



Shell Rock River Watershed District

Shell Rock River Watershed District
305 South 1st Ave
Albert Lea, MN 56007
Phone: 507-377-5785
www.ShellRock.org

Findings of Fact, Conclusions of Law, and Decision of Shell Rock River Watershed District (“SRRWD”), as RGU, for Negative Declaration on need for EIS.

Date: May 14, 2024

RE: Negative Declaration for the Need for an Environmental Impact Statement (“EIS”)

Project: Fountain Lake Restoration Project - East Main Bay and North Bay (a/k/a Bancroft Bay)

FINDINGS OF FACT

Project Description

1. As described in the Environmental Assessment Worksheet (“EAW”), the Fountain Lake Restoration Project (“FLRP”) is a sediment dredging project located in the City of Albert Lea, Freeborn County, Minnesota. Approximately 650,000 cubic yards of inert lake sediment will be hydraulically dredged and pumped to the existing confined disposal facility (“CDF”) cells.
2. The current conditions of Fountain Lake are detailed and described in Exhibit 1.
3. Sediment removal or dredging is to be administered through one or more contracts. Exhibit 2.
4. The hydraulic dredging process involves agitating the accumulated sediment at the bottom of the lake, mixing it into a slurry with intake lake water, and then transporting this slurry through a network of temporary pipes and pumps to the CDF Cells. The placement of all pipelines and pumps will be coordinated with relevant agencies to ensure a suitable alignment that avoids the Albert Lea Landfill. Exhibit 3.
5. Through a series of contracts, the Shell Rock River Watershed District (“SRRWD”) has and will continue to remove phosphorus-laden sediment from Fountain Lake. Dredge

Contracts #1 and #2 removed approximately 1.266 million cubic yards of sediment. Contract #3 will remove another approximate 650,00 cubic yards of sediment.

6. CDF Cells 1, 2, and 3 will be utilized to manage approximately 650,000 cubic yards of dredged sediments from East Main Bay and North Bay (a/k/a Bancroft Bay) (hereinafter “North Bay”).
7. The contract for accumulated sediment removal and dredging is scheduled to be performed between 2025 and 2026 in East Main Bay and North Bay. Exhibit 2.
8. Fountain Lake, located in Albert Lea, Freeborn County, Minnesota (“City”) (Exhibit 1) covers approximately 521 acres and is central to the City’s identity and tourism. Fountain Lake is a popular destination for boating, swimming, waterskiing, fishing, canoeing, and kayaking. In 2008, Fountain Lake was added to Minnesota’s list of impaired waters for an “aquatic recreation” impairment due to nutrient overload (specifically phosphorus) and eutrophication.
9. In 2012, the SRRWD worked in cooperation with the Minnesota Pollution Control Agency (“MPCA”) to perform a Total Maximum Daily Load (“TMDL”) Study to determine pollution reduction strategies for Fountain Lake. The TMDL Study indicated that approximately 65 percent of the annual phosphorous loading to Fountain Lake is from internal sources (i.e. phosphorous release from lake bottom sediment). This accumulated phosphorous in sediment will be released into the water column through wind, wave, and rough fish action, decreasing water quality. The remaining 35 percent of the phosphorous load is from external sources (i.e. urban stormwater, tributary inflows, wet and dry deposition). Therefore, external load reductions alone will not lead to compliance with State water quality standards; rather, internal loading must be reduced to meet the TMDL load allocation requirements.
10. The Technical Memorandum drafted at that time explained the Water Quality Benefits from dredging Fountain Lake. See attached Exhibit 4 Technical Memorandum from Barr Engineering dated February 16, 2012. The map on page 7 of the report demonstrates Mobile Sediment Phosphorus in Fountain Lake, noting the highest levels of all the Lake in North Bay.
11. In 2013, the SRRWD developed a TMDL Implementation Plan that provided a comprehensive list of Best Management Practices (“BMP”) to reduce external phosphorous loads to Fountain Lake. Implemented watershed protection initiatives include tributary creek stabilization, septic system improvements, and upstream rough fish management, including common carp. With the completion of such upstream management practices, the Project seeks to further improve Lake water quality by removing phosphorous-laden sediment through dredging, and by increasing water depth, which will then lead to reductions in average and maximum summer total phosphorous concentrations, reduction in the magnitude of phytoplankton concentrations, reduction in average chlorophyll-a concentrations, and increased average and maximum summer water clarity. Beneficiaries to the Project include aquatic life and fish habitat and all lake

users and residents who recreate, fish, or use Fountain Lake in any manner. Improving conditions in Fountain Lake will also improve downstream conditions.

