

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

The Environmental Assessment Worksheet (EAW) for the Fountain Lake Restoration Project – East Main Bay and North Bay in Albert Lea was published and released for public review on Tuesday, March 19, 2024. The 30-day public comment period closed on Monday, April 18, 2024. Comments were received from two agencies, the Minnesota Pollution Control Agency (MPCA) and the Minnesota Department of Natural Resources (DNR). The Minnesota Department of Administration's State Historic Preservation Office (SHPO) submitted comments in response to a consultation in preparation of the EAW worksheet. Copies of the written acknowledgments are attached for reference.

MPCA Comments

The Minnesota Pollution Control Agency submitted a plan review letter dated April 8, 2024, in response to the EAW. A copy of the letter is attached for reference. Each comment review item is restated below along with our corresponding response.

1. Overall, this is a good project. The dredging will improve the Fountain Lake ecosystem by reducing internal phosphorus release into the water column from accumulated sediment as well as sediment resuspension through wind and wave action. In addition, the proposed project will restore lake depths and provide greater refuge for fish during increasingly hotter summer temperatures. No negative environmental effects are anticipated to result from this Project.
 - a. *Response: Comment noted.*
2. However, if the US Army Corps of Engineers Clean Water Act Section 404 permit is needed, then the State of Minnesota Section 401 Water Quality certification will also be needed. The applicant will then be required to complete the 401-program Antidegradation Assessment [process] to acquire a 401-water quality certification with conditions, have a possible waiver issued, or for an unlikely denial without prejudice issued.
 - a. *Response: The SRRWD will apply for required permits and submit for Section 401 Water Quality Certification as required.*
3. In accordance with Minnesota Statutes, the Fountain Lake Restoration project should include the MPCA as a regulator of all surface waters as defined by MN Stat. § 115.01 subd. 22. Waters of the state. Even though there may be surface waters that are determined to be USACE non-jurisdictional or exempt from the WCA, all surface waters are regulated by the MPCA, and any surface water impact needs to be described in the application and may require mitigation.
 - a. *Response: Comment noted.*

SHPO Comments

The Minnesota Department of Administration's State Historic Preservation Office (SHPO) submitted a plan review letter dated March 8, 2024 [sic], in response to the EAW. A copy of the letter is attached for reference. Each comment review item is restated below along with our corresponding response.

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

4. There are several known archaeological sites located along the shores of Fountain Lake. Therefore, due to the nature and location of the proposed project, we recommend that an underwater archaeological survey be completed by a qualified archaeologist to assess the potential for intact archaeological sites in the project area. The survey must meet the requirements of the Secretary of the Interior's Standards for Identification and Evaluation and should include an evaluation of National Register eligibility for any properties that are identified. For a list of consultants who have expressed an interest in undertaking such surveys, please visit the Preservation Specialist Directory website of the Minnesota Historical Society, <https://www.mnhs.org/preservation/directory>, and select "Archaeologists" in the "Specialties" box.
 - a. *Response: This project will not have direct impacts to the shoreland areas. Minimum setbacks from the shoreline, as defined in the construction documents, will be observed at all times. The purpose of this project is to remove accumulated sediment; therefore, it is not anticipated to affect any archaeological or historically buried materials.*
5. Additionally, there are several known burial mounds/cemeteries that have been identified along the shores of Fountain Lake that may be partially submerged, therefore we recommend that you consult with the Minnesota Indian Affairs Council (MIAC) and the Office of the State Archaeologist (OSA) to determine how to proceed regarding the project's potential to affect cemeteries and burials under the Minnesota Private Cemeteries Act, Minn. Stat. 307.08.
 - a. *Response: This project will not have direct impacts to the nearshore partially submerged shoreland areas. Minimum setbacks from the shoreline, as defined in the construction documents, will be observed at all times. The purpose of this project is to remove accumulated sediment; therefore, it is not anticipated to affect any archaeological or historically buried materials.*
6. Based on the documentation provided, it appears that there are no properties listed in the National or State Registers of Historic Places that will be affected by this project. However, please note that this comment letter does not address the requirements of Section 106 of the National Historic Preservation Act of 1966 and 36 CFR § 800. If this project is considered for federal financial assistance, or requires a federal permit or license, then review and consultation with our office will need to be initiated by the lead federal agency. Pursuant to 36 CFR § 800, it is the responsibility of the federal agency to define the federal undertaking, define an appropriate area of potential effects (APE) for the federal undertaking as well as the necessary historic property identification and evaluation efforts required for a federal review. Be advised that comments and recommendations provided by our office for this state-level review may differ from findings and determinations made by the federal agency as part of review and consultation under Section 106.
 - a. *Response: This project does not involve any federal financial assistance. It does not occur on Waters of the United States and therefore is not expected to require United States Army Corps of Engineers (USACE) permit. However, in the event that a permit is required, Section 106 of the National Historic Preservation Act (NHPA) consultation and all subsequent requirements will be adhered to.*

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

MN DNR

The Minnesota Department of Natural Resources (DNR) submitted a plan review letter dated April 17, 2024 in response to the EAW. A copy of the letter is attached for reference. Please note that each review item is restated below along with our corresponding response.

