

# DEPARTMENT OF NATURAL RESOURCES

## Record of Decision

**In the Matter of the Determination of the Need  
for an Environmental Impact Statement for the  
Nelson Slough Improvement Project in the  
Townships of Lincoln and East Park, Marshall  
County, Minnesota**

**FINDINGS OF FACT,  
CONCLUSIONS, AND ORDER**

### **FINDINGS OF FACT**

1. The proposed Nelson Slough Improvement Project (project) is located near the City of Strandquist in Marshall County. The project involves stabilizing several miles of Judicial Ditch 19 (JD 19) and improving structures within Nelson Slough, including replacement of the 50-year-old outlet structure and increasing the height of the embankments. The installation of rock drop structures and flattening of the channel side slopes in strategic locations would improve slope stability and alleviate severe channel erosion that has occurred in JD 19 immediately upstream and downstream of the site. Upon completion, the proposed project would provide a reduction in flood damage to adjacent agricultural lands and public transportation infrastructure within the JD 19 sub watershed, downstream Tamarac River and Red River of the North. The project would also provide more control over impoundment water levels, improving wildlife habitat at Nelson Slough. The project was developed by the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD).
2. The proposed project requires preparation of a State Environmental Assessment Worksheet (EAW) for projects that will change or diminish the course, current, or cross-section of one acre or more of any public water or public waters wetland except for those to be drained without a permit according to Minnesota Statutes, chapter 103G, the DNR or local governmental unit is the Responsible Governmental Unit (RGU). *See* Minn. R. 4410.4300, subp. 27A.
3. The Environmental Review Unit, located within the Ecological and Water Resources Division of the DNR acted as the RGU for the preparation and review of environmental documents related to the project, *See* Minn. R. 4410.4300, subp. 27A.
4. The DNR prepared an EAW for the project in accordance with the requirements of Minn. R. 4410.1400.
5. The EAW was filed with the Environmental Quality Board (EQB) and a notice of its availability was published in the EQB Monitor on October 5, 2021. A copy of the EAW was sent to all persons on the EQB Distribution List, to those persons known by DNR to be interested in the proposed project, and to those persons requesting a copy of the EAW. A press release announcing the availability of the EAW was sent to newspapers, and radio and television stations, statewide. Digital copies of the EAW were distributed to the DNR Library, the DNR Northwest Region Headquarters, Minneapolis Central Library, Crookston Regional Library, Greenbush Public Library, and Karlstad City Library for public review and inspection. The EAW was also made available to the public by posting on the DNR's website. *See* Minn. R. 4410.1500.

### *Public Comment Period*

6. The 30-day EAW public review and comment period began on October 5, 2021 and ended on November 4, 2021. Written comments on the EAW could be submitted to the DNR by U.S. mail or via email. See Minn. R. 4410.1600.
7. During the 30-day public review and comment period, the DNR received 6 comments within comment letters from 2 individuals and agencies.

### *Record of Decision Preparation*

8. Minnesota Rule 4410.1700, subp. 2b requires that a decision on the need for an EIS shall be made no later than 15 days after the close of the 30-day review period. This 15-day period shall be extended by the EQB chair by no more than 15 additional days upon request of the RGU. See Minn. R. 4410.1700, subp. 2b.
9. On November 23, 2021, DNR requested a 15-day extension for making a decision on the need for an EIS for the proposed project. On November 24, 2021, DNR was granted the extension by EQB. See Minn. R. 4410.1700, subp. 2b.

### *Responses to Comments*

10. Minnesota Rules 4410.1700, subp. 4 requires that the Record of Decision (ROD) must include specific responses to all substantive and timely comments on the EAW. All comments and issues raised in comment submittals were reviewed to determine if they addressed the accuracy or completeness of the material contained in the EAW or environmental impacts that may warrant further investigation prior to the final ROD. Comment letters are available upon request.
11. Responses to all comments are summarized below in ¶¶12 to 18. See Attachment A for copies of comments received. See Minn. R. 4410.1700, subp. 4.
12. One commenter provided comments that were considered non-substantive. The commenter expressed concerns about outcomes of an unrelated redevelopment project in the vicinity, and concern about the goals and processes that guide decision-making in Thief River Falls. In accordance with Minn. R. 4410.1700, subp. 4, this comment did not receive a response.
13. One commenter provided a substantive comment desiring a bass fishing lake/pond near Thief River Falls, and investment from companies that promote or profit from bass fishing. The commenter indicated that bass fishing-related project(s) were started many years ago and never completed.

