DEPARTMENT OF NATURAL RESOURCES

Record of Decision

In the Matter of the Determination of the Need for an Environmental Impact Statement for the Willow River Dam Restoration Project in the City of Willow River, in Pine County, Minnesota

FINDINGS OF FACT, CONCLUSIONS, AND ORDER

FINDINGS OF FACT

1. The Department of Natural Resources (DNR) proposes the Willow River Dam Restoration Project (project). The project proposes to replace the damaged Willow River Dam with a rock rapids dam. The dam, built in the 1940's, breached in July 2016 after a large flood overtopped the dam. In its damaged state, the dam no longer holds lake levels at their former elevation. To restore lake levels and to provide for fish passage, the DNR is proposing to fill in the eroded channel and construct a series of rock arch weirs downstream of the existing dam. In addition to allowing fish passage, the rock arch rapids design eliminates safety issues associated with the previous dam structure.

2. The proposed project requires preparation of a State Environmental Assessment Worksheet (EAW) according to the rules of the Minnesota Environmental Quality Board (EQB), Minnesota Rules (Minn. R.) 4410.4300, Subp. 27, Wetlands and public waters.

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 Willow River Dam Restoration Project (project). *See* Minn. R. 4410.0500, subp. 1.

4. The DNR prepared an EAW for the proposed project. *See* Minn. R. 4410.1400 and 4410.4300, subp. 27.

5. DNR filed the EAW with the Minnesota Environmental Quality Board (EQB) and a notice of its availability was published in the EQB *Monitor* on May 4, 2020. 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. A statewide press release announcing the availability of the EAW was sent to newspapers, radio and television stations. Copies of the EAW were distributed to the following locations: the DNR Northeast Region Headquarters, the DNR Library, the Moose Lake Library, the Hennepin County Library and the East Central Regional Library. The EAW was also made available to the public via posting on the DNR's website. *See* Minn. R. 4410.1500.

6. The 30-day EAW public review and comment period began May 4, 2020 and ended June 3, 2020. Written comments on the EAW could be submitted to the DNR by U.S. mail, facsimile, or via email. *See* Minn. R. 4410.1600.

7. During the 30-day EAW public review and comment period, the DNR received 17 written comments on the EAW. One additional comment was received after the comment period closed, for a total of 18 written comments received. The agencies and individuals who submitted comments are listed below. Comment letters are included in Attachment A of this Record of Decision.
    - Minnesota Pollution Control Agency (MPCA), Karen Kromar
    - RD Anderson, member of the public
    - Jennifer Bonrud, member of the public
    - Saben DeSmet, member of the public
    - Chrissy Gamst, member of the public
    - Owen Gustafson, member of the public
    - Jayson Gutzke, member of the public
    - Fitzie Heimdahl, member of the public
    - Bernadette Johnson, member of the public
    - Harlan Johnson, member of the public
    - Rick Lent, member of the public
    - Loesch, member of the public
    - Gary Novak, member of the public
    - Stephen Seidl, member of the public
    - Christopher Smith, member of the public
    - Shelley Underhill, member of the public
    - CJ Vincent, member of the public
    - Martin Wellens, member of the public

8. Comment letters are summarized below (*See* ¶ 9 – 16.) with DNR'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 comment letter stated that they have no comment at this time. The letter also reminded the DNR that it is the responsibly of the project proposer to secure any required permits and to comply with any requisite permit conditions.

    RESPONSE: The DNR appreciates the time MPCA staff spent reviewing the EAW and will provide this reminder to the Proposer.

10. Eleven commenters expressed support for the proposed Project for various reasons, such as improvement in visual aesthetics, fish movement, and recreation; increased safety compared to the former dam; return of lake levels; property value benefits; and climate change resilience. These comments did not address the accuracy or completeness of the material contained in the EAW or environmental impacts that may warrant further investigation prior to the final Record of Decision.

These comments did not receive a specific response. *See* Minn. R. 4410.1700, subp. 4. These commenters, in alphabetical order by last name, include:

- RD Anderson
- Jennifer Bonrud
- Saben De Smet
- Chrissy Gamst
- Owen Gustafson
- Fitzie Heimdahl
- Bernadette Johnson
- Rick Lent
- Loesch
- Shelley Underhill
- CJ Vincent

11. One commenter, Harlan Johnson, submitted comments that were specific to the Minnesota Falls EAW, which was on public Notice in 2011.