Background

12. The SRRWD) initiated the FLRP on January 8, 2013, by Resolution Number 2013-02 (the “Project”).
13. Procedural history associated with the FLRP mandatory EAW (Appendix A) completed in 2016 is documented in the 2016 EAW Findings of Fact, Conclusions of Law, and Decision (Appendix B) (“2016 EAW”).
14. Upon the negative declaration for the need of an environmental impact statement, the SRRWD obtained the necessary permits and authorizations to proceed with the FLRP.
15. The CDF located at 23372 740th Avenue, Albert Lea, Minnesota consists of three cells that were constructed between 2017 and 2020 and is used to facilitate the dewatering of dredged sediments associated with the dredging of Fountain Lake and adjacent bays.
16. Hydraulic dredging operations occurred between 2018 and 2021 in Dane’s Bay, West Main Bay, and Edgewater Bay.
17. Permit conditions and requirements for hydraulic dredging operations were met, required reports were submitted, and water quality monitoring was completed. Construction activities were successfully implemented without environmental impacts.
18. To accelerate the habitat restoration efforts, the SRRWD acquired Outdoor Heritage Funding in 2019 for an in-lake habitat restoration project which was appropriated through ML 2019, 1st Sp. Session, Chapter 2, Article 1, Section 2, Subp. 5(j) (the “Fountain Lake In-Lake Habitat Restoration Project”).
19. Working with a project advisory team that included representatives from the Minnesota Department of Natural Resources (“MN DNR”), Albert Lea Lakes Foundation, City of Albert Lea, Albert Lea Anglers, professional fishing organizations, Albert Lea School District, and others, a prioritized approach to implementing the Fountain Lake In-Lake Habitat Restoration Project was developed.
20. Due to proposed project impacts below the ordinary high-water level, an EAW was required for the Fountain Lake In-Lake Habitat Restoration Project according to Minnesota Rules for Environmental Review, 4410.4300, subp. 27A. (Appendix C).
21. The SRRWD made a negative declaration on the need for an EIS for the proposed Fountain Lake In-Lake Habitat Restoration Project on the basis of the comments and results, all evidence provided from previous studies and activities, and environmental controls that would be in place through permitting processes.

22. The Fountain Lake In-Lake Habitat Restoration Project EAW is incorporated by reference into these Findings of Fact, Conclusions of Law, and Decision, which is maintained at the SRRWD office.

Procedural History

23. The 2016 EAW resulted in a negative declaration on the need for an EIS. The 2016 EAW is reaffirmed and incorporated in its entirety by reference into these Findings of Fact, Conclusions of Law, and Decision, which is maintained at the SRRWD office.
24. The 2016 EAW specifically stated that future collaboration between SRRWD and agencies on future projects will allow ample opportunity to address and protect Blanding's turtles and proximity of proposed work to the Albert Lea Landfill.
25. The Minnesota Environmental Quality Board (the "EQB") has added new climate adaptation and resilience as well as greenhouse gas emission content requirements to the Environmental Assessment Worksheet since the 2016 EAW.
26. New cultural and natural resources data may have been documented since the 2016 EAW and has the potential to influence project design.
27. Based on these considerations and in accordance with Minnesota Rules for Environmental Review, 4410.1000 Subp. 3, and 4410.4300 Subp. 27, A, the SRRWD and its agents prepared the Environmental Assessment Worksheet dated March 12, 2024 ("2024 EAW"), for the FLRP and incorporated the 2016 EAW into the 2024 EAW.
28. Pursuant to Minnesota Rules for Environmental Review, 4410.0200 subp. 34, 43, and 75; 4410.0500, and 4410.4300 subp. 27(A), the SRRWD is the designated Responsible Government Unit ("RGU") for purposes of reviewing this Project.
29. The 2024 EAW is incorporated by reference into these Findings of Fact, Conclusions of Law, and Decision, which is maintained at the SRRWD office.
30. As indicated in the 2024 EAW, the SRRWD proposes to dredge Fountain Lake – East Main Bay and North Bay located in Albert Lea, Minnesota.
31. The SRRWD Board of Managers authorized its engineer, Geosyntec, to submit the 2024 EAW to the Minnesota Environmental Quality Board ("EQB") on March 12, 2024.
32. The 2024 EAW was filed with the EQB and notice for its availability for public review and comments was published in the *EQB Monitor* on March 19, 2024. A copy of the EAW was sent to all persons on the EQB Distribution List and to persons who requested a copy.

