

DEPARTMENT OF NATURAL RESOURCES

RECORD OF DECISION

**In the Matter of the Determination of
the Need for an Environmental
Impact Statement for the Pillsbury
A-Mill Hydroelectric Project in
Hennepin County, Minnesota**

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

FINDINGS OF FACT

1. Minneapolis Leased Housing Associates IV (MLHA or Proposer) proposes to construct and operate a new hydroelectric project utilizing existing infrastructure at the Pillsbury A-Mill building on the Mississippi River in Minneapolis. The Project would generate up to 600 kilowatt (kW) of renewable power to meet approximately 70% of on-site residential demands and would be located at St. Anthony Falls on the Mississippi River at river mile (RM) 854 in Minneapolis, Hennepin County, Minnesota.
2. Pursuant to *Minnesota Rules*, chapter 4410.4300, subpart 1, an environmental assessment worksheet (EAW) must be prepared for projects that meet or exceed the threshold defined in any of the subparts 2-37. The proposed project exceeds the threshold defined under *Minnesota Rules*, chapter 4410.4300, subp. 24, item A, regarding water appropriation and impoundments. The project would involve a new appropriation of surface water for commercial or industrial purposes, at an average rate exceeding 30,000,000 gallons per month and therefore required the completion of an EAW.
3. Pursuant to *Minnesota Rules*, part 4410.0500, subpart 1, for any project listed in part 4410.4300, the government unit specified in those rules shall be the responsible government unit (RGU). Therefore, as *Minnesota Rules*, chapter 4410.4300, subp. 24, item A identifies, the Minnesota Department of Natural Resources (MDNR) is delegated the duties of the RGU for conducting the environmental review.
4. Pursuant to Minnesota Rules part 4410.1300, if a federal Environmental Assessment (EA) has been prepared for a project, the EA may be circulated in place of the EAW form, provided that the EA addresses each of the environmental effects identified in the EAW form.
5. A federal EA was prepared by the Federal Energy Regulatory Commission (the FERC) for the Proposed Project and circulated by the MDNR with an EAW form. The EAW references sections of the EA that address each of the environmental effects identified in the EAW form and discloses additional information within the EAW form to satisfy EAW information needs.
6. The EAW is incorporated by reference into this Record of Decision on the Determination of Need for an Environmental Impact Statement (EIS).
7. The EAW was filed with the Environmental Quality Board (EQB) and a notice of its availability was published in the *EQB Monitor* on May 4, 2015. A copy of the EAW was sent to all persons

on the EQB Distribution List, to those persons known by MDNR to be interested in the proposed project, and to those persons requesting a copy. A press release announcing the availability of the EAW was sent to newspapers and radio and television stations statewide. Copies of the EAW were also available for public review and inspection at the MDNR Central Regional Office, the MDNR Central Office Library, and the Minneapolis Central Public Library. The EAW was also made available to the public via posting on MDNR's website.

8. The 30-day EAW public review and comment period began May 11, 2015 and ended June 10, 2015 pursuant to *Minnesota Rules*, chapter 4410.1600. The opportunity was provided to submit written comments on the EAW to the MDNR by U.S. Mail, by facsimile, or electronically.
9. During the 30-day EAW public review and comment period, the MDNR received six written comments on the EAW from agencies, organizations and individuals. An additional two comments were received after the 30-day EAW public review and comment period. While not required by Rule, late comments have been included in the findings below and provided with responses. A copy of comments received is included in this Record of Decision as Attachment A. The findings numbered 11 through 24 include further discussion on comments received and responses from the MDNR.
 1. Patrice Jensen, on behalf of the Minnesota Pollution Control Agency (June 10, 2015)
 2. Lisa Hondros, on behalf of the St. Anthony Falls Alliance (June 10, 2015)
 3. Haila Maze, on behalf of the City of Minneapolis (June 10, 2015)
 4. Diane Hofstede, on behalf of the Great River Coalition (June 10, 2015)
 5. LisaBeth Barajas on behalf of the Metropolitan Council (June 10, 2015)
 6. Edna Brazaitis on behalf of the Friends of the Riverfront (June 10, 2015)
 7. Robert Winston, (June 15, 2015)
 8. Sarah Beimers, on behalf of the Minnesota Historical Society (June 12, 2015)
10. Each comment that was submitted is summarized and grouped by topic below with DNR's response following each comment. Comments of similar content are consolidated into one comment and a single response provided.
11. The Minnesota Pollution Control Agency (MPCA) commented that the Project may require a State Disposal System (SDS) permit from the MPCA for any activities associated with the storage, treatment, disposal and/or reuse of dredged materials.

