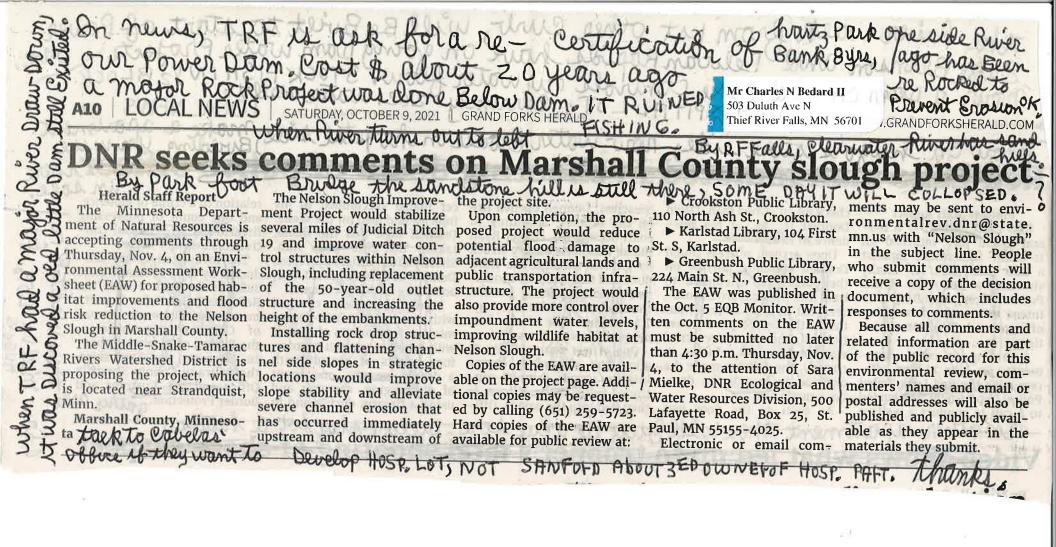
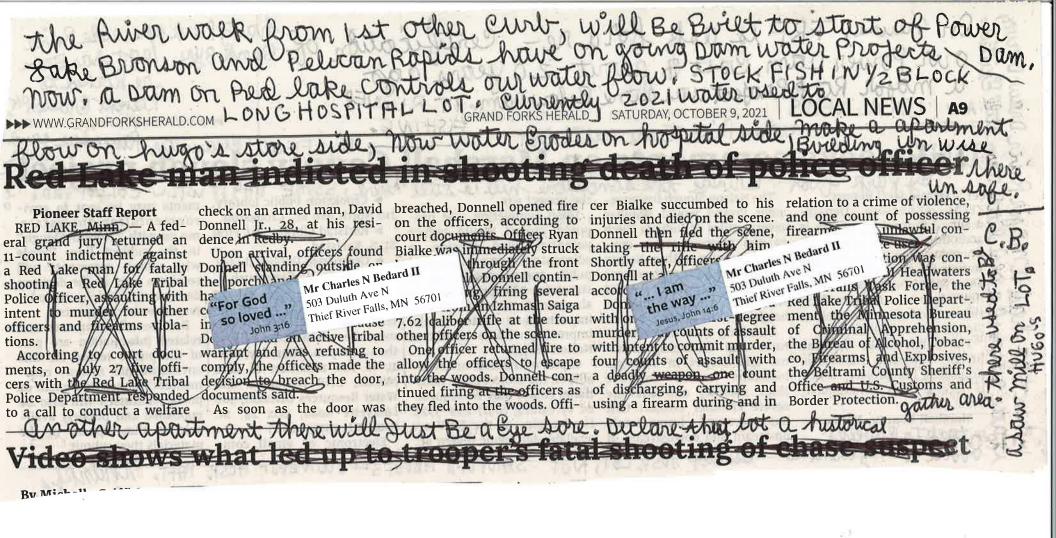
Attachment A - Comments Received

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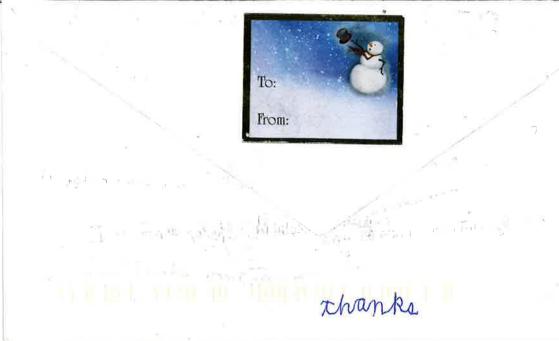




