MINNESOTA DEPARTMENT OF NATURAL RESOURCES

Record of Decision

In the Matter of the Determination of the Need for an Environmental Impact Statement for the Rock Arch Rapids Restoration Project on South Branch Wild Rice River, in Clay County, Minnesota

FINDINGS OF FACT, CONCLUSIONS, AND ORDER

FINDINGS OF FACT

1. The Wild Rice Watershed District proposes the South Branch Wild Rice River Rock Arch Rapids Restoration project located in Clay County, Minnesota. The project proposes to install a series of rock arch rapids within a 13-mile stretch of the South Branch of the Wild Rice River. Each rock arch rapids would be designed specifically to each stretch of the channel and, in general, would consist of a riprap-lined ramp and a series of rock arches or boulder weirs. The purpose of the proposed project is to restore the river's connection with its floodplain, thereby reducing flood damage, erosion, and sediment transport, and to restore floodplain habitat and provide continued fish passage.

2. The proposed project requires preparation of a State Environmental Assessment Worksheet (EAW) according to Minnesota Rules (Minn. R.) 4410.4300, subpart 26. Stream diversion, and Minn. R. 4410.4300, subpart 27.A. Public waters, public water wetlands and wetlands.

3. The Minnesota Department of Natural Resources (DNR) is the Responsible Governmental Unit (RGU) in the preparation and review of environmental documents related to the South Branch Wild Rice River Rock Arch Rapids Restoration project. *See* Minn. R. 4410.0500, subp. 1.

4. The DNR prepared an EAW for the proposed project. *See* Minn. R. 4410.1400 to 4410.1700.

5. The DNR filed the EAW with the Minnesota Environmental Quality Board (EQB), and a notice of its availability was published in the *EQB Monitor* on April 8, 2025. A copy of the EAW was sent to all persons on the EQB Distribution List, to those persons known by the DNR to be interested in the proposed project, and to those persons requesting a copy. A statewide press release announcing the availability of the EAW was sent to newspapers, radio, and television stations. If requested, paper copies of the EAW were also available for public review and inspection at the Fergus Falls Public Library, the DNR Central Office Library, Hennepin County – Minneapolis Central Library. The EAW was also made available to the public via posting on the DNR's website. *See* Minn. R. 4410.1500.

Public Comment Period and Response to Comments

6. The 30-day EAW public review and comment period began April 8, 2025, and ended May 8, 2025. Written comments on the EAW addressing the completeness and accuracy of the document could be submitted to the DNR by U.S. mail or via email. *See* Minn. R. 4410.1600.

7. During the 30-day EAW public review and comment period, the DNR received one comment letter on the EAW from the Minnesota Pollution Control Agency (MPCA).

8. The comments from the MPCA are summarized below (*See* ¶¶ 9-11) with the RGU's response following. Copies of these comments will be provided to the project proposer and to permitting and/or approval entities and/or authorities for their consideration as part of the permitting, approval, and/or implementation processes.

9. The MPCA provided comments regarding Clean Water Act (CWA) Section 401 water quality certifications. The MPCA commented that the EAW indicates that a CWA Section 404 permit from the U.S. Army Corps of Engineers (USACE) for project-related wetland impacts may be necessary. As a result, an MPCA Section 401 Water Quality Certification with conditions, waiver or denial must also be obtained as part of the permitting process.
    a. Response: Comment acknowledged. EAW Item 9 lists all known local, state, and federal permits, approvals, and certifications for the project, including CWA Section 401 Water Quality Certification. An updated table reflecting these comments is included below in ¶ 15. The information has been passed on to the project proposer for further action as necessary.

10. The MPCA also provided comments on impaired waters. The MPCA commented that the EAW should be updated to include information from the final version of the MPCA's 2024 Impaired Waters List. Additionally, the MPCA commented that the entry in the "Pollutant or stressor" column of EAW Table 10 should be changed to match the relative order of the affected designated use in the previous column.
    a. Response: Comments acknowledged. The information has been shared with the project proposer and the record has been updated.

11. The MPCA commented that in footnote 8 "Wild Rice" is referred to as a County or Soil Water Conservation District (SWCD), but it should be referred to as a Watershed District.
    a. Response: Comment acknowledged. The record has been updated to contain an accurate reference.

Record of Decision Preparation

12. Pursuant to Minn. R. 4410.1700, subp. 2b, the 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.

13. On May 13, 2025, the DNR requested a 15-day extension for making a decision on the need for an EIS for the proposed project. The same day, the DNR was granted the extension by EQB. *See* Minn. R. 4410.1700, subp. 2b.

Environmental Effects

14. 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. Project Construction and Design
    b. Geology, soils and topography/landforms
    c. Water Resources
    d. Rare Wildlife Resources and Habitat
    e. Air
    f. Greenhouse Gas Emissions
    g. Noise

    a. **Project Construction and Design**: This topic was addressed in EAW Item 6.