RESPONSE: The estimated dredging activities associated with the Project as proposed would be limited to 750 cubic yards, which is less than an amount required to obtain an SDS permit from the MPCA. However, MPCA staff recommended that the project Proposer complete the MPCA Notification to Dredge without a Permit form prior to initiating activities. This recommendation has been provided to the project Proposer.

12. Commenters expressed concern regarding the adequacy of the design and methodology of the Aesthetic Flow Adequacy Plan (AFAP) being coordinated by Xcel Energy.

RESPONSE: The AFAP being conducted by Xcel Energy will be the guiding document that will determine all parties' level of responsibility in maintaining aesthetic flow levels. The aesthetic flow table included in the federal EA Section 3.3.8 is most likely to be revised upon the completion of the public perception survey portion of Xcel Energy's AFAP, a requirement of Xcel Energy's FERC hydropower license (FERC Project No. P-2056). Based on the outcome of

this plan, the project Proposer should be prepared to address the potential for further flow restrictions or limitations in the future. The MDNR has recommended a reference to the project Proposer's level of responsibility regarding minimum flows be included as a condition of the pending FERC small hydropower license, and that cumulative impacts to visual and aesthetic resources also be required to be addressed. The MDNR will continue to work with the project Proposer regarding management of flow levels.

13. Commenters requested that the project Proposer work cooperatively to support restoration of flow over the East Falls (Bluff) due to the overlap in the project boundary between this project and Xcel Energy's St. Anthony Falls project.

RESPONSE: As a natural resource agency, the MDNR acknowledges the value of restoring the East Falls (Bluff) and has commented as such in the past. The MDNR encourages the Proposer to work with the Minneapolis Park and Recreation Board, Xcel Energy, and other entities regarding this restoration effort. However, as the RGU for this project, the restoration of flow over the East Falls (Bluff) was not part of the scope of the proposed project, so it was not discussed within the EAW.

14. Commenters provided additional information regarding the recreational resources in the proposed Project area and requested that the project Proposer work cooperatively with other agencies to create public access tours to the A-Mill tunnels as well as connecting these tunnels to the Central Mississippi Riverfront Regional Park.

RESPONSE: As a natural resource agency, the MDNR acknowledges the value of recreational resources in the area and has commented as such in the past. However, as RGU for the EAW, MDNR is required to evaluate the environmental effects of the proposed project; therefore, since the proposed Project did not include public access tours or connections to the regional park, these were not included in the EAW.

15. The City of Minneapolis provided a series of comments and information correcting inaccuracies of dates and site information, as well as correcting grammatical errors.

RESPONSE: The MDNR appreciates these comments. While a corrected version of the EAW will not be circulated, the comments will be included in the project record. These corrections were determined not to constitute a project change, and not to affect the project's potential for significant environmental effects.

16. Commenters pointed out that the proposed Project is within a National Historic Landmark which will be adversely impacted, and is therefore subject to the Programmatic Agreement to assure that any adverse impacts are either avoided or adequately mitigated. The State Historic Preservation Office (SHPO) is currently consulting with the FERC and other consulting parties in preparation of the Programmatic Agreement to resolve any adverse effects caused by this project to historic properties.

