

# DEPARTMENT OF NATURAL RESOURCES

## Record of Decision

**In the Matter of the Determination of the Need for an Environmental Impact Statement for the Vermillion River Aquatic Management Area: Streambank Stabilization, in Dakota County, Minnesota**      **FINDINGS OF FACT, CONCLUSIONS, AND ORDER**

### **FINDINGS OF FACT**

1. The project is proposed to stabilize an eroding bank within the Vermillion River Aquatic Management Area. The Vermillion River is migrating into a high bank and increasing erosion. Stabilization of 365 feet in length of streambank would reduce erosion while benefiting fish, aquatic invertebrate, and wildlife habitats.
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. 27, item A, regarding public waters and public water wetlands. The proposed project would change or diminish the course, current or cross-section of one acre or more of a public water 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 is the responsible government unit (RGU) unless the project would be carried out by a state agency, in which case that state agency is the RGU. Therefore, as the proposer of the Vermillion River Aquatic Management Area: Streambank Stabilization project, the Minnesota Department of Natural Resources (DNR) is delegated the duties of the RGU for conducting the required environmental review.
4. The DNR prepared an EAW for the proposed project according to *Minnesota Rules*, parts 4410.1400 and 4410.1500.
5. The EAW was filed with the Minnesota Environmental Quality Board (EQB) and a notice of its availability was published in the EQB Monitor on December 14, 2020. 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 press release announcing the availability of the EAW was sent to newspapers and radio and television stations statewide. Copies of the EAW were also made available for public review and inspection at the Minneapolis Public Library; the DNR Library (St. Paul), and the Farmington, Minnesota public library. The EAW was also made available to the public via posting on the DNR's website.

6. The 30-day EAW public review and comment period began December 14, 2020, and ended January 13, 2021, pursuant to *Minnesota Rules*, chapter 4410.1600. The comment period closed at 4:30 pm. The opportunity was provided to submit written comments on the EAW to the DNR by U.S. Mail, by facsimile, or electronically by email.
7. The EAW is incorporated by reference into this Record of Decision on the determination of need for an environmental impact statement (EIS).
8. During the 30-day EAW public review and comment period, four written comments on the EAW were received. Comments are listed below and a summary of the comment and responses are included with this Record of Decision. The findings numbered 18 through 24 include further discussion on comments received and responses from the DNR. Copies of the comments received have been attached to this Record of Decision (Attachment 1).
  - A. Jack Moore (December 14, 2020)
  - B. Christopher E. Smith (December 14, 2020)
  - C. Travis Thiel (December 12, 2020)
  - D. Minnesota Pollution Control Agency (January 7, 2021)
  - E. Dakota County (January 8, 2021)
  - F. Metropolitan Council (January 14, 2021)
9. DNR received a letter from the Army Corps of Engineers on February 3, 2021 describing permits which may apply to the project.

RESPONSE: Thank you for your comment. All required permits and approvals will be applied for and acquired before the project starts.

10. Commenter A. You should contact Austin Cargill who wrote his PHD thesis on small Midwestern stream management. He completely re- built a small trout stream just East of Spooner, WI. (Crystal Brook I think).

RESPONSE: This recommendation is noted and will be forwarded to the project proposer for consideration regarding final project designs and implementation.

11. Commenter B. recommended limiting erosion control materials to plastic-free materials such as cotton and jute.

RESPONSE: This recommendation is noted. The project proposer has indicated that that current project plans include that all materials used will be biodegradable except the silt fences. This includes the stakes used to secure erosion control blankets and jute fabric, which are composed of wood or cornstarch. The silt fences will be removed as the project is finished.

12. Commenter B. recommended filling riprap voids with sand or small aggregate to prevent entrapment of small animals in riprap voids.

RESPONSE: While the recommendation is appreciated, rip-rap is not currently planned to be used in the proposed project.

13. Commenter B. Native seed mixes should be used in all areas requiring revegetation.

RESPONSE: Thank you for your comment. The project proposer has indicated that current project plans include using native grass, forb, and sedge seeds on this site and will be locally sourced. Most seed sources are planned to be sourced from an area within eight miles of the proposed project location. All species used will have a previous record of occurrence in Dakota County.