National Heritage Information System

7. This project has the potential to impact this rare turtle through direct fatalities and habitat disturbance/destruction due to excavation, fill, and other construction activities associated with the project. Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. Given the project details and the potential for a take of a Blanding's turtle, an avoidance plan is required.
 - a. *An avoidance plan will be developed and submitted prior to construction.*
8. To ensure compliance with federal law, conduct a federal regulatory review using the U.S. Fish and Wildlife Service's (USFWS) online Information for Planning and Consultation (IPaC) tool.
 - a. *IPaC review was conducted and was provided in Attachment F of EAW.*
9. The Environmental Assessment Worksheet should address whether the proposed project has the potential to adversely affect the above rare features and, if so, it should identify specific measures that will be taken to avoid or minimize disturbance. Sufficient information should be provided so the DNR can determine whether a takings permit will be needed for any of the above protected species.
 - a. *Item 14.c. of the EAW discusses how Blanding's turtles may be affected. Item 14. d. of the EAW discusses avoid, minimize, and mitigate measures that are currently anticipated for the project.*
10. Please include a copy of this letter and the MCE-generated Final Project Report in any state or local license or permit application. Please note that measures to avoid or minimize disturbance to the above rare features may be included as restrictions or conditions in any required permits or licenses.
 - a. *This letter will be included in any state or local license or permit application.*

Scope of EAW

11. The statement that the 2016 EAW covered the extent of dredging currently proposed for North Bay is not supported by the 2016 EAW and the subsequent Findings of Fact, Conclusion of Law, and Decision of Shell Rock River Watershed District ("SSRWD"), as RGU, for Negative Declaration on Need for EIS (EIS FOF).
 - a. *Response: The 2016 EAW included a proposed dredging extent in North (Bancroft) Bay as the intention was to present the project as an assessment of potential impacts and benefits to the entire lake. The entirety of North (Bancroft) Bay was considered as the project area throughout the project planning process and engineering design, originally initiated in 2013. This is supported by the extent of data gathered and assessed during the project, which included sediment samples that were taken throughout North Bay, the Delft 3D model that was based on the entire lake system functioning as a whole, the predicted water*

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

quality impacts based on whole lake system modeling of inputs and outputs, and multiple draft dredging extents presented in various draft designs (Resolution 2013-02 Fountain Lake Restoration Project and the DPER). Due to the comments and concerns regarding Blanding's turtles in North Bay, the findings of fact state that this portion of the lake would be postponed so that "continued collaboration between agencies on future projects will allow ample opportunity to address and protect this important species" EIS Negative Declaration p 14, item 95.

The exclusion of North Bay from the findings of fact and Notice of Decision (NOD) is specifically why the SRRWD completed this EAW.

12. The 2016 EAW relies on the Draft Preliminary Engineering Report (DPER) to explain the proposed project (Attachment 3: Project Description). The maps depicting the proposed dredge extents, outlined in red on the map, show the entirety of Edgewater Bay, Dane's Bay, and Main Bay as potentially dredged. North Bay is the only portion of the lake not outlined in red; rather, two small sediment management areas are identified at the downstream end of North Bay. This dredge extent reflects the findings in the Design Considerations section of the DPER (section 2.2.8 Lake Habitat), "Little to no aquatic vegetation has been observed in Edgewater and Main Bay. Bancroft Bay has the least development on the lake and is the only portion of the lake with substantial aquatic vegetation and other fish and wildlife life habitat."
 - a. *Response: While Figure 3 (originally from the DPER) provides an outline of the dredge extents, those extents were not directly due to the vegetation information provided in section 2.2.8. of that same report. Figure 3 served as a description of aquatic vegetation found in the lake, which was a necessary component of an engineering report. Under section 2.3 of the DPER, it is stated that "These dredge prisms are preliminary and will require further design". The entirety of North (Bancroft) Bay was considered as the project area throughout the project planning process and engineering design originally initiated in 2013. This is supported by the extent of data gathered and assessed during the project, which included sediment samples that were taken throughout North Bay, the Delft 3D model based on the entire lake system functioning as a whole, the predicted water quality impacts based on whole lake system modeling of inputs and outputs, and multiple draft dredging extents presented in various draft designs (Resolution 2013-02 Fountain Lake Restoration Project and the DPER).*

13. It is noted that the dredge prisms are preliminary and will require further design based on a more detailed evaluation of site constraints and stakeholder input during the project's design phase. However, changes to the design were not explicitly incorporated in the 2016 EAW, and it is reasonable to conclude that impacts were not evaluated outside of the proposed dredge extents.
 - a. *Response: The entirety of North (Bancroft) Bay was considered as the project area*

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

throughout the project planning process and engineering design, originally initiated in 2013. This is supported by the extent of data gathered and assessed during the project, which included sediment samples that were taken throughout North Bay, the Delft 3D model based on the entire lake system functioning as a whole, the predicted water quality impacts based on whole lake system modeling of inputs and outputs, and multiple draft dredging extents presented in various draft designs (Resolution 2013-02 Fountain Lake Restoration Project and the DPER). Additionally, the dredge prisms submitted in the 2016 EAW were not substantively changed through the permitting process and the only way that they were changed was through a reduced footprint. Therefore, the conclusion that impacts outside of the proposed dredge extents is inaccurate.

Impacts were evaluated throughout the project development and permitting processes for the previous dredging work. Because of concerns related to Blanding's turtles in North Bay, this bay was excluded from the Findings of Fact and NOD from the 2016 EAW, this EAW was developed.

14. The EIS FOF also does not consider the dredge extent currently proposed in North Bay. Number 95 in the EIS FOF states: "The MN DNR has identified the potential for Blanding's Turtles to exist in the Bancroft Bay area of Fountain Lake. The Project has been clarified to specifically exclude dredging activities in this area of Fountain Lake. Exhibit Number 2. Continued collaboration between agencies on future projects will allow ample opportunity to address and protect this important species"
 - a. *Response: The 2016 FOF did consider dredging impacts to North Bay, although the extents have been adjusted. The consideration of the North Bay in 2016 is noted in the FOF with the explicit statement that opportunities to protect this species will be addressed in future projects. Dredging in North Bay has remained under consideration by the SRRWD. The SRRWD acquired the funding to achieve the goals envisioned under the project establishment which included the entire lake. Due to the concerns about the Blanding's turtle that were documented in the 2016 FOF, the SRRWD initiated the current EAW.*