RESPONSE: The MDNR notes this comment and that the Project is subject to the referenced Programmatic Agreement as part of the Section 106 process. The MDNR understands the Section 106 process is currently underway and the Programmatic Agreement is being prepared by the SHPO, the FERC, the project Proposer and other consulting parties.

17. The City of Minneapolis pointed out that, prior to any City of Minneapolis building construction permits being authorized, the Project will require review by the Minneapolis Heritage Preservation Commission for a Certificate of Appropriateness.

RESPONSE: The MDNR has included this in the list of governmental approvals required for the project and will provide this comment to the Proposer.

18. Commenters expressed concerns regarding the potential for noise during project operation generated from the Project turbine-generator unit, and any effects that this noise may have on sensitive receptors, including the bat hibernaculum in Chute's Cave.

RESPONSE: The project Proposer would be required to develop and adhere to a Bat Avoidance Plan, subject to MDNR review and approval, as part of the pending MDNR Public Waters Work permit. Impacts to the tri-colored bat and the hibernaculum in Chute's Cave, including any impacts from noise, would have to be avoided and/or mitigated according to this approved Plan.

19. The City of Minneapolis referenced earlier comments to the FERC regarding proposed work on catch basins within the Project area and referenced potential impacts, such as corrosion of the project piping, from stormwater discharging into the Project tunnel.

RESPONSE: The Project tunnel has received some water discharge from off-site sources, including a leaking water main. Until a repair is made to the main, the project Proposer intends to address any leakage into the tunnel down the drop shaft by collection into a separate dedicated pipe for natural drainage. By stopping existing leakage sources and containing future leakage, the project Proposer intends to prevent potential contamination or corrosion of the hydroelectric piping. The piping material would be constructed of steel, with a polyurethane coating, which is not expected to corrode.

20. The Metropolitan Council commented that the project area partially overlaps the Central Mississippi Riverfront Regional Park and that re-vegetation plans should be coordinated with the Minneapolis Park and Recreation Board to ensure minimal disruption to recreational use.

RESPONSE: The MDNR will evaluate re-vegetation plans in the development of the Work in Public Waters Permit. In addition, the MDNR will provide this comment to the Proposer for its coordination with the Minneapolis Park and Recreation Board.

21. The Metropolitan Council also commented that the Project has the potential to impact multiple Metropolitan Council Interceptors. Prior to initiating the Project, the Proposer is requested to provide preliminary plans to the Interceptor Engineering Manager for review and comment.

RESPONSE: The MDNR will provide this comment to the Proposer for their coordination with the Metropolitan Council.

22. Friends of the Riverfront requested that the EAW be amended to include discussion of impacts of the change in flow on fishing birds and the potential presence of a bald eagle nest.

RESPONSE: Shoreline fishing birds are an important component of wildlife along the metro Mississippi River. These species follow fish populations, adjusting their fishing grounds to seasonal variations. As impacts to fishery resources have been reviewed and minimal impacts are

projected, we anticipate that these avian species will not be impacted in the vicinity of the project.

The Natural Heritage Information System (NHIS) database no longer updates records for the bald eagle or nest sites. However, bald eagles are federally protected under the Migratory Bird Treaty Act and under the Bald and Golden Eagle Protection Act. Both acts prohibit killing, selling, or otherwise harming eagles, their nests, or eggs. Trees removed as part of the proposed Project would need to be inspected for nests prior to being cut down. As stated on page 49 of the EA, if eagle nests are discovered within the immediate Project vicinity prior to construction, MLHA would confer with USFWS and determine appropriate actions to maintain compliance with the National Bald Eagle Management Guidelines (USFWS 2007).

23. Friends of the Riverfront commented that the information included in the EAW is outdated and does not adequately describe the presence of larger mammals.

RESPONSE: The NHIS is continually updated as new information becomes available, and is the most complete source of data on Minnesota's rare or otherwise significant species, native plant communities, and other natural features. However, the NHIS is not an exhaustive inventory and thus does not represent all of the occurrences of rare features within the state. Therefore, ecologically significant features for which we have no records may exist within the project area.