14. Commenter B. Tree clearing, if required, should be limited in the winter months to avoid direct impacts to protected bats and birds.

RESPONSE: Thank you for your comment. As noted in the EAW, there are no long-eared bat hibernacula or maternity roost trees in the area. However, to limit impacts, the project proposer has indicated that current plans are that tree clearing will be conducted in August after bats like the northern long-eared bat are able to leave the roost and most avian species have fledged.

15. Commenters C and E. Under the “Project location and overview” header, there are a number of quantities of “fill” described for completing the project and a note that material will be taken from the channel or “additional fill would come from within the floodplain.” It is the understanding of the Vermillion River Watershed Joint Powers Organization (VRWJPO) that this means that soil materials used in construction of the toewood areas will come from within the floodplain boundary and that no soil material will be brought from off-site. This distinction should be made clear to ensure adequate coordination with Dakota County on the Shoreland permitting and the regulatory floodplain (see below note on permitting.)

RESPONSE: The EAW states, “Excavated soils would be used during the construction to fill the existing channel limiting the need for fill to be used with the proposed project area”. The project proposer has confirmed that the soil material for this project will come entirely from within the floodplain boundary and no soil materials will be brought from offsite.

16. Commenter C. Under the “Project Construction” section, it is indicated that the coarse woody material would be topped with native willow cuttings. The VRWJPO has implemented similar practices on VRWJPO projects and found the timing of work during the non-exclusionary trout stream period doesn’t allow for cuttings to be collected during their dormant period, so the likelihood of the willow survival may be quite low. It may be worth planning additional willow cuttings collection and installation of the live stakes during the dormant period following project construction in order to increase the likelihood that willows will sprout and establish themselves to help protect and stabilize the bank.

RESPONSE: Thank you for your comment. The project proposer will utilize several strategies to plant the areas with native shrubs. For willows, the project will implement a collection of cuttings after the willows go dormant. There is a dense area of sand willow (50’ X 50’) near the proposed crossing that will be used to stake during the dormant period. The project will also collect willow cuttings in the spring and pot the plants to be grown by a nursery. These will be planted in the fall. There is an area within the parcel with Red-Osier Dogwood. The seeds will be harvested and sowed on-site in late fall. The site will be monitored for three years to assure the plantings are successful or if additional plantings are necessary plants will be purchased. Future management of the site will be addressed as part of AMA vegetation management.

17. Commenter C. Based on past project experience, the VRWJPO recommends that specific dates not be provided due to the potential for adverse flow conditions during the identified work window.

Alternatively, phases and lengths of phases could be provided within the worksheet (e.g., Phase 1, 7 days rock stockpile and access) that provide expected length of work phase, without specific dates of work.

RESPONSE: This recommendation is noted. Specific dates included are estimates for the purposes of assessing the projects' environmental effects. Once the EAW process is complete, it is expected the project will follow these estimates as much as possible, accounting for limitations or adverse conditions as the commenter notes.

18. Commenters C and E. Table 3 lists the permits and approvals required for the project. The VRWJPO suggests noting in the EAW that the DNR will inquire with Dakota County regarding the need for a Shoreland Alteration Permit and with Vermillion Township regarding the need for a land disturbance/grading permit. These organizations may not require a permit, but they should be contacted in order to determine if this is the case. The list does not include the Army Corps of Engineers as a permitting organization. Bank stabilization projects may require a permit for fill in wetlands from the Army Corps of Engineers, so we recommend inquiring about a permit.

RESPONSE: Thank you for your comment. Following the completion of the environmental review process, the project proposer will be coordinating with these and other entities regarding permit approvals to which the project is subject. Table 3 has been updated accordingly. All required permits and approvals will be applied for and acquired before initiation of the project.

19. Commenter C. The VRWJPO appreciates Section 9.b., acknowledging the strategies identified in the Vermillion River Watershed Restoration and Protection Strategy (WRAPS) Report as significant and coordinated efforts by many organizations went into the development of these strategies. Including this information indicates a commitment to a coordinated effort to address the needs identified through this collaborative effort.