33. A press release announcing the availability of the 2024 EAW for public review and comment was also sent to the Albert Lea Tribune, published on March 20, 2024, and published on the SRRWD website on March 12, 2024.
34. The 30-day public review and comment period for the 2024 EAW began on March 19, 2024.
35. During the 30-day public review and comment period, the SRRWD received written comments on the 2024 EAW from two regulatory agencies and one from the State Historic Preservation Office. No additional comments were received.
36. The SRRWD received a letter, dated April 17, 2024, offering comments on behalf of the MN DNR. The full letter from MN DNR is attached hereto as Exhibit 5 and includes Minnesota Natural Heritage Information System (“NHIS”) review correspondence and General Blanding’s Turtle Avoidance Measures and Best Practices for the Project Areas in the MN DNR Southern Region. MN DNR comments were limited to North Bay.
37. The SRRWD received a letter dated April 8, 2024, written by Chris Green, offering comments on behalf of the Minnesota Pollution Control Agency (“MPCA”). The full letter from MPCA is attached hereto as Exhibit 6.
38. The SRRWD received a letter on April 12, 2024, dated March 8, 2024 [sic], written by Kelly Gragg-Johnson offering comments on behalf of the Minnesota Department of Administration State Historic Preservation Office (“SHPO”). The full letter from the SHPO is attached hereto as Exhibit 7.
39. The SRRWD hereby adopts and incorporates by reference the information and rationale stated in the attached Exhibit 8, response to substantive comments as an additional basis for response to issues addressed in these Findings of Fact, Conclusions of Law and Decision.
40. On May 7, 2024, the SRRWD had a workshop to discuss the EAW, comment letters, proposed responses to the comment letters, and the Project. The workshop agenda and minutes are attached hereto as Exhibit 9. The Board reviewed the FLRP timeline and discussed the 2016 proceedings, referred to in Appendix B, which is incorporated by reference.

Criteria for Determining the Potential for Significant Environmental Effects

41. Under Minn. R. 4410.1700, the SRRWD must order an EIS for projects that have the potential for significant environmental effects. In deciding whether a project has the potential for significant environmental effects, the SRRWD must compare the impacts that may be reasonably expected to occur from the project with the criteria set forth in Minn. R. 4410.1700, subp. 7. These criteria are:
 - 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 contribution 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 a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

Type, Extent, and Reversibility of Environmental Effects

- 42. The first criterion that the SRRWD must consider when determining if the Project has the potential for significant environmental effects is the “type, extent, and reversibility of environmental effects”. Minn. R. 4410.1700, subp. 7. A. The SRRWD findings with respect to this criterion are set forth below.
- 43. The types of impacts that may reasonably be expected to occur from the Project include the following:
 - a. Removal of phosphorus-laden sediment from Fountain Lake;
 - b. Improved water quality for long-term beneficial impacts to fish and wildlife;
 - c. Potential short-term minor localized impacts at the location of dredging;
 - d. Controllable short-term minor localized impacts from construction noise;
 - e. Controllable short-term minor localized impacts on air quality from construction equipment;
 - f. Controllable short-term impacts from the dredge pipeline;
 - g. Controllable short-term minor localized impacts on traffic; and
 - h. Short-term minor visual impacts from construction equipment on Fountain Lake.
- 44. Comment letters raised additional issues, as follows:
 - a. Potential project impacts to aquatic vegetation, fish, and wildlife within Fountain Lake.
 - i. MN DNR comments 7, 9, 19, 24, 28, 29, 30, 31, 32, 33, and 35.
 - b. General questions about project need.
 - i. MN DNR comments 16, 17, 18, 20, 21, 22, 24, 25, 27, 34, 36, and 37.
 - c. General questions about references to previous EAW.

- i. MN DNR comments 11, 12, 13, 14, and 15.
 - d. General questions about the CDF.
 - i. MN DNR comments 23 and 26.
 - e. General comments about permitting and project next steps.
 - i. MN DNR comments 23, 38, 39, and 40.
 - f. Potential project impacts to historical and cultural resources.
 - i. SHPO comments 4, 5, and 6.
45. With respect to the extent and reversibility of impacts that are reasonably expected to occur from the Project, the SRRWD makes the following findings:

Aquatic Vegetation, Fish, and Wildlife Concerns

46. One key goal of the FLRP as stated in the 2016 EAW and the 2024 EAW is to enhance aquatic habitat through increasing water depth to provide wintering holes and summer refuge areas for fish, and improved water clarity for increased abundance and diversity of aquatic vegetation and improved spawning areas.
47. The SRRWD has developed a comprehensive and strong working relationship with agency partners including Minnesota Board of Water & Soil Resources (“BWSR”), MN DNR, MPCA, the Lessard-Sams Outdoor Heritage Council (“LSOHC”), City of Albert Lea, Freeborn County, Freeborn County Soil & Water Conservation District, and Shell Rock-Winnebago One Watershed One Plan advisory committee partners. Through this collaborative effort, the SRRWD has developed a proactive approach to enhance and improve the opportunity for the improvement of aquatic vegetation abundance and diversity.
48. The proposed project activity in North Bay may have temporary impacts to no greater than 66 of the total 162 acres (41%) of North Bay, thereby retaining 96 acres of the natural fish and wildlife habitat in North Bay.
49. Removal of depositional, phosphorous rich sediments from North Bay will provide greater refuge for fish during the increasingly hotter summer temperatures, as recognized in the comment letter submitted by the MPCA (Exhibit 5).
50. This proposed activity is supported in section 3.3.2.1 of the Draft Preliminary Engineer’s Report (“DPER”) (Appendix D), which states that benefits to aquatic plants are anticipated by improving water clarity allowing more light penetration and increased plant growth.
51. The MN DNR has identified the potential for Blanding's Turtles to exist in the North Bay area of Fountain Lake. One of the stated purposes of the 2024 EAW was to obtain updated Natural Heritage Information System (NHIS) records and continue the collaboration between agencies to address and protect this important species.