While the species noted were not directly addressed, page 40 of the EA addresses the high species diversity that occurs along the developed urban river corridor, including mink, beaver and muskrat. As noted, local displacement may occur during project construction. However, while minor shifts in species movement may occur during implementation of the project, the riparian corridor will remain intact. We do not anticipate loss of habitat or access to the riverine area that would adversely impact urban wildlife.

24. A comment was received requesting consideration of including a “whitewater park” within this proposal as an urban recreational area.

RESPONSE: In 1967, the Minnesota state legislature designated the entire Mississippi River in Minnesota as what is now called the Mississippi River State Water Trail, thereby directing the MDNR to manage the river for recreation. In 2012, the U.S. Department of the Interior designated this stretch of the Mississippi River as a National Water Trail, managed by the National Park Service. Since a whitewater park within the river area is not being proposed under either of these water trail designations, and was not part of the Project proposal, it was therefore not discussed within the EAW. However, the MDNR will provide these comments to the Proposer.

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

- a. Fish, Wildlife and Ecologically Sensitive Resources
- b. Physical Impacts to Water Resources
- c. Historical Properties
- d. Odors, Noise, Dust and Air Emissions
- e. Cumulative Potential Effects

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

- a. **Fish, Wildlife and Ecologically Sensitive Resources.** This topic was addressed under Item 6b, and Item 13 of the EAW.

Resident fish and wildlife would be affected by the construction and operation of the proposed project. The environmental effects on fish and wildlife would include habitat loss, temporary displacement during project construction, and the risk of mortalities caused by the excavation and other construction-related activities such as heavy equipment mobility. Construction of the project is estimated to take approximately five months, with most major construction activities completed before fall.

Project construction would require removal of eight trees (average diameter of approximately 15 inches) in the vicinity of the intake structure, and twelve small trees (average diameter of less than 12 inches) in the vicinity of the outlet structure. This wooded habitat is potential habitat for northern long-eared bats. However, while northern long-eared bats can be found throughout Minnesota, no occurrences of this species have been reported in the proposed Project vicinity. In addition, Section 7 consultations with the US Fish and Wildlife Service (USFWS) would take place as part of the US Army Corps of Engineers 404 permit process; these consultations would take into account the new guidance provided by the USFWS concurrent with the recent listing of the northern long-eared bat as a threatened species.

There is also a large bat colony within the project area (Chute's Cave) which is the largest known colony for the Tricolored Bat (*Perimyotis subflavus*) in Minnesota and could be adversely impacted by this project. This species is currently listed by the MDNR as Special Concern, and is impacted, where present, by White-nosed Syndrome. A Bat Avoidance Plan, developed by the project Proposer, approved by MDNR staff, and incorporated in the MDNR Work in Public Waters Permit, would be required to ensure no adverse effects to area bat populations or the Chute's Cave hibernaculum.

The EA also discusses the documented presence of zebra mussels and the presence and migration of invasive carp in the Mississippi River in the area of the project site. As part of the MDNR Work in Public Waters Permit, the project Proposer is required to develop and abide by both a zebra mussel and invasive carp infestation and control plan to address the possibility of zebra mussel and invasive carp infestations at this site and support the prevention of further spread of the invasive species.

Environmental effects to fish would be considered to be limited to within the project footprint during operations. Operation of the Project was estimated to result in an approximate annual loss of 130 fish due to entrainment and turbine mortality. Higher natural mortality levels are expected for fish in smaller size classes, but small fish are both more abundant proportionally to the larger fish population of the Upper Mississippi River and generally have a higher mortality. The Kaplan turbine proposed to be used is associated with lower rates of fish mortality due to entrainment and higher rates of survival among small fish. Additionally, the project Proposer would use a trash rack with bar spacing of 1.25" at the water intake location to minimize fish impingement. The project Proposer has agreed to physically remove and transport off-site inorganic material lodged in the trashrack. The project Proposer has also agreed to utilize construction practices and materials that are designed to avoid effects or impacts to terrestrial and aquatic wildlife, particularly where erosion control materials are planned to be used, such as avoidance of plastic mesh.