    RESPONSE: The letter appears to have been sent to the DNR in error, as questions were directed to the EQB. The comments do not apply to the Willow River Dam Restoration EAW. The comments did not address the accuracy or completeness of the material contained in the EAW or environmental impacts that may warrant further investigation prior to the ROD. These comments did not receive a specific response. *See* Minn. R. 4410.1700, subp. 4.

12. One commenter, Christopher Smith, provided mitigation recommendations for potential impacts to wildlife.

    COMMENT 1: Commenter recommended that the project utilize wildlife friendly erosion control (natural fiber, with no plastic).
    RESPONSE 1: The use of wildlife friendly erosion control is discussed in EAW item 13d. The Proposer plans to utilize wildlife friendly erosion control for this project.

    COMMENT 2: Commenter recommends that the project avoid the use of plastic turf reinforcement mats (TRM) and that natural fibers be utilized instead.
    RESPONSE 2: Item 10b of the EAW stated that turf reinforcement mat was proposed to be used on both the north and south sides of the rock rapids on the dry side of the containment berms; during development of the EAW the project proposer and its engineering consultant had discussions about reducing or eliminating the use of TRM. Since the publication of the EAW, the design of the proposed Project has changed, and the use of TRM is no longer proposed.

    COMMENT 3: Commenter recommended filling rip-rap voids with small aggregate or sand, to minimize risk to wood turtles.

RESPONSE 3: The riprap in the rock rapids would be intermixed with Class I riprap and granular filter material for chinking per plan sheet C-11, which was not included in the EAW due to attempts to limit the size of the Attachments.

COMMENT 4: Commenter recommends winter tree clearing (November 1 to March 31, inclusive) to minimize impacts to bats and birds.
RESPONSE 4: Tree clearing is discussed in Item 13c of the EAW. Tree clearing would be minimized on site; however, tree clearing would occur on the embankments and containment berms. As described in Item 13c of the EAW, as much as practical, tree removal would occur between the months of October 1 and March 31 (per DNR and US Fish and Wildlife Guidance) to avoid potential impacts to nesting birds, roosting bats, and bat pups. A DNR non-game specialist would review the removal of any tree within the project area and recommended avoidance of specific tree removal that is of suitable habitat.

13. One commenter, Jayson Gutzke, expressed opposition to the proposed Project, stating that a new dam should be built. This commenter also expressed concern for loss of opportunities to fish and lower water levels.

    RESPONSE: The Project proposes to restore lake levels to what they were before the dam failed. Item 6d of the EAW discusses the decision-making process and alternatives considered. One alternative considered was to replace (rebuild) the dam. As stated in the EAW, safety, ecological impact, recreation, infrastructure requirements, costs and available funding, history, and technical feasibility were all considered in the decision making process. The proposed Project (construction of a rock arch rapids) was the alternative selected due the low safety risk, and the benefits it would provide for fish and wildlife passage and recreation opportunities. As stated in Item 6 and Item 13 of the EAW, the proposed Project would allow for fish passage between Lake Stanton and the Willow River. Fish diversity within Lake Stanton may increase with the proposed Project, due to the removal of the fish barrier. Fishing opportunities would still exist with the proposed Project.

14. One commenter, Martin R. Wellens, asked about the need for an EAW for this project and suggested that the DNR petition the Legislature to remove this EAW category. This commenter also expressed concern for the lack of fishing opportunities since the dam breach in 2016.

    RESPONSE: Item 4 of the EAW incorrectly stated that the reason for the preparation of this mandatory EAW was due to Minn. R. 4410.4400 subp. 20. The EAW was mandatory due to Minn. R. 4410, 4300, subp. 27. The process for requesting changes to EAW mandatory categories is done through EQB Rule Making. The Project proposes to restore lake levels to what they were before the dam failed. Fishing opportunities would exist with the proposed Project. *See* ¶ 13.

15. One commenter, Stephen Seidl, asked why a dam couldn't be rebuilt.

    RESPONSE: The Project proposes to restore lake levels to what they were before the dam failed. Item 6d of the EAW discusses the decision-making process and alternatives considered. *See* ¶ 13.