52. While dredging during this Project has the potential to impact any species due to direct fatalities and temporary impacts due to the short-term reduction of habitat areas in North Bay, the permit process is expected to contain protective measures for aquatic species. Protective measures identified in the 2024 EAW follow MN DNR published guidance and include avoidance of suitable habitat, timing project activities to avoid an incidental take, implementing MN DNR recommendations outlined in the unpublished document titled “General Blanding’s Turtle Avoidance Measures and Best Practices for Project Areas in the MNDNR Southern Region” dated 1-13-2024, contractor training, and submitting an avoidance plan to the NHIS review team.
53. The SRRWD also notes that hydraulic dredging is a relatively slow progressing process that is not anticipated to destroy long-term habitat and allows for mitigation of habitat concerns that could arise. In general, the deliberate nature of the Project allows wildlife to physically relocate and avoid the work area during the work progression. The Project operators are also able to avoid and adjust the work progression as needed.
54. Fountain Lake East, West, and North Bays are listed as impaired for aquatic life for fish bioassessments as of 2022 and Bancroft Creek is listed as impaired for aquatic life for benthic macroinvertebrates bioassessments as of 2020.
55. The Project also provides a process for creating design parameters showing dredge area limits; side slopes, depths, and volumes during permit coordination with MN DNR.
56. The Project further outlines design parameters providing for identification and control of prohibited and regulated invasive species such as curly-leaf pondweed seed and turions that may be encountered during the Project implementation.
57. The SRRWD finds that the Project, as it is proposed, does not have the potential for significant negative environmental effects to wildlife or aquatic vegetation, and to the contrary has significant positive impacts to water quality, water clarity, and future aquatic environments and species.
58. The SRRWD finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to wildlife, and aquatic vegetation that are reasonably expected to occur from the Project.

Water Quality Impacts

59. The comments raise various issues relating to the potential Project impacts on water quality. In general, the SRRWD has engaged in a multi-agency collaborative effort to anticipate, address, and mitigate any such impacts.
60. Fountain Lake contains phosphorous-rich sediment which the Project proposes to remove to address internal loading concerns. the primary goal of the Project is to improve Lake water quality.

61. As confirmed by the TMDL study, approximately 65 percent of the annual phosphorous loading into Fountain Lake is from internal sources (i.e., phosphorous release from Lake bottom sediment), which can be released into the water column through wind, wave and rough fish action, decreasing water quality. Only the remaining 35 percent of the phosphorous load is from external sources (i.e. urban stormwater, tributary inflows, wet and dry deposition).
62. The FLRP was initiated following completion of multiple upstream management practices to control external sources and mitigate further Lake sedimentation.
63. The FLRP was also initiated after completion of substantial water monitoring efforts to track, model, and anticipate water quality impacts and benefits. The FLRP provides for on-going water quality monitoring.
64. The SRRWD conducted a 10-year model simulation using a calibrated Delft3D lake model in anticipation of the need to address questions regarding long-term benefits. Model results indicate that the benefits of the FLRP are not negated even if levels of external loading continue.
65. These simulations predict that there is a water quality benefit over the long-term after dredging primarily with respect to greater clarity and lower chlorophyll a (Chl-a). Chl-a concentrations are predicted to be reduced by 12 to 70 ug/L, depending upon the external loading conditions for a particular year.
66. Dredging is an important part of improved water quality efforts. Reducing Chl-a through dredging endeavors is significant and will provide multiple water quality benefits.
67. The SRRWD further finds that any water depth fluctuation in Fountain Lake resulting from the FLRP is not anticipated to have an impact. Fountain Lake is a dam-controlled water body with several inlets, the water level of Fountain Lake is expected to remain stable.
68. The SRRWD has reviewed the FLRP to confirm that it has been designed to evaluate and anticipate any water clarity and quality effects of temperature fluctuations and low dissolved oxygen conditions in the overlying water column.
69. The Project proposed in the 2024 EAW will require a Public Waters Permit, from the Minnesota Department of Natural Resources since it will change or diminish the course, current, or cross section of public waters within the state, by any means, including filling, excavating, or placing materials in or on the beds of public waters.
70. The SRRWD has considered the comments provided by the MN DNR and MPCA regarding additional modeling efforts and information. The SRRWD determines that the Project has been developed through a collaborative, multiple-year planning process using one of the most sophisticated lake modeling approaches available to evaluate potential