In addition to the aforementioned tricolored bat, the MDNR NHIS Rare Features Database identified the mudpuppy (*Necturus maculosus*), a state-listed species of special concern, and rare mussels have been documented downstream of the proposed project. A mussel survey was conducted during August 2014 immediately upstream and downstream of the proposed project. No state-listed or federally-listed mussels were documented.

b. Physical Impacts to Water Resources. This topic was addressed under Item 6b, and Item 11 of the EAW.

Project construction would require the removal of sediment material that has accumulated in front of the intake since the A-Mill ceased operations in 1955. The volume of sediment material to be removed is estimated to be 500 cubic yards and would be removed to the invert of the existing intake structure (approximately 15 feet below the normal water surface level) for a distance of 10 feet riverward and a width of approximately 20 feet, tapering up to the existing bed elevation at nominally a 2:1 slope. Reactivation of the outlet structure would also require the removal of sediment and debris. An estimated 150 cubic yards would be removed from the bottom of the existing tailrace tunnel to install a box culvert outlet tunnel. In addition, approximately 100 cubic yards of sediment would be removed from the submerged concrete apron at the outlet, in the form of a wedge approximately 10 feet wide by five feet deep at the outlet and tapering up to the existing tailrace channel bed in a generally trapezoidal shape. Sediment removal is described in the EA, and best management practices (BMPs) such as silt fences, sediment control logs, dewatering bags and floating silt curtains are planned to be used at the at both the intake structure and tailrace. The proposed Project does not involve any draining, filling, or new inundation of wetland habitats.

The proposed water appropriation would be from the Mississippi River, at a planned usage rate of up to 200 cfs. Water use is anticipated to occur 24 hours per day, year-round. The purpose of the water use is to support the generation of power in the hydroelectric facility. The project Proposer plans to coordinate with Xcel Energy to monitor spillway flow (pool elevation) and to proportionately share inflow reductions if necessary to hold the pool elevation during periods of low river flow as part of the Mississippi River Low Flow Management Plan (MRLFMP). Additionally, the project Proposer has agreed to accept a proportional share of the aesthetic flow regime that is established by Xcel Energy's Aesthetic Flow Adequacy Plan (AFAP) for the St. Anthony Falls Project.

Operation of the Project would modify local hydraulics in the outlet channel below the tailrace. This area, a dedicated tailrace channel formed by previous uses of the A-Mill facility, would receive up to 200 cfs of flow when the Project is operating at full capacity, and local water levels would increase between 0.5 and 1.0 feet during the proposed Project operation. This localized rise effect would become negligible where the channel joins the river.

c. Historical Properties. This topic was addressed under Item 6b and Item 14 in the EAW.

The project Proposer is consulting with the State Historic Preservation Office (SHPO) regarding the proposed Project and has researched SHPO files and other appropriate data sources to develop a list of historic properties within the proposed Project area. The proposed Project construction and operation would have adverse effects within the project area. The proposed project would cause adverse effects to the Pillsbury A-Mill, a historic property which is listed in the National Register of Historic Places and is a National Historic

Landmark. SHPO is in consultation with the FERC and other consulting parties in preparation of a Programmatic Agreement to resolve the adverse effects identified.

The proposed Project design and approach is consistent with development guidelines and requirements provided by the 2012 St. Anthony Falls Historic District Design Guidelines. These Guidelines specify that historic infrastructure features such as those used for Project purposes should be retained or incorporated into a project, and that “the adaptive reuse of waterpower infrastructure for interpretive purposes is encouraged.” By restoring the original use of the A-Mill waterpower infrastructure, the proposed Project would be using existing historic features.

d. Odors, Noise, Dust, and Air Emissions. This topic was addressed under Item 6b, Item 16 and Item 17 of the EAW.