RESPONSE: Thank you for your comment.

20. Commenter C. Section 11.A.i. lists the only impairment for this reach of the Vermillion River and impairments within one mile of the project location as aquatic consumption and has an approved TMDL for mercury in fish tissue. The South Branch Vermillion River is impaired for Aquatic Life (fish and macroinvertebrates) and should be noted in the EAW. Reach M-049 also corresponds with the MPCA's AUID 07040001-691. While -692 is not listed as impaired for aquatic life (fish), AUID -692 is one-half mile downstream of the project location and is listed for aquatic life (fish). Both listed impairments have approved TMDLs and the WRAPS report identifies strategies to address the stressors to the fish and macroinvertebrate populations.

RESPONSE: This comment is noted. The additional impairment is included in the environmental effects discussion below and has been considered in the final decision on the need for an EIS included in this document.

21. Commenter D. Makes clarifying comments about the submittal of the SWPPP. First the commenter clarifies that SWPPs are only required for projects that disturb 50 acres or more and discharges to a special or impaired water. The commenter further states that because the Vermillion River is a designated trout stream, the SWPPP will need to meet additional requirements that are not specified in the EAW.

RESPONSE: Thank you for your comment. The project proposer will apply for and acquire all required permits and approvals and will comply with any required submittals. The proposer defers to the MPCA as the regulatory authority regarding required submittals.

22. Commenter D. It should also be noted that the MPCA National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) General Construction Stormwater Permit only applies to those disturbed acres that are located above the Ordinary High Water Level (OHWL) as determined by the DNR and if the acres above the OHWL result in disturbance of 1 or more acres. The DNR Public Waters work permit requirements apply to those areas below the OHWL.

RESPONSE: Thank you for your comment. All required permits and approvals will be applied for and acquired before the project starts.

23. Commenter D. Any dewatering at the site will require best management practices to remove sediment from the dewatering effluent prior to discharging the water back into the stream.

RESPONSE: This project does not anticipate requiring any dewatering as part of construction or operation of the project. If any dewatering is necessary, best management practices will be used and the project proposer will coordinate with MPCA on any applicable permitting.

24. Commenter D. An effort should be made to prevent tracking of sediment by equipment at stream crossings. Please direct questions regarding Construction Stormwater Permit requirements to Roberta Getman at 507-206-2629 or [Roberta.Getman@state.mn.us](mailto:Roberta.Getman@state.mn.us).

RESPONSE: Thank you for your comment. This will be completed as part of the SWPPP. The project proposer will apply for and acquire all required permits and approvals and will comply with any required submittals. The proposer defers to the MPCA as the regulatory authority regarding required submittals.

25. Commenter D. Although the impacts of construction noise will be limited, the MPCA recommends that the vehicles and other equipment used for the project be appropriately muffled. No long-term impacts to noise are expected. For noise related questions, please contact Fawkes Char at 651-757-2327 or [Fawkes.Char@state.mn.us](mailto:Fawkes.Char@state.mn.us).

RESPONSE: Thank you for your comment. All vehicles will be appropriated muffled in compliance with state standards.

26. Commenters D and F. The Vermillion River Greenway Regional Trail Search Corridor is within 1/2 mile of the proposed streambank stabilization project. However, as a regional trail search corridor, the specific routing of this future regional trail has not yet been finalized and it does not have a Council-adopted master plan.

RESPONSE: Thank you for your comments. This information does not change the proposed project's potential for significant environmental effects, but will be forwarded to the project proposer for their information and coordination as the project is implemented.

27. Commenter E. Dakota County conducted an environmental review of the Vermillion Stream Stabilization project area and no known environmental issues were identified for the project area. If debris is encountered in the project area it should be removed and disposed of properly.

RESPONSE: Thank you for your comment. If debris is encountered it will be disposed of in accordance with existing laws and guidance.

28. On January 25, 2021, the DNR requested a 15-day extension from the Minnesota Environmental Quality Board (EQB) for making a decision on the need for an EIS for the proposed project. On January 26, 2021 the DNR was granted the extension by EQB. See Minn. R. 4410.1700, subp. 2b.