15. The DPER, 2016 EAW, and EIS FOF do not consider the full extent of dredging currently proposed in North Bay. Therefore, they should not be used as a reference for evaluating potential impacts on North Bay. A more robust, site-specific evaluation is needed to assess environmental effects accurately.
 - a. *Response: Based on the 2016 FOF, which paused the North Bay from moving forward into permitting due to concerns about Blanding's turtles, the SRRWD proceeded with the current EAW. The intent is to evaluate all existing information, as is protocol for an EAW. Accordingly, the SRRWD Board will evaluate all previously reviewed information, as well as concerns brought forth by this EAW. Specifically, the review of existing information will*

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

include the findings from study and engineering efforts dating back to 1979. The results of this exhaustive analysis have conclusively indicated the need to remove the phosphorus rich accumulated sediment that has deposited in Fountain Lake in order to achieve MN state water quality standards. The complete list of previously completed study and engineering efforts is outlined within the FOF. Notable efforts include, "Proposal Restoration Fountain Lake - 1979", "Risk Assessment Report Bancroft Bay - 2006", "Bancroft Sediment Depth Investigation - 2006", "Fountain Lake Dredging Assessment Report - 2009", "Resolution 2013-02 Fountain Lake Restoration Project", and "Draft Preliminary Engineering Report - 2014."

Demonstrated Need for Dredging North Bay.

16. The EAW does not adequately explain the need for extensive dredging in North Bay. The DPER includes two potential dredging extent scenarios. These scenarios were based on the measured concentrations of phosphorus in the lake sediments and the depths of sediment removal expected to have the most significant effects on reducing internal loading. Have additional studies been done to indicate that expanding the dredge extent into the only portion of the lake with substantial aquatic vegetation and fish and wildlife habitat would significantly decrease internal loading and improve in-lake habitat?

- a. *Response: The DPER clearly outlines the need of removing the phosphorus rich sediments from Fountain Lake to achieve the phosphorus reductions required to meet Minnesota state water quality standards. This is presented in section 3.2.3 of the DPER and states, "Management of internal lake phosphorus loading AND external phosphorus loading will be needed in order to approach MPCA water quality standards for Fountain Lake" and "Reduction of external phosphorus loading to Fountain Lake is important, but can be done in parallel with internal lake management efforts". 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 outlined seasonality changes of inflow and outflow phosphorus loads and the lake's response to those changes based on the Delft3D modeling analysis. It also included an analysis of inflow and outflow phosphorus loads using monitored data and the FLUX32 software. Regarding seasonality changes, the memo stated that, "total phosphorus concentrations coming into Fountain Lake from its tributaries were higher than total phosphorus concentrations in Fountain Lake during spring and early summer. The model was able to mimic this by simulating the settling particulate phosphorus and the uptake of dissolved phosphorus by phytoplankton. Phosphorus that neither settled nor was taken up by phytoplankton could leave the lake through its outlet. In early to mid-summer, water quality data showed that phosphorus concentrations were typically higher in the lake than the tributaries, most likely due to internal phosphorus loading from lake sediments." FLUX32 analysis 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. Specific to North Bay, the proposed dredging area is considered beneficial based upon the sediment core phosphorus values shown in table 2-1 of the DPER. Sites 14 (820 mg/kg in 0-2 ft and 720 mg/kg in 2-5 ft), 15 (880 mg/kg in 0-2 ft and 760 mg/kg in 2-4 ft), and 16 (890 mg/kg in 0-*

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

2 ft and 900 mg/kg in 2-5 ft) all have significantly high phosphorus levels present in the accumulated sediment. The phosphorus fractions from these sediment cores were further analyzed in the technical memorandum "Fountain Lake Dredging: Potential for Water Quality Benefits" from 2012. 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. The outcomes of these studies outline in detail the influence internal loading of phosphorus has on the lake's water quality, the need to remove the internal source in tandem with reducing inputs from the watershed, and North Bay being the source of the highest mobile phosphorus concentrations in the lake. This evidence strongly supports the removal of this accumulated sediment in North Bay.

17. In 2017, water samples were taken by the DNR, which showed that North Bay had high levels of phosphorus (over 240 parts per billion) and Chlorophyll A at 0.00118 parts per million. However, once the water left North Bay, the phosphorus levels significantly decreased (less than 92 parts per billion), and the Chlorophyll A levels were at 0.00471 parts per million. This suggests that North Bay's robust aquatic plant community effectively removed phosphorus and nutrients from the water before entering Fountain Lake. Minnesota Pollution Control Agency (MPCA) phosphorus water sampling of Bancroft Creek ranged between 1100-37 parts per billion and high fecal coliform and E. coli concentrations between 2006-2020 and represents a significant loading and water quality issue for North Bay and Fountain Lake. A detailed water quality evaluation and sampling protocol are needed to evaluate incoming (Bancroft Creek) and outgoing (North Bay channel outlet) water quality. This study is necessary over several years to assess natural variability in rainfall, water quality, nutrient concentrations, and habitat benefits in North Bay vs the proposed project option.

- a. *Response: In addition to efforts outlined in the response to comment number 16, annual water quality monitoring reports were developed based on water quality data collected from 2005 to 2019. Outcomes of these monitoring reports and the previously referenced studies have been consistent in highlighting the need for removal of the phosphorus-rich accumulated sediment throughout Fountain Lake, including North Bay. Aquatic plants are a component of the phosphorus cycle via uptake of phosphorus and are a critical component of a healthy lake. The outcome of the proposed project is in alignment with these facts. The project will result in increased water clarity, more firm sediment for rooting of higher quality native vegetation such as bulrush, and improve abundance and diversity of aquatic vegetation by allowing the native seedbank to flourish. This is supported in section 3.3.2.1 of the DPER, which states that benefits to aquatic plants are anticipated by improving water clarity, allowing more light penetration and increased plant growth. Additionally, it is important to note that the proposed project footprint would result in the dredging 66 of the total 162 acres (41%) of North Bay; therefore, retaining 96 acres of the natural fish and wildlife habitat in North Bay to remain in its current condition. This unimpacted aquatic vegetation will continue to provide habitat and water quality benefits while vegetation re-establishes in dredged areas.*

Anticipated benefits are also outlined in a comment received from the Minnesota Pollution Control Agency in response to this EAW which stated: "Overall, this is a good project. The dredging will improve the Fountain Lake ecosystem by reducing internal phosphorus release into the water column from accumulated sediment as well as sediment resuspension

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

through wind and wave action. In addition, the proposed project will restore lake depths and provide greater refuge for fish during increasingly hotter summer temperatures. No negative environmental effects are anticipated to result from this Project."