Construction of the various features of work for the hydropower system would involve demolition of the existing concrete. This would involve engine driven concrete saws, jack hammers and other pneumatic tools. Air compressors and generators are anticipated to be used to power equipment and would be staged at the street level. Above-ground odors and dust would be minimized through the use of water-spraying of construction areas and solid barriers to control the dispersal of the odors and dust that could occur from wind. The proposed Project would generate noise during the five-month construction phase and is anticipated to be completed by late fall. Daily hours of construction would follow regulatory & construction permit regulated times, which are currently expected to be Monday through Saturday, predominantly during daylight hours.

While not a specific impact to the immediate area, the Project could indirectly help to offset other greenhouse gas emissions due to the potential reduction of power needed from alternative electricity sources, including combustion-based facilities, in order to support the residents’ energy needs at the Pillsbury A-Mill Artist Lofts.

The higher than normal levels of exhaust emissions, odors, and noise produced during project construction from the use of this equipment would be considered temporary and minor and would be limited to the five-month construction phase. As most of the proposed Project-related construction would be contained underground, the quantity, duration, and intensity of dust and odor production is expected to be minimal.

e. Cumulative Potential Effects. This topic was address under Item 19 of the EAW.

The potential environmental effects related to this project could combine with environmental effects from other past, present, or reasonably foreseeable future projects for which a basis of expectation has been laid. The proposed Project is an individual hydroelectric project that would occur among a number of existing and proposed hydroelectric projects in the area, including the St. Anthony Falls Hydroelectric Project, the Crown Mill Hydroelectric Project, and the Symphony Hydroelectric Project. The cumulative potential effects of the projects could include impacts to aquatic resources, water resources, and aesthetic resources. Most potential environmental effects of the proposed Project are related to construction and are of short duration, and therefore unlikely to interact with potential future projects to create cumulative effects.

Construction and operation of the proposed Project would result in an estimated fish loss of approximately 130 small fish annually due to entrainment and turbine mortality. Additional impacts to fish due to entrainment and turbine mortality have the potential to result from reasonably foreseeable projects. Impacts to fish are expected to be localized.

The proposed Project has potential to affect physical impacts to water resources in the area through construction activities and altered hydraulics associated with operation. Implementation of appropriate BMPs and other environmentally protective measures would minimize adverse effects to water quality as a result of Project construction. Effects are expected to be temporary and limited in geographic scope. Project operation would be run-of-river, and would alter Mississippi River pool elevations within an area directly below the outlet structure, which is unlikely to be affected by other reasonably foreseeable projects.

Flows at St. Anthony Falls also represent an important aesthetic resource, one under current evaluation as part of Xcel Energy’s aesthetic flow adequacy study. The project Proposer has agreed to accept a proportional share of the spillway flow requirements resulting from Xcel’s study. Because flows resulting from this study will be specifically designed to provide for the protection of this important aesthetic resource, any flow changes resulting from the proposed Project and reasonably foreseeable other projects are not expected to result in adverse effects, cumulative or otherwise to the aesthetic resource.

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

Unit of Government	Type of Application	Status
US Army Corps of Engineers	Section 404 permit	To be determined
	Section 10 permit	To be determined
Federal Energy Resource Commission	Minor Hydropower License	In process
National Park Service	Historic Preservation certification application	In process
MN Pollution Control Agency	Section 401 certification or waiver	In process
	Notification to Dredge without a Permit	To be provided
MN Department of Natural Resources	Public Waters Work Permit	In process
	Water Appropriations Permit	In process
State Historical Preservation Office	Section 106 Programmatic Agreement	In process
City of Minneapolis	Building Permit	To be completed
	Sidewalk Closure Permit	To be completed
Minneapolis Heritage Preservation Commission	Certificate of Appropriateness	To be completed
Minneapolis Park and	Sidewalk Closure Permit	To be completed

CONCLUSIONS

1. The Minnesota Environmental Review Program Rules, *Minnesota Rules*, chapter 4410.1700, subparts 6 and 7 set forth the following standards and criteria, to which the effects of a project are to be compared, to determine whether it has the potential for significant environmental effects.