impacts to Fountain Lake. Given the Delft3D model's ability to simulate the complex hydrodynamic and biological processes that occur within the Fountain Lake system, the comprehensive, site-specific model inputs (based on laboratory experiments, sediment and water quality sampling and analysis, and tributary inflow data), and the robust model development and calibration process undergone, the SRRWD determines that the modeling analysis, which included short-term and long-term dredge scenarios for a range of dredge volume scenarios, was sufficient to evaluate potential water quality benefits and unintended consequences of the FLRP to Fountain Lake and to determine no significant negative environmental effects.

71. The SRRWD finds that information presented in this 2024 EAW and the 2016 EAW and other information in the environmental review record, including the items referenced in these Findings and reviewed by the SRRWD are adequate to evaluate impacts on water quality and adequate to address concerns regarding the water quality impacts during the actual Project that are reasonably expected to occur from the Project. The information has been considered during the review process.
72. As described herein, appropriate mitigation measures are available and will be used to prevent significant adverse impact.
73. The SRRWD finds that the Project does not have the potential for significant environmental effects based on the extent, type, and reversibility of impacts related to water quality that are reasonably expected to occur from the Project.

General Questions About Project Need

74. The MN DNR comments raise various questions as to the need of dredging North Bay and whether such dredging activities will reduce internal loading, improve water quality, and habitat.
75. Fountain Lake's water quality, including accumulated sediment impacts to water quality has been an on-going concern for 40 years (Exhibit 10).
76. Documentation of consideration of dredging activity in North Bay is provided in Exhibit 11, Exhibit 12 and Exhibit 13.
77. The FLRP purpose is to reduce internal phosphorus loading to Fountain Lake by removing deposited bottom sediments through dredging, which will lead to reductions in average and maximum summer total phosphorus concentrations; reduction in the magnitude of phytoplankton concentration; reduction in average chlorophyll-a concentrations; reduction in resuspended deposited sediments from wind driven waves, vessel driven propeller wash, and rough fish action; and increased average and maximum summer water clarity.
78. An analysis of mobile phosphorus, the fraction of phosphorus that can be released from sediment during low oxygen conditions and is the main contributor of internal

phosphorus loading, showed that the highest concentration of this phosphorus fraction is located in North Bay, specifically the upper portions of the bay (Fountain Lake Dredging: Potential for Water Quality Benefits Barr, 2012).

79. The need to reduce internal loading is further highlighted in a 2017 memorandum completed by Barr that evaluated annual inflow and outflow of phosphorus loads for Fountain Lake. The memorandum included an analysis of inflow and outflow phosphorus loads using monitored data and the FLUX32 software which showed that in 4 of the 7 years, total phosphorus (TP) inflows were less than TP outflows. In these 4 years, internal loading was determined to be the single most significant source of TP, with internal loading making up well over half of the Fountain Lake TP load in 2011 and 2012.
80. Specific to North Bay, the proposed dredging area is considered beneficial based upon the sediment core phosphorus values provided Table 2-1 of the DPER. All three sites in North Bay have high phosphorus present in the accumulated sediment at levels in excess of 800 mg/kg in 0-2 ft. core samples and between 700 to 900 mg/kg in 2-5 ft. core samples.
81. The impetus of this Project is defined in the DPER and is to benefit the water quality of Fountain Lake and improve water clarity that enhances the presence of aquatic vegetation throughout Fountain Lake.
82. The Project is consistent with the Shell Rock River and Winnebago River Comprehensive Watershed Management Plan as identified in the Fountain Lake Implementation Table and as a goal under the Improve Degraded Aquatic Habitat priority issue in the Plan. See attached as Exhibit 14.

General Questions About References to Previous EAW

83. The commenters question whether the proposed dredge activity in North Bay was adequately supported in the 2016 EAW. The 2016 EAW included all of Fountain Lake. However, in the permitting phase, the SRRWD and regulatory partners only permitted West Main Bay, Dane's Bay and Edgewater Bay given financial constraints at that time.
84. Since the Project inception in 2013, the entirety of North Bay was considered as the Project area. Project planning, engineering, sediment sampling, the Delft3D model, Basis of Design Report, Draft and Final Preliminary Engineering Reports as well as other reports and studies completed to implement the FLRP in its entirety and the Project considered in this 2024 EAW were based on the entire Lake system functioning, and the predicted water quality impacts were based on whole Lake system modeling of inputs and outputs. The SRRWD reaffirms the 2016 EAW Findings of Fact as they directly relate to the purpose and need of the current project and will continue to work with regulatory partners to permit East Main Bay and North Bay.