18. There are numerous alternatives and BMPs to address internal and external nutrient and sediment loading that do not involve excavation and allow natural aquatic habitats to persist. A robust alternative analysis of these methods is also needed. This would be some of the critical information required for a Public Water Work Permit (PWWP) to understand whether this project is consistent with DNR statute and rule authority to issue a permit.
- a. *Response: Precedent studies outline a robust assessment and justification for dredging Fountain Lake and the subsequent water quality and aquatic vegetation benefits of doing so. The information within the DPER includes alternatives analysis for various scenarios to accomplish water quality goals. Conducting additional alternatives analysis would be duplicative. Specifically, within the DPER three alternative scenarios were conducted to understand the influence of different dredging levels and different watershed pollutant load contributions. The outcomes of this analysis concluded that, "Management of internal lake phosphorus loading AND external phosphorus loading will be needed in order to approach MPCA water quality standards for Fountain Lake" and "Reduction of external phosphorus loading to Fountain Lake is important, but can be done in parallel with internal lake management efforts". Regarding alternative in-lake treatment approaches, the DPER notes that alum treatments were considered during development of this holistic lake restoration approach. It is not elaborated on further within the DPER, but due to the shallow nature of Fountain Lake, in particular North Bay, and depth of deposited sediment, alum dosing would be limited in effectiveness and longevity.*
19. Conservation of aquatic plants should be a priority for lake management activities. Adequate aquatic plant coverage is critical in maintaining biodiversity and water quality, providing essential habitat and ecosystem function. Before proceeding with in-lake treatments in North Bay, the extent to which best management practices have been implemented to reduce nutrient and sediment loading to Bancroft Creek and the impact on water quality need to be evaluated. Removing vegetation from North Bay may be counterproductive to water quality goals. North Bay is likely to shift to an algal-dominated system without rooted vegetation. Robust native plant populations, like those found in North Bay, preempt, and reduce the establishment and dominance of aquatic invasive plants. This discussion should also include data on water quality and vegetation establishment following Phase 1 and 2 dredging activities. Given Fountain Lake's lack of vegetation, North Bay is the critical natural spawning habitat and nursery for northern pike, largemouth bass, and bluegill sunfish, which produce first-year classes for the entire lake.
- a. *Response: In addition to previous comment responses and to support the claim that aquatic vegetation will return, coontail was sampled at two sites in Dane's Bay during the 2023 assessment, which is post-dredging. Both sites where coontail was sampled were dredged recently with vegetation sampled at depths of 4.5-7.5 ft. The amount of material removed via dredging at these sites exceed what is proposed in North Bay. Regarding watershed contributions, the SRRWD has documented the successful and effective results of the last decade-plus implementing watershed BMPs with numerous wetland restorations. The SRRWD is currently implementing their Comprehensive Watershed Management Plan*

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

(CWMP) that directly targets BMPs in the watershed based upon the water quality benefits to Fountain Lake. Importantly, the DPER concluded that, "Reduction of external phosphorus loading to Fountain Lake is important, but can be done in parallel with internal lake management efforts".

20. The rate of sediment accumulation in North Bay also requires further investigation. Based on the best available depth measurement data over the last 69 years, the lake's depth has reduced by less than 0.5 feet.
- a. *Response: Removal of sediment accumulation, thereby increasing capacity for future deposition, is a benefit. However, the impetus of this project, as defined in the DPER, is to benefit the water quality of Fountain Lake and improve water clarity that enhances the presence of aquatic vegetation throughout Fountain Lake.*

Consistency with Local Plans.

21. Removing the only substantial natural fish and wildlife habitat in Fountain Lake is inconsistent with the Shell Rock River and Winnebago River Comprehensive Watershed Management Plan (CWMP). The Level D Priority Issue, Improve Degraded Aquatic Habitat, referenced in the EAW, includes the measurable outcome, "Restore habitat in Fountain Lake through dredging and creation in-lake structures." North Bay is currently the only part of the lake with substantial natural fish and wildlife habitat, and the need for dredging as a restorative effort is not thoroughly explained. North Bay has historically been a shallow lake, and deepening the bay, removing native aquatic vegetation, creating a pathway for aquatic invasive plant establishment, and disrupting ecological processes currently supporting fish and wildlife directly contradicts goals outlined in the CWMP.
- a. *Response: The project designs only consider dredging in 66 of the total 162 acres (41%) of North Bay, thereby retaining 96 acres of the natural fish and wildlife habitat in North Bay. The potential for higher quality habitat regeneration is based on project outcomes, which will occur in the 66 acres of area that is dredged.*

Surface and Ground Water Features.

22. While Fountain Lake is not a designated wildlife lake, migratory waterfowl feeding/resting area, or lake of biological significance, the existing habitat can be critical to local fish and wildlife communities. A close examination of the local context is required.
- a. *Response: Fountain Lake is not designated as a DNR Wildlife Lake, DNR Migratory Waterfowl Feeding and Resting Area, or a DNR Lake of Biological Significance which indicates the current habitat condition is not of high quality. Outcomes outlined in previous comments identify how dredging will contribute towards enhancing water quality and habitat conditions that will help enhance the quality of habitat.*

Effects on Water Resources

23. A water appropriation permit is likely required to pump dredge water to the CDF. If one or more treatment cells in the CDF array are already filled and not used for treatment as in the first phase, water quality and nutrients leaving the CDF may be at higher than acceptable discharge limits.