#### **Response:**

This comment was noted and determined to be out of scope. The comment did not address the accuracy or completeness of the material contained in the EAW or environmental impacts and did not warrant further investigation prior to the ROD. This comment has been shared with the project proposer and partner organizations for their awareness.

14. Comments that did address the accuracy and completeness of the EAW and/or potential impacts that may warrant further investigation prior to issuance of the final ROD were determined to be substantive, are detailed in ¶¶15 to 18.
15. Wetland Mitigation. The MPCA provided comments regarding their role as a regulator in wetland mitigation.

#### **Response:**

The EAW doesn't change authorities or responsibilities of regulatory entities. The MPCA role in authorization of wetland mitigation is acknowledged.

16. Construction Stormwater Permitting. The MPCA provided two comments regarding construction stormwater permitting requirements that would apply to the Nelson Slough Improvement Project.

**Response:**

Comments acknowledged. The project proposer is required to and would apply for and acquire all required permits and approvals and is required to comply with any required submittals and requirements for construction activities as a condition of obtaining the necessary permits. EAW Item 8 identifies known permits and approvals required, including pending submittal of a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater permit. In EAW Table 5, the Permit is referred to as "National Pollutant Discharge Elimination System Construction Wastewater Permit" instead of "National Pollutant Discharge Elimination System Construction Stormwater Permit." Reference to the permit has been corrected in this document. EAW Item 11.b.ii. acknowledges the required MPCA Construction Stormwater General Permit (SWPPP) and planned best management practices that would be used for reduction of water quality impacts due to stormwater. The project proposer defers to the MPCA as the regulatory authority regarding required submittals.

17. Noise. The MPCA provided a comment regarding noise impacts that would apply to the Nelson Slough Improvement Project.

**Response:**

Comment acknowledged.

18. Noise. The MPCA provided a comment regarding a noise exemption listed in the EAW.

**Response:**

The noise exemption listed in the EAW appears to be a copy/paste error. There is no known exemption to State Statute or Rule regarding noise that applies to the project. Reference to the exemption has been corrected in this document.

### *Environmental Effects*

19. Based on the analysis set forth in EAW Item 9, the DNR concludes that the project would not affect land use at the site or in adjacent areas.
20. Based on the analysis set forth in EAW Item 10.a, the DNR concludes that the project would not affect geology, nor does geology affect the project proposal.
21. Based on the analysis set forth in EAW Item 11.a.ii, the DNR concludes that the project would not affect groundwater within or near the project area.
22. Based on the analysis set forth in EAW Item 11.b.i, the DNR concludes that the project would not generate wastewater either during construction or operation.
23. Based on the analysis set forth in EAW Item 12d, the DNR concludes that the project would not generate hazardous wastes.
24. Based on the analysis set forth in EAW Item 14, the DNR concludes that the project would not affect known or suspected archaeological properties or historic structures.
25. Based on the analysis set forth in EAW Item 18, the DNR concludes that the project would not affect traffic or transportation systems.

26. Based upon the information contained in the EAW and received as public comments, the DNR has identified the following potential environmental effects associated with the project:
- a. Soils
  - b. Water Quality/Stormwater
  - c. Wetlands and Surface Waters
  - d. Use of Hazardous Materials
  - e. Impacts to Wildlife, Habitat, and Rare Resources
  - f. Visual Impacts
  - g. Vehicle Emissions, Dust, and Odors
  - h. Noise

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

- a. Soils:** This topic was addressed in EAW Item 10b and response to comment ¶16.

The soils within the project corridor are characterized by low to moderate runoff potential. The soil textures within the corridor are predominantly muck (51.4% of the corridor), loam (13.5% of the corridor), mucky loam (8.3% of the corridor), and fine sandy loam (6.5% of the corridor).

The project would involve excavation of approximately 199,900 cubic yards of soil, including 103,500 cubic yards from the embankment; 5,500 cubic yards at the outlet structure; and 90,900 cubic yards from JD 19 ditch. There would be approximately 228,935 cubic yards of fill along the outside of the embankments. The excavation of mucky subsoils and import of fill for the embankments would improve stability of soils and prevent significant erosion of the soils over time. The replacement of the soils during construction would impact the permeability, composition, and structure of the soils, but is expected to have minimal impact since this site was previously altered.