16. One commenter, Gary Novak, suggests saving the dam by building new flood overflow and new control gates.

RESPONSE: The Project proposes to restore lake levels to what they were before the dam failed. The proposed Project was the alternative selected due the low safety risk, and the benefits it would provide for fish and wildlife passage and recreation opportunities. *See* ¶ 13.

17. On June 22, 2020, DNR requested a 15-day extension for making a decision on the need for an EIS for the proposed project. On June 23, 2020, EQB granted the extension. *See* Minn. R. 4410.1700, subp. 2b.

18. 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. Cover Type Conversion
    c. Water Resources
    d. Wildlife Resources and Habitat
    e. Visual
    f. Noise
    g. Transportation
    h. Cumulative Potential Effects

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

    a. Project Construction and Design: This topic was addressed in EAW Items 6, 11, 12, 13, 16, 17, 18 and 19.

    To restore lake levels and to provide for aquatic passage, the eroded river channel would be filled in with engineered fill with a clay core, and a series of rock arch weirs would be constructed downstream of the existing dam. The rock arch rapids would be approximately 500 feet long and an average width of 120 feet, wider on the east at the reservoir and narrower at the downstream end near Highway 61. The project proposes to remove approximately 5,000 cubic yards of breach washout material from the river channel that was deposited after the 2016 dam breach. The rock arch rapids would be constructed with 17,000 cubic yard of rock of various sizes placed in and along the channel. Containment berms would be constructed along both sides of the rock arch rapids. The concrete outlet structure would be partially removed.

    An overall summary of project construction is outlined below:

    - Construct an access route through the existing parking lot on the north end of the project.
    - Reconstruct the existing failed embankment on the North side of the concrete dam structure. Engineered fill and a clay core would be placed and compacted to restore the failed embankments using heavy construction equipment such as excavators and dozers.
    - Construct containment embankments longitudinally with compacted engineered fill along the stream for the rock arch rapids structure using heavy equipment such as excavators and dozers. The construction contract would specify that the construction occur in an area protected from river flow and with required erosion control in place in an area protected from river flow.

- Demolish the existing concrete outlet structure. An excavator would remove the concrete dam. Other equipment used might include saw, jackhammer, or grinder. Waste concrete would be hauled out with a dump truck.
- Construct a rock arch rapids structure through the existing dam structure.
- Establish vegetation along embankments and near bank areas for sediment and erosion control and stability.
- Construct an ADA-compliant trail from the City Park to the Willow River.

Construction impacts are expected to be temporary, lasting several months, starting as early as the fall of 2020. These actions are subject to the authority of permits issued by the Minnesota Pollution Control Agency (MPCA), the US Army Corps of Engineers, and the DNR.

b. Cover Type Conversion: This topic was addressed in EAW Item 7.

The proposed project impact area is approximately 4.26 acres and includes the area within Stanton Lake and the Willow River where the rock arch rapids would be installed, as well as construction access roads, staging areas and trail development. Generally, the rock arch rapids would be constructed within areas that are typically covered with water; small parts of the rock arch rapids would be constructed over existing ground that is typically not covered with water. The rock arch rapids would be approximately 450 to 500 feet long, and would cover about 1.39 acres. It is estimated that the proposed project would permanently add about 0.4 acres of deepwater/stream to the landscape; about 0.2 acres of Stanton Lake would permanently change from lake to deepwater/stream and 0.2 acres of brush would permanently change from brush to stream. About 0.2 acres of woodland would be removed from the project area. These areas would be cleared to facilitate construction of the north containment berm, the ADA trail, and the south dam embankment. The loss of woodland would be minimal and both permanent and temporary. Trees and brush would be allowed to grow back in the construction impact areas once construction is complete. However, trees and brush would not be allowed to grow on the trail or on the containment berms or embankment. The Contractor would obtain Engineer approval prior to any tree removal. Trees larger than 12 inches in diameter to be removed would be marked by the Engineer/Owner and a DNR non-game specialist would review the removal of any tree that is of suitable habitat for nesting/roosting birds and bats.