29. The DNR has determined that the following issues reviewed for potential environmental effects in the EAW have no or very limited potential for environmental effects.

- a. Land Use (EAW Item 9). Due to the nature of project activities, the construction and operation of the proposed project would not have a negative environmental effect on land use, as the existing land use of the area has historically been agriculturally managed, in addition to aquatic habitat and recreational uses. The proposed project is compatible with zoning ordinances and applicable land use plans. Anticipated positive outcomes of the project include improvements to existing recreational values and habitat.
- b. Geology (EAW Item 10a). The proposed project would not affect geology, nor does geology affect the project proposal, as the proposal would not involve excavation into the surrounding geology.
- c. Hazardous Materials or Waste Generation (EAW Item 12). No potential environmental effects related to existing or generation of hazardous wastes on or near the project area were identified.
- d. Groundwater (EAW Item 11a.ii). No potential environmental effects related to groundwater were identified within or near the project area.
- e. Historic Properties (EAW Item 14). No potential effects were identified as a result of a DNR Historic Property Assessment, an evaluation by the United States Fish and Wildlife Service Regional Historic Property Officer. Concurrence has been received from the State Historic Preservation Office.
- f. Transportation (EAW Item 18). The proposed project is planned between August 1 and September 30th. Work would be conducted Monday through Thursday. The site would be accessed by approximately four vehicles arriving in the morning and departing in the afternoon. Construction equipment would be delivered to the site and remain on site until the work is completed. Occasional truck traffic, typically one or two trips a week, would be necessary to deliver materials, but it would not affect traffic.

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

- a. Physical Impacts to Public Waters and Wetlands
- b. Water Quality During Construction
- c. Wildlife Impacts and Habitat
- d. Visual Impacts during Construction
- e. Noise, air emissions, odors, and dust during Construction
- f. Cumulative Potential Effects

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

- a. **Physical Impacts to Public Waters and Wetlands.** This topic was addressed in EAW Items 6 and 11. This proposed project would reduce erosion by adjusting the channel away from the eroding bank. Materials from the excavated channel would be used to fill in the previous channel. Additional fill would come from within the floodplain. The bank height would be decreased to a bankfull elevation creating a flood plain bench to lessen stream velocities during high flows. The proposed project also proposes to increase the bend length which increases the radius of the stream segment which also lessens stream velocity. The proposed project would occur outside the exclusion dates to limit impacts to trout spawning and migration.
- b. **Water Quality During Construction.** This topic was addressed in EAW Item 11b. The project would increase the quantity of runoff to the Vermillion River at least temporarily and would increase the amount of sediments and other pollutants enter the river. If the runoff is not managed, controlled, or filtered during and after construction, the amount of soluble solids and nutrients carried to the surface waters could increase. The potential cumulative effects on water quality will be temporary in nature, with the Vermillion River being most vulnerable during project construction. Soon after construction of the channel restoration is completed, the Vermillion River channel should exhibit sediment reduction as the streambanks are re-stabilized. Permit requirements and BMPs applied during construction are anticipated to be sufficient to manage the temporary risk of higher sedimentation.
- c. **Wildlife and Habitat.** This topic was addressed in EAW Items 11b and 13. The proposed project may have minor temporary adverse impacts on wildlife in the vicinity of the proposed project area. Temporary impacts to wildlife may include increased noise and human activity during construction. Many species, even those accustomed to human proximity, could temporarily abandon habitats near the proposed project area until the work is completed. These temporary impacts are not expected to significantly harm wildlife individuals or populations.

A potential impact to wetlands may be soil compaction. To reduce impacts the equipment used would be required to use rubber tracks and operate from construction mats to limit compaction. The present grass component of the wetland community is dominated by reed canary grass. Before leaving soils would be scarified to reduce compaction and seeded with native wetland species and covered with erosion control fabric.

In order to minimize the spread of non-native invasive species, construction equipment would be cleared before arriving on site and cleaned again upon leaving the site to minimize the potential for invasive species transfer.