During construction, soil erosion control devices would be used to stabilize exposed soils and prevent erosion and sedimentation. All erosion controls would be compliant with MPCA's administered NPDES/SDS stormwater permit and approved by the DNR and would be constructed of natural and biodegradable materials. Soil piles at the site would be stabilized using appropriate BMPs within 7 days.

- b. Water Quality/Stormwater:** This topic was addressed in EAW Item 11.b.i. and response to comment ¶16.

During and following construction, stormwater quality and quantity impacts to adjacent land, wetlands, JD 19 and the Tamarac River downstream, and sensitive habitat areas would be managed with temporary sediment controls to minimize potential stormwater impacts. The project proposer would develop an erosion control plan, apply for a MPCA Construction Stormwater Permit (CSW), and prepare a Stormwater Pollution Prevention Plan (SWPPP) to address permanent and construction-related erosion control. 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. The standards and rules established by local and watershed agencies would be followed to the extent possible to mitigate the water quality and quantity impacts created by the proposed project.

- c. Wetlands and Surface waters:** This topic was addressed in EAW Item 11.b.iv. and response to comment ¶15.

Replacing the outlet structure and regrading JD 19 would require soil excavation and the waters of the Nelson Slough impoundment and ditch channel to be temporarily drained. Work on the outlet structure would require water to be routed through an adjacent culvert to facilitate work in dry conditions.

Permanent direct impacts include changes to wetland size (permanent excavation and fill) and loss of physical habitats (vegetation removal and hydrology impacts). Indirect impacts include creating disturbed non-wetland areas and a new wetland edge, and changes in wetland functions such as an altered hydrology regime, flood storage, and habitat alterations. The wetlands on the outer edge of the embankments would be further fragmented, and the loss of total wetland area would cause a decrease in hydrologic storage. The current condition of the site includes previously disturbed lands due to the construction of the original embankment, outlet structure, and drainage ditches. Impacts to undisturbed areas would be minimal and would likely not produce any changes to the area's functionality. No permanent impacts to other surface waters are anticipated.

The design phase of construction was used to minimize, and where possible, avoid impacts to wetlands and other surface water resources. BMPs and erosion control devices would be used to prevent these impacts.

Wetland mitigation may include the purchase of wetland credits, and would be based on federal and state permit requirements and adherence to the findings of the Technical Evaluation Panel (TEP). Local, state, and federal permits would be required for all wetlands impacted as a result of the proposed project. These include permitting under the Clean Water Act (CWA), Minnesota Wetland Conservation Act (WCA), DNR Public Water Works permitting, and MPCA Construction Stormwater Permitting. Temporary and permanent impacts would be mitigated in coordination with the DNR and would meet all state and federal regulations and guidelines.

**d. Use of Hazardous Materials.** This topic was addressed in EAW Item 12.c.

The hazardous materials present at the construction site would be limited to fuel and lubricants necessary to maintain construction equipment. All fuel and lubricants would be stored in temporary storage tanks in a predetermined area away from wetlands, surface waters, or any other sensitive resources. Refueling of construction equipment would occur at the predetermined area and would not occur near wetlands or waterbodies to avoid contamination from spills. If a spill were to occur during construction, the project engineer and Minnesota Duty Officer would be contacted, and appropriate action would be taken immediately to remediate the spill in accordance with MPCA guidelines and regulations in place at the time of project construction. Potential effects from a hazardous material spill or release could include impacts to water quality or wildlife habitats. The SWPPP incorporated into the final design would address a spill prevention plan.

**e. Impacts to Wildlife, Habitat, and Rare Resources:** This topic was addressed in EAW Item 13.

Proposed construction activities are expected to take four months and begin late fall, after nesting season. While the impoundment and ditch are drained, the habitats within the project area would be temporarily impacted, including approximately 43.66 acres of MBS Sites of Biodiversity Significance and 27.82 acres of MBS Native Plant Communities.