The City of Willow River does not require shoreland or zoning permits; the proposed project would consult with the City prior to any movement of fill in excess of 10 cubic yards within the shore impact zone. A preliminary hydraulic study determined that modification to the dam would not change the FEMA base flood elevation upstream or downstream of the dam.

c. Water Resources: This topic was addressed in EAW Item 11.

<u>Groundwater impacts:</u> Impacts to groundwater are not expected as a result of the proposed project. Groundwater conditions generally correlate with the water surface levels of the Willow River and Stanton Lake. Within the dam embankment, groundwater was encountered at approximately 20 feet deep. Along the Willow River, groundwater was encountered at a depth of

one foot. Groundwater depths could increase with higher levels of the Willow River or Stanton Lake. Since the 2016 dam breach, and the resultant lowering of Stanton Lake, there have been complaints of dry wells adjacent to the reservoir. There is potential that the proposed project could address these complaints due to the correlation between groundwater levels and surface water levels.

Stormwater impacts: Sandy soils in the area allow for infiltration and limit stormwater runoff. Current stormwater runoff at the site consists of runoff from the gravel parking area, the steep stream banks to the north, the wetland to the south, and the dam embankment into the Willow River. Post construction stormwater runoff would not change in quantity but may change in location due to the lateral embankments along the south side of the river. Removal and replacement of the dam could cause short-term sediment transport and erosion as the earthen embankments stabilize and become vegetated. The project Stormwater Pollution Prevention Plan (SWPPP) developed in accordance with the National Pollutant Discharge Elimination System (NPDES)/ State Disposal System (SDS) Construction Stormwater permit (issued by the MPCA), would require best management practices (BMP's) such as the use of erosion control blankets, silt fencing, silt curtain, sediment logs, and rock checks. Exposed areas of sediment would be stabilized immediately once construction activities have temporarily or permanently stopped and would not resume for seven days. These BMPs would also meet the requirements of an individual Public Waters Work permit issued by the DNR. In addition, it is anticipated that the Public Waters Work permit would require a cofferdam and bypass siphon be installed prior to construction, to minimize excessive flow and sediment release.

Wetland impacts: A wetland delineation was conducted to determine wetland type and presence within the project impact area. Impacts to wetlands from the project are not proposed; a hardwood swamp was identified within the project vicinity, however construction activity would occur outside of this area. Silt fence and biologs would be installed along the wetland boundary to prevent erosion and siltation in the hardwood swamp. Flagging would also be added along the boundary to ensure construction personnel avoid the area.

d. **Hazardous Materials:** This topic was addressed in EAW Item 12.

The construction of the proposed project has limited potential for releases of toxic or hazardous substances. To prevent solid wastes from entering the Willow River during construction, the work activity site would be protected from the Willow River flow with the use of a siphon and cofferdam. A silt curtain would trap any material from entering the river.

The contractor would be required to prepare a Spill Prevention and Response Plan to address accidental spills or the release of any hazardous material or petroleum products. The plan would be required to include the following measures to avoid and/or minimize spills during construction activities:

- Fueling, equipment maintenance and temporary fuel storage will be done in the parking lot on the north side of the project, above elevation 1,040 feet.

- The contractor shall maintain fuel spill containment kits and trained spill response personnel on the site at all times.
- Any spill or release of a hazardous material or petroleum products will be reported to the project site supervisor who will take immediate action to minimize the potential for groundwater or surface water pollution.
- In the event of a significant spill or release of a hazardous material or a petroleum product, the project site supervisor will immediately deploy on-site supplies and equipment to contain the spill and contact the MNDNR, MPCA and the Minnesota Duty Officer, according to emergency procedures identified in Minnesota Rules, part 7045.0574.
- Below ground storage tanks will not be allowed.

e. Wildlife Resources and Habitat: This topic was addressed in EAW Item 13 and 19.

The removal and replacement of the Willow River dam is expected to have a positive impact on fish and mussel species in the system in the long term, and contribute to the resiliency of the ecosystem. The project would reconnect the channel and provide passage for fish and mussel species (via their fish host). In addition, many fish species use rocky areas with swift moving waters for spawning. Replacement of the dam would provide important spawning habitat for many riffle spawning fish species. Overall, species of fish and mussel species would benefit from the restored connectivity and habitat in the river system.