Charlie N. Berlande FORKS ND 552 503 Duruch ave NI OCT 2021 PM IT thief River Falls, minnesota +0 SALA MIELKE, DNR, 56701 ECOLOGICAL AND WATER RESOURCES DEPT, address: 500 LAFAYETTEE ROAD P.O.BOX 25, Bright ST. PAUL, MINNESOTA. New Year! 402.5

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MINNESOTA POLLUTION CONTROL AGENCY

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November 3, 2021

Sara Mielke EAW Project Manager Minnesota Department of Natural Resources 500 Lafayette Road, Box 25 St. Paul, MN 55155-4025

RE: Nelson Slough Improvement Project Environmental Assessment Worksheet

Dear Sara Mielke:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Nelson Slough Improvement Project (Project) in Strandquist, Minnesota/Lincoln and East Park Township, Marshall County, Minnesota. The Project consists of stabilizing several miles of Judicial Ditch 19 (JD 19) and improving structures within Nelson Slough. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility or other interests, the MPCA staff has the following comments for your consideration.

Water Resources (Item 11)

Surface Water

Although the EAW acknowledges the likely need for an MPCA 401 Water Quality Certification, it does not list the MPCA as an agency involved in wetland mitigation. Beyond the U.S. Army Corps of Engineers and Board of Water and Soil Resources (Wetland Conservation Act) requirements, the Project proposer should understand that all of the surface waters directly and indirectly impacted by the Project appear to be Waters of the State as defined by Minn. Stat. § 115.01, subd. 22. As such they are subject to mitigation requirements under Minn. R. ch. 7050.0186. The EAW should include the MPCA as a mitigation regulator in all the areas where mitigation is discussed. For questions related to the MPCA 401 Certification, please contact Jim Brist at 651-757-2245 or jim.brist@state.mn.us.

Stormwater

Areas totaling 1 acre or more above the Ordinary High Water Level (OHWL) of the Public Water at
the site require National Pollutant Discharge Elimination System/State Disposal System Construction
Stormwater Permit (CSW Permit) coverage. Work in public waters is under the jurisdiction of the
Minnesota Department of Natural Resources Best Management Practices (BMPs) requirements. All
other areas must comply with the CSW Permit requirements. BMPs will need to be implemented to
prevent tracking of sediment from upland areas into all surface waters (including non-public waters)
involved at the site. Dewatering at the site will require use of sediment removal BMPs prior to
discharge into any surface water. Also, the CSW Permit will require use of redundant (double) BMPs
if construction requires encroachment within 50 feet of the existing buffer to any surface water or
wetland.

Sara Mielke Page 2 November 3, 2021

• Due to construction-related impairments of JD 19, stabilizing temporarily or permanently inactively worked soils must be completed within 7 days. Soil piles at the site must also be stabilized using appropriate BMPs within 7 days. A temporary sediment pond will be required if 5 or more acres drain to a common location at the site. Please direct questions regarding CSW Permit requirements to Roberta Getman at 507-206-2629 or roberta.getman@state.mn.us.

Noise (Item 17)

- The MPCA appreciates the discussion about noise in this EAW, and ultimately does not have any concerns about long-term noise impacts. The MPCA recommends that the Project proposer ensure that equipment is appropriately muffled during use, and that the construction activities take place during daytime hours (7:00 am to 10:00 pm) to the extent possible.
- The MPCA notes that the EAW states that the Project is exempt from the state noise standards described in Minn. R. ch. 7030. It is unclear to the MPCA which part of Minn. Stat. § 116.07, subd. 2a, applies to this Project, as there are no roadways or road construction activities directly associated with this proposed work, and it does not fall under any of the other exempt categories. In this case the point is irrelevant, as there are no expected long-term noise impacts should the Project move forward, but the MPCA emphasizes that they do not believe the Project would be exempt. For noise related questions, please contact Fawkes Char at 651-757-2327 or fawkes.char@state.mn.us.

We appreciate the opportunity to review this Project. Please provide your specific responses to our comments and 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 EAW, please contact me by email at <u>karen.kromar@state.mn.us</u> or by telephone at 651-757-2508.

Sincerely,

Karen Kromar

This document has been electronically signed. Karen Kromar Project Manager Environmental Review Unit Resource Management and Assistance Division

KK/JB/RG/FC:vs

cc: Dan Card, MPCA, St. Paul Jim Brist, MPCA, St. Paul Roberta Getman, MPCA, Rochester Fawkes Char, MPCA, St. Paul Randy Hukriede, MPCA, Marshall