General Questions About The CDF

85. The commenters question whether there are capacity and water quality issues related to the CDF facility.
86. Throughout the dredging activities conducted from 2018 to 2021 the SRRWD adequately met water quality permit requirements and supplied required reports per permit requirements. See attached as Exhibit 15.
87. The SRRWD will continue to manage the CDF consistent with permit conditions for adequate storage and treatment of dredged materials.

General Comments About Permitting and Project Next Steps

88. The commenters question whether additional permits will be needed and provide suggestions to the SRRWD as to environmental review process options and opportunities for additional data acquisition.
89. Due to previous permitting for the FLRP, the SRRWD outlined in the 2024 EAW the known permits that will be required as well as listed others which may be required. The SRRWD will secure required permits prior to Project construction.
90. The SRRWD has considered the procedural options and additional opportunities for data acquisition presented by the MN DNR.

Historical and Cultural Resources

91. The commenters acknowledged that there are several known archaeological and burial mounds/cemeteries that have been identified along the shores of Fountain Lake.
92. Because the purpose of the project is to remove accumulated sediment, there are no anticipated effect to buried materials. Minimum setbacks from the shoreline will be observed at all times and therefore there is not anticipated effect to other historical or cultural resources in the shoreland area.
93. The SRRWD finds that information presented in the 2024 EAW and other information in the environmental review record, including coordination with public agencies and regulatory authorities and consideration of agency guidance documents for projects of this type are adequate to address concerns related to potential environmental effects that are reasonably expected to occur from the Project. The information has been considered during the review process.
94. The SRRWD finds that the Project does not have the potential for significant environmental effects based on evaluation of potential environmental effects that are reasonably expected to occur from the Project. Environmental effects reasonably expected to occur are temporary and reversible.

Cumulative Potential Effects

95. The second criterion that the SRRWD must consider when determining if the Project has the potential for significant environmental effects is the “cumulative potential effects.” In making this determination, the SRRWD must consider “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 effects; and the efforts of the proposer to minimize the contributions from the project.” Minn. R. 4410.1700, subp.7. B.
96. The SRRWD findings, with respect to this criterion, are set forth below. In the findings below, the SRRWD is considering the cumulative effects of related past, present, and future projects, not the individual effect of the proposed existing conditions.
97. The work that the SRRWD has completed to date on the FLRP has achieved project goals for those portions of the Lake where dredging was performed, obtained significant outcomes based on testimony provided from area residents and Lake users, and met all permit requirements including monitoring CDF discharge to maintain water quality return to Fountain Lake. No adverse cumulative impacts were observed or documented.
98. The 2024 EAW addressed the following areas for cumulative potential effects:
- a. The proposed Project which was established by SRRWD Board Order 2013-02 has and is anticipated to continue to have positive long-term cumulative effects in combination with past, present, and future upstream watershed improvements to decrease future sediment transport loading to Fountain Lake and continued management of rough fish within Fountain Lake.
 - b. Dredging is included in the previous and current comprehensive water management plans that have established and are being implemented by the SRRWD to improve the waters within the watershed and lessen negative sediment impacts.
 - c. There have been no substantive operational changes since the 2016 EAW that require reevaluation. Construction is anticipated to occur from spring of 2025 through fall of 2026. Impacts from noise generation and emissions will be temporary and limited to construction. No long-term operational impacts will occur as a result of the Project. Ultimately, the Project will result in long-term benefits to the water quality and aquatic habitat of Fountain Lake.
 - d. There are no known reasonably foreseeable future projects that may interact with the Project in such a way as to cause cumulative potential effects.

The Extent to Which the Environmental Effects Are Subject to Mitigation by Ongoing Public Regulatory Authority

99. The third criterion that the SRRWD must consider when determining if the Project has the potential for significant environmental effects is “the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.” Minn. R. 4410.1700, subp. 7.C. The SRRWD findings with respect to this criterion are set forth below.