The Natural heritage Information System (NHIS) was referenced; two state-listed threatened mussel species, mucket (*Actinonaias ligamentina*) and fluted-shell (*Lasmigona costata*) have been documented in the Willow River downstream of the dam. In coordination with the DNR Endangered Species Coordinator, a qualified surveyor would complete a survey/and or relocation in any potential mussel habitat prior to construction in order to determine the potential for a take of state-protected species. Mussels are vulnerable to deterioration in water quality and may experience short-term impacts due to potentially increased sediment load during and immediately after riverine construction activities. Once complete, this project would provide more habit and increase the availability of host species for threatened mussels. A siphon and cofferdam would be used to divert excess flow away from the project site. Demolition would proceed at a rate that would limit excessive flow. Erosion control best management practices would be used on newly exposed soils. These would include the use of wildlife friendly natural fiber, erosion control blankets, silt fencing, synthetic fiber-free hydro-mulch, and rock checks. Exposed areas would be stabilized and seeded with an approved native plant mix to establish vegetative cover. Trees would be planted to aid in the succession of the native plant community. Invasive plant species would be monitored and managed accordingly to ensure success of native species establishment. In-stream sedimentation from construction activities is also a potential effect and may negatively affect aquatic mussels and other aquatic species. To avoid this, a cofferdam and siphon would be constructed prior to construction activities. Additionally, a silt fence would be used for any instream work.

Wood turtles (*Glyptemys insculpta*) and Blanding's turtles (*Emydoidea blandingii*), both state-listed threatened species have also been documented in the area, but outside of the one-mile project radius. Wood turtles and Blanding's turtles are semi aquatic species, spending time both on land and in water. Turtles could be impacted by the project through direct mortality or habitat disturbance. Turtles that are hibernating or foraging in the water could be killed during in-water work, and turtles on land could be crushed by machinery. Habitat could be enhanced for turtles since the barrier to aquatic movement would be removed. If the project creates areas that are attractive to nesting turtles (piles of gravel/sand, gravel/sand road shoulders), these areas often act as sinks, increasing risk of nest failure and turtle mortality. Actions to avoid or minimize disturbance to state-listed turtles have been developed and include checking areas for turtles prior to disturbance (instream and upland), educating contractors of potential presence of these rare turtles, and limiting erosion control materials to those that are 'wildlife friendly.'

The possibility exists for direct impacts from in-stream construction activities. The temporary impacts from operating construction equipment, such as increased levels of noise and air pollution, could affect behavior and movement of local wildlife. The project's proposed sedimentation and erosion control measures, as well as the short construction period and planned sequencing of activities, would minimize impacts to downstream fish and wildlife. Disturbances to resting or nesting wildlife could increase, potentially causing some animals to leave the project area. Wildlife that can adapt to human presence would likely continue to use the area. The overall condition of the stream for supporting wildlife should remain relatively intact, or be improved. A positive effect of the proposed project is that fish and other aquatic wildlife would be able to pass through the rock arch rapids, which could increase species diversity of fish within Lake Stanton, and allow for mussel populations to expand within the lake.

f. Visual: This topic was addressed in EAW Items 15 and 19.
During construction, equipment would be present within staging areas and in areas that are actively being worked on. Once the proposed project is complete, equipment would be removed. The view along the river channel would temporarily be affected before vegetation becomes established. The proposed project would not permanently alter the view of Stanton Lake.

g. Noise: This topic was addressed in EAW Items 17 and 19.

Existing noise levels in the project area are influenced by the waterfall created by the dam, along with traffic on nearby roads. During demolition of the dam and construction, noise levels would temporarily increase due to construction equipment engines, pounding on concrete and rock, and loading/hauling of concrete and metal debris. Specifically given the close proximity to residential areas of this project, suggestions for noise mitigation such as functioning mufflers and limited work hours would be recommended. Following construction, noise levels in the project area are expected to be less than or equal to pre-construction levels.

h. **Transportation:** This topic was discussed in EAW Items 18 and 19.