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

- a. *Response: A water appropriation permit should not be required for this project, and it was not required for the 2018-2020 dredging operations either. The CDF is existing infrastructure and the water pumped into the CDF all flows back into Fountain Lake. Water quality will be monitored and reported in accordance with permit conditions defined in previous dredging efforts.*

Surface Waters

24. The restoration goal of a “more natural condition” needs further clarification. North Bay is fully vegetated, and the most recent aquatic vegetation survey did not detect invasive plants. It is also the only area of Fountain Lake with substantial natural fish and wildlife habitat.

- a. *Response: The project designs only consider dredging in 66 of the total 162 acres (41%) of North Bay, thereby retaining 96 acres of the natural fish and wildlife habitat in North Bay. The potential for higher quality habitat regeneration is based on project outcomes, which will occur in the 66 acres of area that is dredged.*

25. Data was also not provided to demonstrate the extent of propeller-induced resuspension and disruption of accumulated sediment. Alternative methods exist to address this potential problem should further data collection confirm it is an issue. The conclusion that no negative environmental effects are anticipated as a result of the project is not supported.

- a. *Response: A reduction in propeller-induced resuspension is one of the secondary benefits of the project. The primary reason for conducting the restoration project is to reduce internal phosphorus loading to Fountain Lake by removing deposited bottom sediments through dredging. Therefore, a no propeller wash analysis or similar resuspension analysis is not necessary since a reduction in soft sediment will, by nature of the work, reduce the potential for soft sediments to become resuspended.*

Generation/Storage of Solid Waste

26. Potential water quality issues related to the Confined Disposal Facility necessitate further investigation. As discussed in the DNR comment letter for the previous EAW, outflow from the CDF will return to an unnamed ditch, eventually entering Bancroft Creek and Fountain Lake. the nutrients from the spoil also have the Potential to enter the shallow groundwater and be discharged to the drainage ditch. the EAW does not discuss the interaction between shallow groundwater, spoil, outlet flows, and the transport of nutrients back into Fountain Lake. water quality data from the CDF outflow should be referenced to support this section.

- a. *Response: The SRRWD will complete the same water quality monitoring and reporting efforts as defined in the permit conditions of previous dredging work.*

Fish, Wildlife, and Plant Communities

27. The conclusion that no negative environmental effects are anticipated from excavation in North Bay is without merit. Removing most of the remaining intact habitat requires thorough investigation, sampling, data analysis, and consideration, which has yet to occur.

- a. *Response: This project will result in the anticipated benefits of improved water quality,*

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

aquatic vegetation, and habitat. The project designs only consider dredging in 66 of the total 162 acres (41%) of North Bay, thereby retaining 96 acres of the natural fish and wildlife habitat in North Bay. The potential for higher quality habitat regeneration is based on project outcomes, which will occur in the 66 acres of area that is dredged. Anticipated benefits to Fountain Lake habitat is outlined in a comment received from the Minnesota Pollution Control Agency in response to this EAW which stated: "Overall, this is a good project. The dredging will improve the Fountain Lake ecosystem by reducing internal phosphorus release into the water column from accumulated sediment as well as sediment resuspension through wind and wave action. In addition, the proposed project will restore lake depths and provide greater refuge for fish during increasingly hotter summer temperatures. No negative environmental effects are anticipated to result from this Project." Because the project does not impact a majority of existing intact habitat in North Bay and long-term benefits, as identified in previous responses and the MPCA comment, are anticipated to enhance the impacted area long-term, any temporary impacts will be outweighed by the long-term benefits.

28. The most recent aquatic vegetation survey was completed on September 18, 20, and 22, 2023, after the peak season for native vegetation, which extends from July to early August. Many aquatic plants have senesced by this point. Completing an aquatic vegetation survey during peak season is necessary to assess current conditions and potential impacts accurately.

a. *Response: Comment noted*

29. Fish surveys have not been completed in North Bay. However, given the lack of vegetation in the rest of Fountain Lake and the life history requirements for documented fish species, North Bay is a critical spawning and nursery habitat.

a. *Response: The project designs only consider dredging in 66 of the total 162 acres (41%) of North Bay, thereby retaining 96 acres of the natural fish and wildlife habitat in North Bay. The potential for higher quality habitat regeneration is based on project outcomes, which will occur in the 66 acres of area that is dredged. Spawning habitat in Dane's Bay and Edgewater Bay has been previously dredged with the recognition that improved water quality conditions will enhance the presence of native vegetation through improving water clarity. DNR termed 'critical habitat' has not been mapped or monitored and is therefore an assumption based on presence of coontail throughout North Bay.*

Rare Features

30. The EAW's discussion of Blanding's turtles is inaccurate. The environmental review factsheet referenced in the EAW does not cover the full range of habitat use or necessary guidance. The DNR Rare Species Guide and the attached General Blanding's Turtle Avoidance Measures and Best Practices for Project Areas in the MNDNR Southern Region provide additional, relevant information.

a. *Response: General Blanding's Turtle Avoidance Measures and Best Practices for Project Areas in the MNDNR Southern Region will be consulted during project permitting efforts as was done for previous dredging completed in Fountain Lake. Previous dredging efforts which occurred in areas of Fountain Lake, that were very close to confirmed sightings, show a successful outcome following these protocols and set the precedent for the proposed*

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

project. Also, as noted in previous comments, the project designs only consider dredging in 66 of the total 162 acres (41%) of North Bay, thereby retaining 96 acres of the natural fish and wildlife habitat in North Bay. The potential for higher quality habitat regeneration is based on project outcomes, which will occur in the 66 acres of area that is dredged.