100. The following permits or approvals have been acquired or will be required for the Project:

Unit of Government	Type of Application	Status
<i>Minnesota Board of Water and Soil Resources</i>	<i>Project Plan Review</i>	<i>To be Submitted</i>
<i>US Army Corps of Engineers</i>	<i>Clean Water Act Section 404 Permit</i>	<i>To Be Applied For</i>
<i>Minnesota Department of Natural Resources (MNDNR)</i>	<i>Project Plan Review</i>	<i>To be Submitted</i>
	<i>Public Waters Work Permit</i>	<i>To Be Applied For</i>
	<i>Prohibited Invasive Species Permit</i>	<i>To Be Applied For</i>
	<i>Water Appropriations Permit</i>	<i>To Be Applied For (If Deemed Necessary)</i>
<i>Minnesota Pollution Control Agency (MPCA)</i>	<i>NPDES Construction Stormwater Permit</i>	<i>To Be Applied For</i>
	<i>Clean Water Act Section 401 Water Quality Certification</i>	<i>To Be Applied For (If Deemed Necessary)</i>
	<i>Notification to Manage Dredged Material without a Permit</i>	<i>To Be Applied For</i>
<i>Minnesota Department of Transportation (MNDOT)</i>	<i>Utility Accommodation on Trunk Highway ROW Permit</i>	<i>To Be Applied For (If Deemed Necessary)</i>
	<i>Miscellaneous Work on Trunk Highway ROW Permit</i>	<i>To Be Applied For</i>
<i>City of Albert Lea</i>	<i>Interim Use Permit</i>	<i>To Be Applied For</i>
	<i>Certificate of Compliance</i>	<i>To Be Applied For (If Deemed Necessary)</i>
	<i>ROW Obstruction Permit</i>	<i>To Be Applied For (If Deemed Necessary)</i>
<i>Freeborn County</i>	<i>ROW Permit</i>	<i>To Be Applied For (If Deemed Necessary)</i>

101. The Project Plan will be submitted to both MN DNR and MPCA for review in accordance with Minnesota Statute 103D.711.

102. The MN DNR Public Water Works Permit regulates activities that change or diminish the course, current, or cross section of public waters within the state, by any means, including filling, excavating, or placing materials in or on the beds of public waters.
103. A Right-of-Way Access Permit from MN DOT and/or Freeborn County is necessary for temporary placement of dredge pipeline through existing culvert under Interstate 90.
104. A Miscellaneous Work on Truck Highway Right of Way Permit is for minor work that includes installation of utility services connections that do not cross or parallel the roadway within trunk highway right of way; maintenance of utility facilities; installation of miscellaneous guy wires and anchors; placement of temporary obstructions on the right of way; and temporary relocation of a more minor nature to accommodate a construction project.
105. Applying for coverage under the Minnesota Construction Stormwater General Permit, which is an extension of the National Pollutant Discharge Elimination System (NPDES), will be necessary for ground disturbance if the construction activity is disturbing one acre or more of soil. Coverage under the Minnesota Construction Stormwater General Permit is issued to construction site owners and their operators that have adequately prepared a plan to prevent stormwater pollution during and after construction.
106. The SRRWD will work with the MPCA on management of dredged sediment.
107. This Project may be subject to a Clean Water Act Section 401 Discharge/404 Clean Water Joint Permit. This general permit provides language describing procedures and permissions regarding excavation in wetlands and placement of excavated materials into the waters of the United States or their associated wetlands. The Project may be subject to the review requirements of the MPCA's Water Quality Certification for the US Army Corps of Engineers Section 404 Wetlands Permits.
108. The above-listed permits include general and specific requirements for mitigation of environmental effects of the Project. The SRRWD finds that the environmental effects of the Project are subject to mitigation by ongoing public regulatory authorities.
109. The SRRWD in these Findings of Fact and Conclusions of Law and Decision in support of a negative declaration for the Project, identifies subsequent permitting requirements as being sufficient to mitigate environmental effects by ongoing public regulatory authorities.

The Extent to Which Environmental Effects can be Anticipated and Controlled as a Result of Other Available Environmental Studies Undertaken by Public Agencies or the Project Proposer, Including Other EISs

110. The fourth criterion that the SRRWD must consider when determining if the Project has the potential for significant environmental effects is "the extent to which environmental

effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.” Minn. R. 4410.1700, subp. 7. D. The SRRWD findings with respect to this criterion are set forth below.


111. The following were reviewed by the SRRWD and its agents as part of this review process:
- a. Comment letters from MN DNR, MPCA, and Minnesota State Historic Preservation Office;
 - b. CDF monitoring and annual reports;
 - c. Shell Rock River and Winnebago River Comprehensive Watershed Management Plan, 2022;
 - d. Second Generation Watershed Management Plan;
 - e. First Generation Watershed Management Plan;
 - f. Fountain Lake Dredging: Potential for Water Quality Benefits, Barr Engineering Technical Memo, 2012;
 - g. Risk Assessment Report, Bancroft Bay Sediment Depth Investigation and Proposed Contour Plan;
 - h. Fountain Lake Sediment Depth Investigation;
 - i. Resolution 2009-14, Bonding Request Application for Fountain Lake Sediment Dredging;
 - j. Draft Sediment Phosphorous – Internal Loading Investigation of Albert Lea, Fountain, Pickerel, and White Lakes;
 - k. Bathymetric Survey;
 - l. Fountain Lake Dredging: Potential for Water Quality Benefits;
 - m. Resolution 2013-02, Fountain Lake Restoration Project;
 - n. Update Proposal for Phase 1 Engineering Services, Fountain Lake Restoration Project;
 - o. Total Maximum Daily Load Implementation Plan;
 - p. MPCA Fountain Lake Lake Assessment (1993);
 - q. Fountain Lake Geotechnical Data;
 - r. Project Plan, Fountain Lake Restoration Project Hydraulic Dredging, Basis of Design Report;
 - s. 2016 EAW Responses;
 - t. Data presented in the 2016 EAW and 2024 EAW;
 - u. Permit Applications;
 - v. Modeling Reports;
 - w. Other reports, plans, and analysis as appropriate;
 - x. Permits and environmental review of other projects;
 - y. Regulatory agency guidance documents; and
 - z. Historical dredging of Fountain Lake.