During all construction activity, DNR would employ measures to minimize temporary adverse effects to fish, wildlife, plant communities, and sensitive ecological resources, including:

- Potential impacts to fish would be minimized by avoiding construction activities in the Vermillion River between September 1 and April 1.
- To avoid potential impact to loggerhead shrikes nesting in the proposed project area, no tree clearing would occur until August 1st after the most likely loggerhead shrike nesting

and fledging season.

- Practices to avoid and minimize impacts to Blanding's turtle would include a Blanding's turtle fact sheet for all contractors in the work area, wetlands would be protected from dredging deepening, filling, and be protected from pollution. In addition, any disturbed areas would be left with as much natural contour as possible and revegetated with native grasses, forbs and shrubs.
- Invasive species mitigation techniques described above will be implemented.

d. **Visual Impacts During Construction.** This topic was addressed in EAW Item 15. Limited view and vista would be impacted by this proposed project. There are a few residences with visual sight lines to the proposed project site. Construction times would be limited to daylight hours. No vapor plumes or glare from lights would be present at the restoration site.

e. **Noise, air emissions, odors, and dust during construction.** These topics were addressed in EAW Items 16 and 17.

Noise: The sources of noise associated with the proposed project are typical of the noise generated by construction equipment and workers accessing the proposed project area. The equipment associated with the proposed project is expected to be limited to general earth moving equipment (excavator and loader) and trucks to deliver material (i.e. boulders, gravels, and other materials) to and from the proposed project area.

Existing noise levels and sources are minimal and mostly limited ambient road noise. There are a number of private residences within one-half mile. The nearest resident to the proposed project area is 1,000 feet. An in-home daycare is 3,800 feet from the proposed project area.

Minn. R. pt. 7030.0040 establishes two noise levels, L10 and L50, based on the percent of time noise levels exceed the standard over a one-hour time period: L10 is defined as "noise levels exceeding the standard for 10% of the time for one hour (6 minutes/hour)" and L50 is defined as "noise levels exceeding the standard for 50% of the time for one hour (30 minutes/hour)." The rules also establish daytime and nighttime noise level standards based on Noise Activity Classification (NAC) levels. Minn. R. pt. 7030.0050 defines NAC levels based on land uses as 1, 2, 3, or 4. NAC Level 2 is for commercial and recreational land use types, typical to that of the project site.

Construction times would be limited to daylight hours over the three-week period of construction. No change in the long-term noise level is expected after completion of construction proposed project.

Air Emissions: The proposed project would result in short-term, localized air quality impacts due to emissions from construction vehicles during construction activities, which are expected to last three weeks (Monday through Thursday). Emissions from the powered equipment would be minor and temporary during construction and are expected to have an overall negligible impact on air quality.

Dust and Odors: During construction, the proposed project may generate limited amounts of dust as a result of site preparation and grading. The nearest resident to the proposed project



area is 1,000 feet. An in-home daycare is 3,800 feet from the proposed project area. Two Vermillion River and one South Branch of the Vermillion River AMA's are within one mile of the proposed project area. Some dust may result, but this site is generally very moist due to the proximity of groundwater, so dust during construction should be minimal. Construction times would be limited to daylight hours.

- f. **Cumulative Potential Effects.** This topic was addressed in EAW Item 19. 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 environmental effects were considered in total in the EAW under Item 19. The EAW identified the potential for physical effects on surface waters, including the localized effects to wildlife habitat and vegetation, and water quality due to this project.

Project actions are cumulative in nature. The specific outcomes identified above might result in some temporary negative environmental effects and in some instances may require special consideration in the permitting phase of the project. Over the long term, the project's improvements to critical wildlife habitat are anticipated to result in positive outcomes and beneficial effects to the environment of the Vermillion River AMA.

The cumulative potential effects associated with the proposed project are primarily related to potential effects on water quality. The related project would increase the quantity of runoff to the Vermillion River and at least temporarily, increase the amount of sediments and other pollutants entering the river. If runoff is not managed, controlled, or filtered during and after constructions of the proposed project, the amount of soluble solids and nutrients carried to the surface waters could increase.