31. Blanding's Turtles have been documented in Albert Lea as recently as 2015, with confirmed incidental reports from the general area within connected waterways. These connections facilitate considerable movement by Blanding's turtles. The species is also semi-terrestrial and travels overland. The species is long-lived, and the lack of recent reports or formal survey efforts does not indicate that the population is no longer present or that the area is of no importance.
- a. *Response: Comment noted. The potential for Blanding's Turtle occurrence is a primary reason why the SRRWD decided to proceed with this EAW.*
32. Avoidance of state-protected species is required, and based on available data and expert knowledge of this species and its habitat use within the DNR, there is a high potential for its occurrence in North Bay. An avoidance plan is required. DNR staff are available for consultation. Access roads, equipment staging areas, and spoil deposition locations must also be reviewed for potential impacts.
- a. *Response: The potential for Blanding's Turtle occurrence is a primary reason why the SRRWD decided to proceed with this EAW. A Blanding's Turtles avoidance plan will be developed during project permitting efforts.*
33. The measures proposed to avoid and minimize disturbance also require further scrutiny. Measure (a) does not include all suitable Blanding's turtle habitat. It is also unlikely that the actions described in measure (d) can be achieved during dredging operations. Visual observation and relocation of turtles is not a viable option to prevent take due to turbid conditions and the presence of turtles within the sediment itself. Turtles are vulnerable to this practice year-round.
- a. *Response: Among other measures implemented within an avoidance plan, having an environmental observer on a daily basis to clear any turtles prior to daily dredge activities will be one of the measures to avoid and/or minimize disturbance to Blanding's turtle and their habitat.*

Fish, Wildlife, and Plant Community Impacts

34. Dredging North Bay will diminish critical natural habitat, and understanding the ability of native species to persist in a lake system lacking substantial habitat following dredging needs to be evaluated.
- a. *Response: As noted in previous responses, Fountain Lake is not designated as a DNR Wildlife Lake, DNR Migratory Waterfowl Feeding and Resting Area, or a DNR Lake of Biological Significance, which indicates the current habitat condition is not of high quality. Outcomes outlined in previous comments identify how dredging will contribute towards enhancing water quality and habitat conditions that will help enhance the quality of habitat.*
35. As noted in the aquatic plant survey, beyond the 1.0-foot zone, there may be limited plant growth for

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

aquatic vegetation due to an average water clarity measurement of 1.0 feet.

a. *Response: Comment noted.*

36. Healthy shallow lakes are fully vegetated, and increasing the depth in North Bay will likely significantly hinder native vegetation from reestablishing and create the conditions for invasive aquatic plants that can grow in lower-light environments to move in. It may also shift North Bay to an algal-dominated system.

a. *Response: The goal of the project is to remove nutrient laden sediment that is contributing to the internal phosphorous loading problems. This is anticipated to increase water quality allowing light penetration at deeper depths and vegetation establishment in deeper water which is supported by information included in previous responses.*

37. Vegetated shallow lakes play a critical role in supporting fish and wildlife populations. They provide spawning and nursery habitat and support diverse invertebrate populations. North Bay is the only remaining shallow vegetative bay connected to the main lake. It provides critical spawning and nursery habitat for northern pike, largemouth bass, bluegill, sunfish species, and various shiners and minnow species, which produce first-year classes for the entire lake. Dredging also has an immediate and direct negative impact on forage fish, their habitat, and their food web. Aquatic vegetation is also essential for producing dissolved oxygen for fish. North Bay also provides a critical habitat for feeding, resting, and nesting birds such as waterfowl, shorebirds, herons, egrets, pelicans, and many other bird species.

a. *Response: Previous comments outline the benefits anticipated from completing this project for both water quality and lake vegetation as well as fish and wildlife habitat. The project designs only consider dredging in 66 of the total 162 acres (41%) of North Bay, thereby retaining 96 acres of the natural fish and wildlife habitat in North Bay. The potential for higher quality habitat regeneration is based on project outcomes, which will occur in the 66 acres of area that is dredged.*

Potential Impacts That Warrant Further Investigation

38. "Filing data gaps and accurately discussing potential impacts is critical to making well-informed lake management decisions. Further investigation that is needed includes:

- Water Quality Monitoring (Bancroft Creek and North Bay Outlet)
- Recreational Use Surveys
- Fish Surveys
- Wildlife Surveys
- Peak Season Aquatic Vegetation Survey"

a. *Response: Comment will be taken under advisement.*

Need For Environmental Impact Statement

39. "There are several options to ensure potential significant environmental impacts are thoroughly

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

analyzed.

Option 1: MINN. R. 4410.1700 Subp. 7 Order EIS

Based on the available data, a reasonable conclusion can be made that the proposed dredge extent for North Bay has the potential for significant environmental effects. This letter does not include a thorough review of the criteria; however, DNR staff are available to consult on those items.

Option 2: MINN. R. 4410.1700 Subp. 2a. Insufficient Information.

Pursuing this option would also be reasonable, given the scope of potential impacts that warrant further investigation. A positive declaration can be made that includes within the scope the appropriate studies to obtain lacking information, or the decision can be postponed until the lacking information is obtained."

- a. *Response: Comment will be taken under advisement; surveys and studies outlined in previous responses have been performed for over a decade and work proposed is consistent with past work performed.*

Public Waters Work Permit


40. A Public Waters Work Permit is required for the project. The information in the EAW and subsequent environmental review efforts relate directly to project permitting. To increase efficiency, information required for environmental permitting is encouraged to be included within environmental review documents. The proposed dredge extent for North Bay has the potential for significant environmental effects, and additional data needs to be collected before the full extent of those effects is accurately understood.