Documents referenced herein are incorporated by reference into the Findings of Fact, Conclusions of Law and Decision which is maintained at the SRRWD office.

112. This list is not intended to be exhaustive. The SRRWD also relied on information provided by Board discussion, agent experience, and other available information obtained by the SRRWD and its agents.
113. The environmental effects of the proposed Project have been addressed in the environmental review. There are no elements of the proposed Project that pose the potential for significant environmental effects.
114. Based on the environmental review, previous environmental studies, and the SRRWD staff and agents' expertise and experience on similar projects, the SRRWD finds that the environmental effects of the Project that are reasonably expected to occur can be anticipated and controlled.
115. The SRRWD hereby adopts and incorporates by reference the rationale stated in the attached Response to Comments Exhibit 8, as an additional basis for response to issues addressed in these Findings.

CONCLUSIONS

116. The SRRWD has fulfilled applicable procedural requirements of law and rule regarding the determination of need for an EIS for the proposed the Project and dredging of East Main Bay and North Bay of Fountain Lake located in Albert Lea, Minnesota.
117. The SRRWD has jurisdiction in determining the need for an EIS on this Project. The EAW and the evidence in the record are adequate to support a reasoned decision regarding the potential significant environmental effects that are reasonably expected to occur from this Project.
118. The proposed Project and comments have been evaluated by the SRRWD to determine potential environmental effects. Based on a comparison of the impacts that are reasonably expected to occur from the Project with the criteria established in Minn. R. 4410.1700, subp. 7, and the mitigation measures to be implemented as discussed in these Findings, the Project does not have the potential for significant environmental effects.
119. The SRRWD will pass a resolution approving these Findings of Fact, Conclusions of Law and Decision declaring a negative need for an EIS.
120. The preparation of an EIS is not required.
121. Any Findings that might properly be termed Conclusions and any Conclusions that might properly be termed Findings are hereby adopted as such.
122. A copy of the SRRWD's Findings of Fact, Conclusions of Law, and Decision is being provided, within five (5) days to all persons on the EQB Distribution List, to all persons commenting, and to persons who requested a copy. This Findings of Fact, Conclusions of Law, and Decision will also be available on the SRRWD's website.

Signed: 
Mick Delger, Board Chair
Shell Rock River Watershed District

Dated: May 14, 2024

EXHIBITS

- Exhibit 1 - Attach A, Figure 7b of 2024 EAW (general surface water resources map)
- Exhibit 2 - Attach B, Figure 1 of 2024 EAW (Geosyntec project detail map)
- Exhibit 3 - Proposed pipeline to CDF
- Exhibit 4 - Fountain Lake Dredging: Potential for Water Quality Benefits 2012, Technical Memorandum from Barr Engineering, 2012
- Exhibit 5 - DNR comment letter dated April 17, 2024 and attachments
- Exhibit 6 - MPCA Comment letter dated April 8, 2024
- Exhibit 7 - State Historical Preservation Office letter dated March 8, 2024 [sic]
- Exhibit 8 - SRRWD Response to 2024 EAW comments received
- Exhibit 9 - May 7 SRRWD agenda and Board Workshop Minutes
- Exhibit 10 - Proposal Restoration Fountain Lake 1979
- Exhibit 11 - Risk Assessment Report Bancroft Bay Dredging 2006
- Exhibit 12 - Bancroft Sediment Depth Investigation May 2006
- Exhibit 13 - Fountain Lake Dredging Assessment Report 2009
- Exhibit 14 - Shell Rock and Winnebago Comprehensive Plan Implementation Table for Fountain Lake
- Exhibit 15 - 2018, 2019, 2020 monitoring and annual reports submitted to the DNR in accordance with permit requirements.

APPENDICES

- Appendix A. 2016 Fountain Lake Restoration EAW
- Appendix B. 2016 Findings of Fact, Conclusions of Law, and Decision, inclusive of Record of Decision
- Appendix C. Fountain Lake Habitat Restoration Project EAW
- Appendix D. Draft Preliminary Engineer's Report, 2016, Barr.