The project affects several sensitive habitat types, including native upland plant communities, native aquatic plant communities, and water bird nesting sites. The Nelson Slough embankments intersect many of the MBS native plant communities and construction on these embankments

would ultimately result in impacts and alterations to these communities. The potential implications for these impacts would include habitat loss, habitat fragmentation, changes in habitat types, loss of native species, invasion of non-native or invasive species, and reduction of overall biodiversity of the project site. Various species of birds, mammals, amphibians, and reptiles that utilize these habitats for forage, cover, and breeding would be further fragmented by the additions to the current embankments. Since these habitats have already been altered during the original construction of the embankments, the additional embankment height and length proposed in this project would have minimal impact to the project area. Following completion of construction, adverse effects to the native plant communities and habitats along the Nelson Slough embankments would be mitigated through reseeding with a Minnesota BWSR northwest native seed mix, and additional specific plant species may be targeted in consultation with the DNR. Only weed-free mulches, topsoils, and seed mixes would be used. For sites that cannot be reseeded, the proposer would work with DNR to develop a vegetative management plan. During and after construction, erosion control devices would be utilized to reduce soil erosion and sedimentation. All erosion control devices would be environmentally friendly to reduce impacts to wildlife.

The excavation and construction of the Nelson Slough outlet structure would result in permanent effects to MBS sites within the limited footprint. Best management practices would be utilized to minimize effects by preventing surface water contamination, sedimentation, stormwater runoff, soil contamination, and spread of invasive species. Construction of the outlet structure would require the impoundment to be drawn down or the outlet area would need to be dammed in order to access the soil bed. A drawdown period would temporarily displace wildlife utilizing the impoundment and potentially kill aquatic species during construction.

The construction activities in JD 19 would not cause any permanent effects to MBS sites, but may cause some temporary effects within the construction zone. Channel stabilization of JD 19 would include excavation (approximately 90,900 cubic yards) and placement of several rock drop structures. Impacts to wildlife habitats include temporary displacement and/or habitat inaccessibility and would occur during the construction period and during high water levels, generally 24-72 hours following heavy rainfall events, during which flood waters would be released into JD 19. These habitats would redevelop following construction activities.

State listed species identified as having potential to exist in the project area are the northern pocket gopher, the horned grebe, and Wilson's phalarope. The northern pocket gopher, though not documented in Minnesota since 1991, could be affected from the construction activities along the levees. The northern pocket gopher is absent in closed canopy forests but often inhabits disturbed areas such as roadside ditches and flood control berms. Although not anticipated to be present at Nelson Slough, potential effects to the gophers include destruction of under-ground burrows that could be present within the levees and temporary dispersal of the species. This effect would be considered limited and temporary, due to the lack of documented population and the ability of the species to move. Horned grebe nesting habitats occur within the project area and include emergent wetlands or areas with shallow water and persistent emergent vegetation. There are no persistent breeding populations identified in Minnesota, but some potential impacts to this species include loss of floating nests, loss of habitat, and potential species dispersal. Excavation within wetlands with emergent vegetation would result in temporary loss of vegetation used for nesting and cover by the horned grebe. Wilson's phalaropes are commonly found within the short vegetation of wet prairies, rich fens, and grass-dominated/sedge-dominated wetlands. Similar to horned grebes, potential impacts from the project include

loss/fragmentation of habitats and temporary dispersal of the species. Work completed within emergent wetlands could reduce and fragment potential habitats used by this species.

The USFWS IPaC tool identified federally-listed species Canada lynx (threatened species) and northern long-eared bat (threatened species) as potentially being affected by activities in this location. This is due to potential habitats being present within the project corridor. The Canada lynx's habitat within the United States includes boreal forests/temperate forests that receive heavy snow for greater than four months and support healthy populations on snowshoe hare (*Lepus americanus*). The Canada lynx populations in the United States typically found in unsuitable habitats and were the result of mass dispersal events from Canada during periods of snowshoe hare declines. Consistent lynx populations are rare in the United States, and the closest population to the project corridor occurs in northeastern Minnesota. The rarity of this species in the U.S. makes it unlikely that populations occur within or adjacent to the project corridor, but it cannot be ruled out that individuals are present within the large tracts of hardwood forests. The effect would be considered limited and temporary, due to the minimal population and the ability of the species to move.

The northern long-eared bat's habitat in the summer is the bark of both live and dead trees, caves and crevasses, and barns and sheds. During the winter, the bat hibernates in small crevasses in caves and mines. The continuous tracts of forests in the project corridor could provide summer habitat for the northern long-eared bat. Tree removal associated with construction would be coordinated with the DNR and USFWS prior to construction to determine the presence of any northern long-eared bats and would comply with the USFWS 4(d) Rule. The effect on the species would be considered limited and temporary, due to the scheduling of work outside of the summer occupancy window.