New traffic generated by the proposed project would be temporary for workers and construction equipment. This project would require trucks to haul 20,000 cubic yards of materials to the site and thus would create additional traffic, however it is believed that fewer than 100 trucks per day would be added. It is not believed that the additional traffic will create traffic congestion in the community. Access routes from public roads would be evaluated for safety and operators of equipment turning onto and off public roadways would use caution.

i. Cumulative Potential Effects: This topic was addressed in EAW Item 19.

Cumulative potential environmental effects are the combined effects of the proposed project and past, present, and reasonably foreseeable future projects. *See* Minn. R. 4410.0200, subp. 11a.

Environmental effects of the proposed project that have the potential to contribute to cumulative potential effects were identified as: surface and water quality, habitat and rare resources, visual, noise, and traffic.

The DNR Division of Forestry identified nine areas in the General C.C. Andrews State Forest and in the vicinity of the Willow River Project that could have active timber harvesting due to past and upcoming timber sales. Approximate acreages of timber that could be harvested is 220 acres. Of the nine areas identified by the DNR Division of Forestry, four areas (approximately 143 acres) are located approximately 0.5 to 1 mile away from the proposed project. Three areas are located adjacent to Stanton Lake: one 50-acre parcel along the north shore of Stanton Lake; one 11-acre parcel near the state forest campground on the peninsula of the lake; and one four-acre parcel along the southeast shore of the lake. The other two areas identified are east of the campground, but not adjacent to the lake.

Surface and water quality impacts: Both the proposed project and timber harvesting within areas adjacent to Stanton Lake could release sediment into Stanton Lake and the Willow River. Any increase in sediment would be minimal and temporary and both the proposed project and the forestry harvesting projects have developed BMP's to minimize potential impacts to water quality; loggers would be required to follow the site-level forest management guidelines published by the Minnesota Forest Resources Council.

Habitat/rare resources impacts: The proposed project and timber harvesting are not expected to result in significant impacts to wildlife habitat or rare resources. If it is likely that state-protected species are present in the stands, a seasonal timing restriction would be implemented to prevent needing to apply for an Endangered Species Take Permit; coordination with DNR non-game staff would occur. Impacts to habitat or rare resources that would occur as a result of both the proposed project and timber harvesting are expected to be limited in geographic scope and are expected to be minimal and temporary.

Visual impacts: During tree clearing, the areas identified to be cleared would likely have large equipment commonly used in forestry practices such as logging trucks, log loaders, and skids. The presence of this equipment would change the visual aesthetic of the state forest if passing by the

sites on the logging roads, or from a distance if harvesting is occurring at a higher elevation from the viewer.

Views from the lake may be altered temporarily due to the proposed project and tree harvesting from within the identified areas. Some trees may be harvested from within the vegetated buffer of the lakeshore though clearing would be limited within these areas. Visual effects would be expected to be greater near the southeast shore of the lake that would be clearcut; these impacts would be expected to be minimized by use of the vegetated buffer. Due to elevation change from the lake and the adjacent land, it is possible that cleared upland areas may be visible in some locations from the lake. Visual impacts are expected to be minimal and temporary; as vegetation begins to grow, the visual impacts from tree harvesting would lessen.

Noise impacts: During any tree harvesting, noise from logging equipment would occur temporarily due to use of trucks, loaders, saws and other logging equipment and would be similar to the noise that would be generated by the proposed Project.

Any changes in noise from the proposed Project and tree harvesting would be temporary. Should tree harvesting and the proposed project take place simultaneously, the types of noise created would be similar; it is expected that the two projects would be result in minimal noise cumulatively due the distance between the proposed project and timber harvest sites.

Traffic impacts: Most likely tree clearing within areas identified for timber harvest would occur within the summer months, however, at this time it is unknown if any of the nine areas identified would be harvested during the same timeframe of the proposed project, though it is unlikely that all nine areas would be harvested during the same timeframe.

Any changes in traffic from the proposed project and tree harvesting would be temporary and limited to the immediate construction area. Impacts to traffic from the proposed project and timber clearing are expected to be minimal, temporary, and limited to the immediate project area.