The following sections of Minnesota Administrative Rules Chapter 6115 Public Water Resources must be thoroughly reviewed.

- 6115.0200 Excavation of Public Waters
- 6115.0201 Specific Standards; Excavation
- 6115.0215 Restoration of Public Waters
- 6115.0250 Permit Review

- a. *Response: Comment Noted*

Attachments:

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

Date: May 14, 2024

**SHELL ROCK RIVER WATERSHED DISTRICT
RESPONSE TO COMMENTS RECEIVED DURING
ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW) PUBLIC COMMENT PERIOD**

Fountain Lake In-Lake Habitat Restoration Project

Minnesota Department of Natural Resources Comment Letter
Minnesota State Historical Preservation Office Comment Letter
Minnesota Pollution Control Agency Comment Letter

Attachment – Comment Letters

Division of Ecological & Water Resources
Region 4 (South Region)
21371 Highway 15 South
New Ulm, MN 56073

April 17, 2024

Shell Rock River Watershed District
Mick Delger, District Chairman
Andy Henschel, Administrator
305 S. 1st Ave
Albert Lea, MN 56007

Subject: Environmental Assessment Worksheet: Fountain Lake Restoration Project – East Main Bay and North Bay

Shell Rock River Watershed District,

Thank you for the opportunity to review the Environmental Assessment Worksheet (EAW) for the proposed Fountain Lake Restoration Project – East Main Bay and North Bay. Comments are offered in accordance with [Minnesota Chapter 4410.1600](#).

After reviewing the EAW and available data, further investigation and analysis are needed to determine the extent of potential environmental impacts. The following comments focus on proposed dredging in North Bay.

ACCURACY AND COMPLETENESS OF MATERIAL

Project Description - Section 6

Scope of EAW (Section 6. b. 1) - The statement that the 2016 EAW covered the extent of dredging currently proposed for North Bay is not supported by the 2016 EAW and the subsequent Findings of Fact, Conclusion of Law, and Decision of Shell Rock River Watershed District (“SSRWD”), as RGU, for Negative Declaration on Need for EIS (EIS FOF). The 2016 EAW relies on the *Draft Preliminary Engineering Report (DPER)* to explain the proposed project (Attachment 3: Project Description). The maps depicting the proposed dredge extents, outlined in red on the map, show the entirety of Edgewater Bay, Danes Bay, and Main Bay as potentially dredged. North Bay is the only portion of the lake not outlined in red; rather, two small sediment management

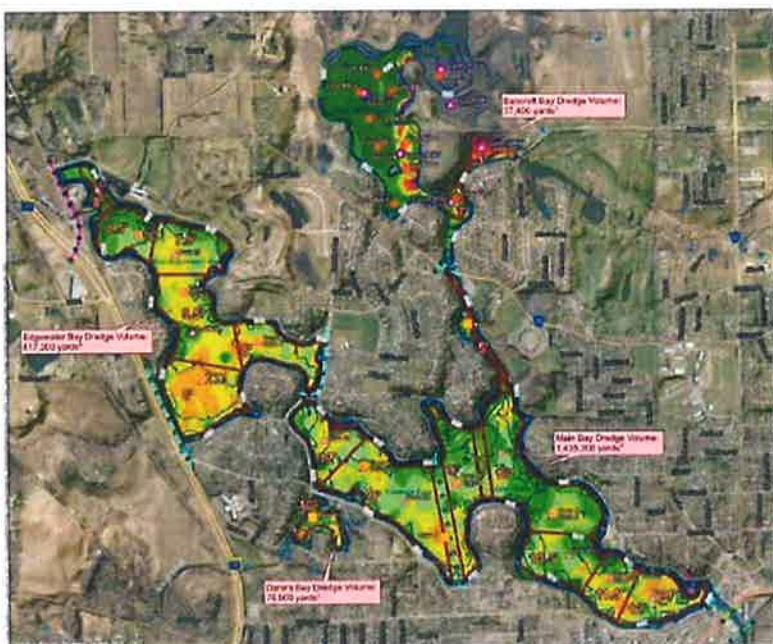
areas are identified at the downstream end of North Bay. This dredge extent reflects the findings in the Design Considerations section of the DPER (section 2.2.8 Lake Habitat), “Little to no aquatic vegetation has been observed in Edgewater and Main Bay. Bancroft Bay has the least development on the lake and is the only portion of the lake with substantial aquatic vegetation and other fish and wildlife life habitat.”

It is noted that the dredge prisms are preliminary and will require further design based on a more detailed evaluation of site constraints and stakeholder input during the project's design phase. However, changes to the design were not explicitly incorporated in the 2016 EAW, and it is reasonable to conclude that impacts were not evaluated outside of the proposed dredge extents. The EIS FOF also does not consider the dredge extent currently proposed in North Bay. Number 95 in the EIS FOF states,

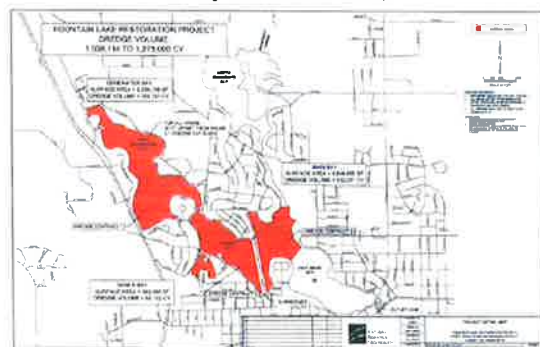
“The MN DNR has identified the potential for Blanding’s Turtles to exist in the Bancroft Bay area of Fountain Lake. The Project has been clarified to specifically exclude dredging activities in this area of Fountain Lake. Exhibit Number 2. Continued collaboration between agencies on future projects will allow ample opportunity to address and protect this important species”

The DPER, 2016 EAW, and EIS FOF do not consider the full extent of dredging currently proposed in North Bay. Therefore, they should not be used as a reference for evaluating potential impacts on North Bay. A more robust, site-specific evaluation is needed to assess environmental effects accurately.