There are no DNR identified infested waters within the project corridor. The Middle-Snake-Tamarac Watershed District would consult with the DNR prior to construction as a precautionary effort to avoid the spread of both terrestrial and aquatic invasive species as a result of the project.

The preliminary design phase of the project was utilized to maximize the reduction in adverse effects to the MBS native plant communities, rare features, sensitive resources, and species identified as threatened, endangered, or of special concern. Prior to construction, the project proposer would coordinate with the DNR and USFWS to ensure that no threatened or endangered species are present within the construction zone. If a protected species is observed during construction, all activities would pause and coordination with federal and state agencies would occur prior to continuing construction activities.

Measures would be taken to avoid or minimize impacts to all federal and state threatened and endangered species. With the high presence of water birds, and several utilizing Nelson Slough as nesting habitats, construction activities are planned to occur outside of the nesting season. Construction activities that occur during the nesting season, late April through early June, could disrupt nesting Trumpeter swans and plan to be avoided. Operational water levels would reach their highest level by early April in potential nesting areas to avoid flooding nests. Yellow rails start nesting in late May and the young typically fledge by the end of June. Changing water levels from early May through mid-July are planned to minimal to avoid impacts to Yellow rail.

**f. Visual Impacts:** This topic was addressed in EAW Item 15.

Construction of the proposed project would cause temporary visual impacts to visitors and may prevent recreational use of areas of Nelson Slough. These impacts would be temporary and restricted to the construction period. Although the majority of the surrounding landscape is large

tracts of agricultural fields, several residential properties are located within a half mile of JD 19. During construction, these properties and local roadway users may experience visual impacts from dust clouds, equipment exhaust, and intense light glares. This would be mitigated or minimized through dust control measures, timing of construction, and orientation of construction lights. Some examples of dust control methods include keeping soil wet with water, using dust suppressant chemicals, reducing machinery speed on exposed soils, and limiting overall soil disturbance. Construction activities would be confined to normal working hours and glares would be managed through placement, height, and angles of construction lights.

There are no other scenic views or vistas within the project corridor. The project construction would result in temporary nuisance conditions to local residences and visitors. Visual impacts would be relative to the viewers' perspective of the project area.

**g. Vehicle Emissions, Dust, and Odors:** This topic was addressed in EAW Item 16.

Construction of the proposed project activities would utilize heavy machinery and equipment typical of construction projects. Current air quality is not anticipated to be adversely impacted from the use of this machinery and equipment. These emissions would be temporary and would not exceed emission standards. Equipment would be maintained to operate under factory-suggested operations and maintenance intervals to avoid inefficiencies in operations. The project is not anticipated to result in a permanent increase in traffic and emissions.

Dust and odors generated from the project would be negligible and temporary. Dust and odors would occur during construction activities including removal of the current outlet structure, installation of the new outlet structure, improvements to the embankments, and improvements to JD 19. Although much of the surrounding landscape is large tracts of agricultural fields, several residential properties that could be impacted from dust and odor pollution are located within a half-mile of JD 19 and a mile of Nelson Slough. East Park WMA visitors would be impacted from dust and odors and the construction zones would be restricted. These impacts would be limited to the duration of construction and confined to the construction area. Dust would be managed using dust control methods include keeping soil wet with water, using dust suppressant chemicals, reducing machinery speed on exposed soils, and limit overall soil disturbance. Odors generated from construction would include exhaust from diesel engines and fuel storage. Odors would be managed by zone restricting, operation timing, and through standard emission controls.

**h. Noise:** This topic was addressed in EAW Item 17.

The noise generated by construction activities would be due to the mobilization and use of heavy machinery and equipment. Noise impacts from construction activities would be temporary and restricted to the construction period. The construction crew would be required to follow local noise ordinances and restrictions. There are no anticipated permanent noise pollution as a result of the project. Existing noise within the project corridor and nearby areas are directly associated with traffic and agricultural operations. Residents and visitors located near or adjacent to the construction zone would be temporarily impacted from increased noise resulting in some adverse effects to quality of life. These adverse effects to quality of life include temporary nuisance conditions during everyday activities especially outdoor activities. All residents would be notified about the timing and duration of construction prior to the beginning of construction. Noise pollution would be minimized through restricting the use of heavy machinery during normal working hours.