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

Unit of Government	Type of Application	Status
US Army Corps of Engineers (USACE)	Section 10 Permit	To be obtained
USACE	Section 404 Permit	To be obtained
DNR	Public Waters Work Permit	To be obtained
DNR	Water Appropriation Permit	To be obtained, if required
DNR	Wetland Conservation Act (WCA) Permit	To be obtained, if required

Unit of Government	Type of Application	Status
DNR	Dam safety permit	To be obtained
DNR	Endangered Species Taking Permit	To be obtained, if required
Minnesota Pollution Control Agency (MPCA)	National Pollution Discharge Elimination System (NPDES) Construction Stormwater (CSW) Permit	To be obtained
MPCA	401 Water Quality Certification	To be obtained, if required
MPCA	Notification to Manage Dredged Material Without a Permit	To be obtained, if required
Pine County	Right of Way Permit	To be obtained, if required

CONCLUSIONS

1. The Minnesota Environmental Review Program Rules, *Minnesota Rules* part 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 ¶ 18, the DNR concludes that the following types of potential environmental effects, as described in the Findings of Fact, will be limited in extent, temporary, or reversible:

   - Project Construction and Design
   - Cover Type Conversion
   - Water Resources
   - Wildlife Resources and Habitat
   - Visual
   - Noise
   - Transportation
   - Cumulative Potential Effects

3. *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.*

   Based on the Findings of Fact above, the DNR concludes that the cumulative potential environmental effects associated with surface and water quality, and habitat and rare resources, are not significant when viewed in connection with: other contributions to the cumulative potential effects; the degree to which the Project complies with approved mitigation measures specifically designed to address cumulative potential effects; and the efforts the proposer has made to minimize contributions from the Project. The Project would contribute minimal environmental effects and would not materially contribute to the cumulative potential effect.

   The DNR concludes that the cumulative potential environmental effects associated with surface and water quality, and habitat and rare resources, as described above, are not significant because there are limited past, present and future projects identified within the geographic scale and timeframe of the proposed Project that would have overlapping environmental effects.

   Based on the Findings of Fact above, the DNR concludes that the cumulative potential environmental effects associated with visual, noise, and traffic are not significant because there are limited impacts to visual, noise, and traffic within the geographic scale and timeframe of the proposed project. The project would contribute minimal environmental effects and would not materially contribute to the cumulative potential effect. The Project proposer has developed mitigation measures to address the 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 ¶18 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:

- Physical impacts on water resources including filling the eroded channel with a clay core and a series of rock arch weirs are subject to regulatory authority by the DNR Public Waters Work Permit, the DNR Dam Safety permit and the U.S. Army Corps of Engineers Section 404 and Section 10 permits. Effects related to water use are subject to regulatory authority by the DNR Dewatering Permit, if required.
- Erosion, sedimentation, and water quality from construction-related activity are subject to regulatory authority by the MPCA National Pollution Discharge Elimination System (NPDES) Construction Stormwater (CSW) Permit and Clean Water Act 401 Water Quality Certification.
- Environmental effects due to construction, operation and maintenance-related noise are subject to mitigation by ongoing public regulatory authority under the MPCA-administered State Noise Standards. See Minn. R. 7030.

Permits and Approvals: Prior to initiation of this project, the permits and approvals identified in Finding 20 would be required. When applying the standards and criteria used in the determination of the need for an environmental impact statement, 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.*

   Environmental Studies undertaken by the proposer include the following:

   - Geotechnical Evaluation Report: Willow River Dam Rock Arch Rapids, July 2019, prepared by Barr Engineering.
   - Willow River Dam Hydrology and Hydraulics Memo, January 2020, prepared by Barr Engineering.
   - Willow River Dam Wetland Delineation Report, October 2018, prepared by Barr Engineering.
   - Wetland Impact Analysis Memo, August 2019, prepared by Barr Engineering.
   - Willow River Dam Project Survey Report, July 2018, prepared by DNR Parks and Trails Cultural Resources Program.

6. As set forth in ¶¶1 – 19, DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an EIS on the proposed Willow River Dam Restoration Project in the city of Willow River, Pine County, Minnesota.

7. Based on consideration of the criteria and factors specified in the Minnesota Environmental Review Program Rules (*Minnesota Rules* 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 Willow River Dam 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 Willow River Dam Restoration Project in the City of Willow River, Pine County, Minnesota.

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

Dated this __2__ day of **July 2020**

DEPARTMENT OF NATURAL RESOURCES

Jess Richards
Assistant Commissioner