    Construction of the proposed project would include the installation of approximately 14 to 20 rock arch rapids of variable height, length, and width along the 13-mile stretch of the South Branch Wild Rice River between the town of Ulen and County Road 110. Each rock arch rapids would be designed specifically to each stretch of the channel but would generally consist of a riprap lined ramp and a series of rock arches or boulder weirs. Construction at each rock arch rapids site would take approximately four to six weeks to complete and would include the following steps: access the site, install downstream in-channel sediment and erosion control devices, reshape and sub-cut the river channel, install rock layers to create rapids, fill voids in rock layer, install boulder weirs with voids, and remove sediment and erosion control devices. In total, the project is expected to begin in the fall of 2025 and be complete by 2035. In 2025, the Proposer will construct one rock arch rapids and will construct one to two rock arch rapids each year following. Impacts from the construction of each rock arch rapids are expected to be temporary and limited to the immediate construction area and are expected to occur in the fall and winter months to ensure that the channel is at low flow conditions. The proposed project is subject to the regulatory authority of permits discussed in ¶ 15 below.

    b. **Geology, soils and topography/landforms:** This topic was addressed in EAW Item 11.

    The impacts to soils and topography would include the excavation of the channel substrates to the desired elevations, which would be then filled by the installation of the rock weir. The total volume of excavation and fill would change between each rock arch rapids site; however, the average site would be less than one acre in size. The

excavation across all sites is estimated to be 36,073 cubic yards. This excavation would be replaced by the placement of the rock weirs, which is estimated to be approximately 60,122 cubic yards of fill in total. The rock weirs would prevent the erosion and downcutting within the channel while restoring the topography of the channel and its capability of accessing its floodplain. To prevent erosion and sediment runoff, disturbed areas would be covered with erosion control blankets or mulched. The proposed project does not expect any bedrock or soil destabilization after completion and vegetation reestablishment. Topsoil on the site would be salvaged and reused to expedite vegetation reestablishment as well. The proposed project would make area soils more stable due to the reduction of downcutting in the channel, which has destabilized the river and the adjacent soils.

c. **Water resources:** This topic was addressed in EAW Item 12.

Surface water and water quality: The Wild Rice River, South Branch is a DNR public water. The purpose of the proposed project is to restore the river's connection with its floodplain, thereby reducing flood damage, erosion, and sediment transport, restore floodplain habitat, and provide continued fish passage. The project would include channel reshaping and sub-cutting, as needed, to then install rock layers and boulder weirs to create rapids within the river.

During the construction of the rock arch rapids, surface water and water quality may experience temporary adverse impact due to in-channel work. The magnitude of these impacts would be minimized by using measures to mitigate sedimentation and stormwater runoff during construction. Proposed measures to prevent erosion and sediment runoff include the installation of downstream in-channel sediment control devices (e.g., floating silt curtain and sediment control logs) and other erosion control devices (e.g., erosion control blankets and, vegetation buffers, and silt fences). Post-construction, to mitigate stormwater runoff, activities would include the restoration of disturbed areas, which may include, but are not limited to, grading to final contours, re-seeding, and mulching. Additionally, in-channel construction would occur in the fall and winter to ensure that the channel is at low flow conditions and the project would be monitored by the Wild Rice Watershed District to evaluate the quantity of sediment captured. Potential water quality impacts would be subject to ongoing public regulatory authority discussed in ¶ 15 below.

Wetland impacts: Although the majority of the construction would occur within the channel, there is potential for environmental impacts to wetlands directly adjacent to the river channel. During construction of a rock arch rapids, wetland vegetation may experience short-term temporary impacts due to site access and staging for the in-channel construction, which would require removal of less than 10 trees and some vegetation disturbance and removal. Best management practices, such as sediment traps and vegetation buffers would be placed around all identified wetlands to prevent erosion of bare ground areas and prevent sedimentation of adjacent wetlands.

Following construction, the impacted areas would be restored through restoring topsoil, seeding with a native seed mix, and mulching. Wetland impacts would be subject to ongoing public regulatory authority discussed in ¶ 15 below.

d. **Rare wildlife resources and rare habitat:** This topic was addressed in EAW Item 14.

In-channel construction could impact the creek heelsplitter, a state-listed mussel species of special concern. To limit impacts to this species, the project would maintain and implement strict sediment and erosion control devices around each construction site to prevent any sedimentation or runoff from degrading the waterbody and impacting the creek heelsplitter's habitat. Following project completion, the rock arch rapids would increase habitat availability to the creek heelsplitter.

Additionally, the western prairie fringed orchid, a federally listed threatened and state-listed endangered plant species, and the small white lady's-slipper, a state-listed plant species of special concern, have been documented in the vicinity of the proposed project. Given the rarity and protected status of the western prairie fringed orchid, any suitable habitat for this species within or adjacent to the project area would be identified and avoided. As a result, no negative impacts on the western prairie fringed orchid or the small white lady's-slipper are anticipated to result from the proposed project.