In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

- a. *type, extent, and reversibility of environmental effects;*
 - b. *cumulative potential effects of related or anticipated future projects;*
 - c. *extent to which the environmental effects are subject to mitigation by on-going regulatory authority; and*
 - d. *the extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by agencies or the project proposer, including other EISs.*
2. *Type, extent, and reversibility of environmental effects*

Based on the Findings of Fact above, the MDNR concludes that the following potential environmental impacts, as described in Finding No. 25, will be either limited in extent, temporary, or reversible:

- a. Fish, Wildlife and Ecologically Sensitive Resources
 - b. Physical Impacts to Water Resources
 - c. Historical Properties
 - d. Odors, Noise, Dust and Air Emissions
 - e. Cumulative Potential Effects
3. *Cumulative potential effects of related or anticipated future projects.*

The effects of all past projects comprise the existing conditions of the project area. Cumulative environmental effects add to the existing condition the proposed project and future projects.

As described in Finding No. 25e, there are a number of hydroelectric projects both existing and proposed in the area. The entities associated with these projects have been in coordination regarding low river flow issues and minimum river flows to support aesthetic values of the river, as well as water level monitoring to reduce cumulative impacts from these projects. Additionally, the Project would result in the beneficial effect of offsetting electricity demand from traditional sources for the majority of the residential needs within the Pillsbury A-Mill building lofts. In addition, project-specific mitigation efforts have been developed to reduce contribution to cumulative potential effects, as discussed in Finding 25. Overall, impacts are expected to be localized, minimal and temporary.

4. *Extent to which environmental effects are subject to mitigation by on-going public regulatory authority.*

Based on the information in the EAW and Findings of Fact above, the MDNR has determined that the following environmental effects, as described in Finding No. 25, are subject to mitigation by ongoing

public regulatory authority:

Physical impacts on water resources including construction of the turbine and associated in-water infrastructure and excavation of existing sediment are subject to regulatory authority by the MDNR Public Waters Work permit, the MDNR General Waters permit and the USACE Section 404 permit.

When applying standards and criteria used in the determination of the need for an environmental impact statement, the MDNR finds that the project is subject to regulatory authority through the Minnesota public water rules to sufficiently mitigate potential environmental effects on water resources through measures identified in the EAW that are specific and reasonably expected to occur.

Erosion and sedimentation from construction-related activity are subject to regulatory authority by the CWA 401 Water Quality Certification.

5. *Extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or other EISs.*

The MDNR has worked in collaboration with others regarding river flow management, recreational opportunities, and impacts to fish and wildlife in the area. The information gained on the effects and results of past projects provides part of the basis for predicting the effects of similar future projects, such as the proposed project.

The MDNR has prepared EAWs for other hydroelectric projects in the area that have similar environmental effects. These include the Crown Hydroelectric Project.

6. The MDNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an environmental impact statement on the proposed Pillsbury A-Mill Hydroelectric Project.
7. Based on consideration of the criteria and factors specified in the Minnesota Environmental Review Program Rules (*Minnesota Rules*, chapter 4410.1700, subpart 6 and 7) to determine whether a project has the potential for significant environmental effects, and on the Findings and Record in this matter, the MDNR determines that the proposed Pillsbury A-Mill Hydroelectric Project does not have the potential for significant environmental effects.

ORDER

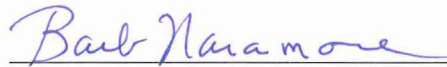
Based on the above Findings of Fact and Conclusions:

The Minnesota Department of Natural Resources determines that an Environmental Impact Statement is not required for the Pillsbury A-Mill Hydroelectric Project in Hennepin County, Minnesota.

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

Dated this 29th day of June, 2015.

**STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES**



Barb Naramore
Assistant Commissioner