The noise exemption listed in the EAW appears to be a copy/paste error. There is no known exemption to State Statute or Rule regarding noise that applies to this project. Reference to the exemption has been corrected in this document.

27. The following permits and approvals are, or may be needed, for the project:

<b>Unit of Government</b>	<b>Type of application</b>	<b>Status</b>
U.S. Army Corps of Engineers (USACE)	Section 404 Permit	To be applied for
Minnesota Pollution Control Agency (MPCA)	National Pollutant Discharge Elimination System Construction Stormwater Permit (including Stormwater Pollution Prevention Plan)	To be applied for
Minnesota Pollution Control Agency (MPCA)	401 Water Quality Certification	To be applied for
Minnesota Department of Natural Resources (DNR)	Water Appropriations Permit – Dewatering (if needed)	To be applied for as needed
Minnesota Department of Natural Resources (DNR)	Dam Safety Permit	To be applied for
Minnesota Department of Natural Resources (DNR)	Public Waters Work Permit	To be applied for
Marshall County	Conditional Use Permit	To be applied for
Marshall County	Wetland Conservation Act Permit	To be applied for

## **CONCLUSIONS**

1. Minnesota Rule 4410.1700, subps. 6 and 7, set forth the following standards and criteria to compare the impacts that may be reasonably expected to occur from the project in order to determine whether it has the potential for significant environmental effects. The rule provides:

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. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential

effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;

- C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and
- D. the extent to which environmental effects can be anticipated and controlled as result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

2. *Type, extent, and reversibility of environmental effects.*

Based on Findings of Fact ¶¶19 through 25 and 26a-26h, the DNR concludes that the following types of potential environmental effects, as described in the Findings of Fact, would be limited in extent, temporary, or reversible:

- Soils
- Water Quality/Stormwater
- Wetlands and Surface Waters
- Use of Hazardous Materials
- Impacts to Wildlife, Habitat, and Rare Resources
- Visual Impacts
- Vehicle Emissions, Dust, and Odors
- Noise

3. *Cumulative potential effects.* In determining whether a project has the potential for cumulative potential effect the RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project. Minn. R. 4410.0200, subp. 11a.

DNR concludes that the cumulative potential environmental effects, as described above and in EAW Item 19, **are not** significant because there are limited past, present, and future projects identified within the geographic scale of the proposed Project that would have overlapping environmental effects. The Project would contribute minimal environmental effects and would not materially contribute to the cumulative potential effect.

4. *Extent to which environmental effects are subject to mitigation by ongoing public regulatory authority.* Based on the Findings of Fact set forth in ¶¶26a-26h above and the information contained in the EAW, DNR concludes that there is sufficient ongoing public regulatory authority and specific measures identified that can be expected to effectively address the following environmental impacts:

- Water Quality/Stormwater – permitting
- Wetlands and Surface Waters
- Use of Hazardous Materials
- Impacts to Wildlife, Habitat, and Rare Resources

Permits and Approvals: Prior to initiation of this Project, the permits and approvals identified in Finding 27 would be required. When applying the standards and criteria used in the determination of the need for an EIS, DNR finds that the Project is subject to these regulatory authorities to an extent sufficient to mitigate potential environmental effects through measures identified in the EAW and ROD.

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 following documents were examined and set forth anticipated impacts and controls:
  - Minnesota Department of Natural Resources. 2010. MANAGING MINNESOTA'S SHALLOW LAKES FOR WATERFOWL AND WILDLIFE: Shallow Lakes Program Plan.  
<https://files.dnr.state.mn.us/recreation/hunting/waterfowl/shallowlakesplan.pdf>
6. As set forth in ¶¶1 - 27 DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an EIS on the proposed Nelson Slough Improvement Project in the Townships of Lincoln and East Park, Marshall County, Minnesota.
7. Based on consideration of the criteria and factors specified in Minn. R. 4410.1700, subps. 6 and 7 to determine whether a project has the potential for significant environmental effects, and on the Findings of Fact and Record in this matter, the DNR determines the proposed Nelson Slough Improvement 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 Nelson Slough Improvement Project in the Townships of Lincoln and East Park, Marshall County, Minnesota.

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

Dated this 20 day of December, 2021.

**DEPARTMENT OF NATURAL RESOURCES**



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Jess Richards  
Assistant Commissioner