Invasive species could be introduced to the site via construction equipment. The proposed project would comply with the Minnesota Noxious Weed Law. Additionally, all equipment would be thoroughly cleaned prior to construction, between the construction of each rock arch rapids site, and following construction completion to prevent the spread of any invasive species at the site.

e. **Air:** This topic was addressed in EAW Item 17.

Heavy equipment, including construction trucks, excavators, bulldozers, and front-end loaders would be used during construction of the proposed project. Construction-related emissions would be expected to be minor, temporary, and are not anticipated to cause or contribute to a violation of ambient air quality standards for any pollutants.

Odors and dust from the construction activities may occur. Any dust impacts would be managed by dust control methods, including, but not limited to, wetting exposed soils, mulching exposed soils, and restricting unnecessary equipment movement on bare soils. Odors generated during construction would be the result of exhaust of diesel engines and fuel storage. The odors would be managed by zone restricting, operation timing, and standard emission controls. Odor and dust from construction are expected to be temporary and localized.

f. **Greenhouse gas emissions (GHG)**: This topic was addressed in EAW Item 18.

Greenhouse gas emissions related to the proposed project include those related to the construction of the project. No operational GHG emissions are anticipated, as no permanent infrastructure is proposed. The GHG assessment indicates the project may generate 839.8 metric tons per year of emissions during construction, resulting in 8,398 metric tons of emission over the 10-year span of the proposed project.

g. **Noise:** This topic was addressed in EAW Item 19.

The project is expected to generate noise during active construction resulting from operation of heavy equipment to complete the project. Noise impacts would occur only during periods of active construction, during the fall and winter months and during the day. Local residents and visitors would be notified about the timing and duration of construction prior to the beginning of construction. The proposed project would conform to all state and local noise standards and would not have permanent noise pollution impacts to the site.

Permits and Approvals

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

Unit of Government	**Type of Application**	**Status**
United States Army Corps of Engineers	Clean Water Act Section 404 Permit	To be submitted
U.S. Fish and Wildlife Service	Endangered Species Act Consultation and Approval	To be completed
Minnesota DNR	Public Waters Work Permit	To be submitted
Minnesota DNR	Natural Heritage Review	Received August 23, 2024
Minnesota State Historic Preservation Office	Archaeological, Cultural, & Historic Resource Review	To be submitted
Minnesota Pollution Control Agency	Clean Water Act 401 Certification	To be submitted
Minnesota Pollution Control Agency	National Pollutant Discharge Elimination System (NPDES)/ State Disposal System (SDS) Construction Stormwater Permit	To be submitted
Clay County Soil and Water Conservation District	Wetland Conservation Act Permit	To be submitted

Conclusions

1. The Minnesota Environmental Review Program Rules, Minn. R. 4410.1700, subparts 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.

    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 above in ¶ 14, 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:

    - Project Construction and Design
    - Geology, soils and topography/landforms
    - Water Resources
    - Rare Wildlife Resources and Habitat
    - Air
    - Greenhouse Gas Emissions
    - Noise

3. *Cumulative potential effects.*

Based on information contained in the EAW, the DNR is unaware of any past, present, or reasonably foreseeable projects, for which a basis of expectation has been laid, that combined with environmental effects of the proposed project may result in significant potential for environmental effects.

4. *Extent to which environmental effects are subject to mitigation by ongoing public regulatory authority*.

   Based on the Findings of Fact set forth in ¶¶ 14 and 15 above and the information contained in the EAW, the 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:

   - Physical impacts on water resources are subject to regulatory authority by the DNR Public Waters Work Permit, the U.S. Army Corps of Engineers Section 404 Permit, the Clay County Soil and Water Conservation District Wetland Conservation Act Permit.
   - Erosion, sedimentation, and water quality from construction-related activity are subject to regulatory authority by the MPCA NPDES/SDS Construction Stormwater Permit and the CWA 401 Water Quality Certification.
   - Impacts to archaeological, cultural, and historic resources would be subject to the Minnesota State Historic Preservation Office, subject to pending review.
   - Impacts to rare wildlife resources and habitat would be subject to the DNR's Natural Heritage Review and the U.S. Fish and Wildlife Service's Endangered Species Act Consultation and Approval.

   Permits and Approvals: Prior to initiation of this project, the permits and approvals identified in Finding ¶ 15 would be required. When applying the standards and criteria used in the determination of the need for an environmental impact statement, the 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 Record of Decision.

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*.

   No additional studies were relied upon for this criterion.

6. As set forth in ¶¶ 1 – 13, the DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an EIS on the proposed South Branch Wild Rice River Rock Arch Rapids Restoration, Clay County, Minnesota.

7. Based on consideration of the criteria and factors specified in the Minnesota Environmental Review Program Rules (Minn. R. part 4410.1700, subparts 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 DNR determines that the proposed South Branch Wild Rice River Rock Arch Rapids Restoration 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 South Branch Wild Rice River Rock Arch Rapids Restoration, located in Clay 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 ____ day of **June 2025**

DEPARTMENT OF NATURAL RESOURCES

Jess Richards
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Jess Richards
Assistant Commissioner