The potential cumulative effects on water quality would be temporary in nature, with the environmental effects limited to the Vermillion River during project construction. Soon after construction of the channel restoration is completed, the Vermillion River channel is expected to exhibit sediment reduction as the streambanks are re-stabilized. Permit requirements and BMPs applied during construction are anticipated to manage the temporary risk of higher sedimentation.

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

Unit of government	Type of application	Status
U.S. Fish and Wildlife Service	Section 7 concurrence	To be obtained
Minnesota Pollution Control Agency	NPDES/SDS Construction stormwater permit	To be obtained
Minnesota Department of Natural Resources	Public waters work permit	To be obtained
State Historic Preservation Agency	Section 106 concurrence	Issued Appendix A

Unit of government	Type of application	Status
Minnesota Office of State Archaeologist	Project approval	Issued Appendix A
Minnesota Department of Natural Resources	Natural Heritage Information System Data	Issued Appendix D
Dakota County	Shoreland alteration permit	To be obtained
State of Minnesota	Lessard-Sams Outdoor Heritage Grant	Funded
State of Minnesota	Fisheries	Funded

## 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 DNR concludes that the following potential environmental effects, as described in Finding 30, would be limited in extent, temporary, or reversible:

- a. Physical Impacts to Public Waters and Wetlands
- b. Water Quality During Construction
- c. Wildlife Impacts and Habitat
- d. Visual Impacts during Construction
- e. Noise, air emissions, odors, and dust during Construction
- f. Cumulative Potential Effects

Based on the Findings of Fact above, the DNR concludes the following potential environmental effects of the project, as described in Finding 30 would be beneficial:

- a. Reduction in total solids in the stream
- b. Reduction in invasive species and improved wetland habitat

The proposed project would yield several environmental benefits, as listed previously, and less tangible broad

scale benefits to the public in general and individuals that directly use and depend on the Vermillion River because of the improvements to water quality, aquatic habitats, and biota.

3. *Cumulative potential effects of related or anticipated future projects.*

The effects of all past projects comprise the existing conditions of the project area. The cumulative environmental effects of the proposed project and future projects add to existing conditions. Cumulative environmental effects for future projects are assessed by evaluating the effect on the environment resulting from the incremental effects of the project under review plus similar effects from certain future projects that overlap spatially or temporally with the proposed project.

Based on the Findings of Fact above, the DNR concludes that cumulative potential effects from disturbance to wildlife and rare features, increase in sedimentation, and effects on surface waters and water quality of the Vermillion River environment are as described in Finding 30f. Based on the Findings of Fact above, the DNR concludes that the cumulative potential environmental effects of this project are not significant.

Positive impacts include: long-term reduction in sedimentation; removing or containing accumulated sediments; reducing the diversity and abundance of non-native invasive species; and generally increasing quality of habitat for native fish and wildlife populations.

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 DNR has determined that the following environmental effects, as described in Findings 30a through 30f, are subject to mitigation by ongoing public regulatory authority:

Physical Impacts to Public Waters and Wetlands: DNR Public Waters Work Permit requires mitigation, development of a least adverse alternatives analysis, and a natural hydrological condition improvement.

Water Quality During Construction: MPCA NPDES/SDS Construction stormwater permit effectively reduces any potential water quality impact through the use of best management practices and other permit conditions.

Wildlife and Habitat: DNR Public Waters Work Permit requires plans that show the nature and degree of habitat to be benefited, that the project not exceed more than the minimum damage to the environment, and that the project must achieve the beneficial purpose of restoring fish and wildlife habitat.

Noise: *Minnesota Rules*, part 7030.0030 Noise Control Requirement is administered through MPCA which sets receiver-based standards, and construction site controls are set Occupational Safety and Health Administration (OSHA), which sets levels that protect against hearing loss in the workplace.

5. The DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an environmental impact statement on the proposed Vermillion River Aquatic Management Area Bank Stabilization project.
6. Based on considerations 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 DNR determines that the proposed Vermillion River Aquatic Management Area Bank Stabilization 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 Vermillion River Aquatic Management Area Bank Stabilization project in Dakota 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 1<sup>st</sup> day of March, 2021.

**STATE OF MINNESOTA  
DEPARTMENT OF NATURAL RESOURCES**



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Jess Richards  
Assistant Commissioner