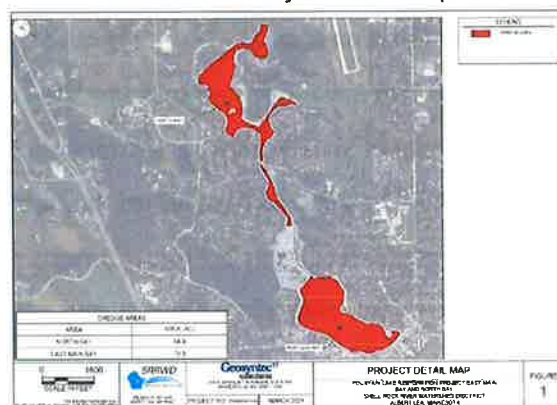
2016 EAW Project Limits Map



2016 Negative Declaration Project Limits Map



2024 EAW Project Area Map



Demonstrated Need for Dredging North Bay (Section 6. d) - The EAW does not adequately explain the need for extensive dredging in North Bay. The DPER includes two potential dredging extent scenarios. These scenarios were based on the measured concentrations of phosphorus in the lake sediments and the depths of sediment removal expected to have the most significant effects on reducing internal loading. Have additional studies been done to indicate that expanding the dredge extent into the only portion of the lake with substantial aquatic vegetation and fish and wildlife habitat would significantly decrease internal loading and improve in-lake habitat? In 2017, water samples were taken by the DNR, which showed that North Bay had high levels of phosphorus (over 240 parts per billion) and Chlorophyll A at 0.00118 parts per million. However, once the water left North Bay, the phosphorus levels significantly decreased (less than 92 parts per billion), and the Chlorophyll A levels were at 0.00471 parts per million. This suggests that North Bay's robust aquatic plant community effectively removed phosphorus and nutrients from the water before entering Fountain Lake. Minnesota Pollution Control Agency (MPCA) phosphorus water sampling of Bancroft Creek ranged between 1100-37 parts per billion and high fecal coliform and E. coli concentrations between 2006-2020 and represents a significant loading and water quality issue for North Bay and Fountain Lake. A detailed water quality evaluation and sampling protocol are needed to evaluate incoming (Bancroft Creek) and outgoing (North Bay channel outlet) water quality. This study is necessary over several years to assess natural variability in rainfall, water quality, nutrient concentrations, and habitat benefits in North Bay vs the proposed project option. There are numerous alternatives and BMPs to address internal and external nutrient and sediment loading that do not involve excavation and allow natural aquatic habitats to persist. A robust alternative analysis of these methods is also needed. This would be some of the critical information required for a Public Water Work Permit (PWWP) to understand whether this project is consistent with DNR statute and rule authority to issue a permit.

Conservation of aquatic plants should be a priority for lake management activities. Adequate aquatic plant coverage is critical in maintaining biodiversity and water quality, providing essential habitat and ecosystem function. Before proceeding with in-lake treatments in North Bay, the extent to which best management practices have been implemented to reduce nutrient and sediment loading to Bancroft Creek and the impact on water quality need to be evaluated. Removing vegetation from North Bay may be counterproductive to water quality goals. North Bay is likely to shift to an algal-dominated system without rooted vegetation. Robust native plant populations, like those found in North Bay, preempt, and reduce the establishment and dominance of aquatic invasive plants. This discussion should also include data on water quality and vegetation establishment following Phase 1 and 2 dredging activities. Given Fountain Lake's lack of vegetation, North Bay is the critical natural spawning habitat and nursery for northern pike, largemouth bass, and bluegill sunfish, which produce first-year classes for the entire lake.

The rate of sediment accumulation in North Bay also requires further investigation. Based on the best available depth measurement data over the last 69 years, the lake's depth has reduced by less than 0.5 feet.

Land Use - Section 10

Consistency with Local Plans (Section 10. a. ii) - Removing the only substantial natural fish and wildlife habitat in Fountain Lake is inconsistent with the Shell Rock River and Winnebago River Comprehensive Watershed Management Plan (CWMP). The Level D Priority Issue, Improve Degraded Aquatic Habitat, referenced in the EAW, includes the measurable outcome, “Restore habitat in Fountain Lake through dredging and creation in-lake structures.” North Bay is currently the only part of the lake with substantial natural fish and wildlife habitat, and the need for dredging as a restorative effort is not thoroughly explained. North Bay has historically been a shallow lake, and deepening the bay, removing native aquatic vegetation, creating a pathway for aquatic invasive plant establishment, and disrupting ecological processes currently supporting fish and wildlife directly contradicts goals outlined in the CWMP.

Water Resources - Section 12

Surface and Ground Water Features (section 12. a. i) - While Fountain Lake is not a designated wildlife lake, migratory waterfowl feeding/resting area, or lake of biological significance, the existing habitat can be critical to local fish and wildlife communities. A close examination of the local context is required.

Effects on Water Resources (Section 12. b. iii) - A water appropriation permit is likely required to pump dredge water to the CDF. If one or more treatment cells in the CDF array are already filled and not used for treatment as in the first phase, water quality and nutrients leaving the CDF may be at higher than acceptable discharge limits.

Surface Waters (Section 12. b. iv. b) - The restoration goal of a “more natural condition” needs further clarification. North Bay is fully vegetated, and the most recent aquatic vegetation survey did not detect invasive plants. It is also the only area of Fountain Lake with substantial natural fish and wildlife habitat. Data was also not provided to demonstrate the extent of propeller-induced resuspension and disruption of accumulated sediment. Alternative methods exist to address this potential problem should further data collection confirm it is an issue. The conclusion that no negative environmental effects are anticipated as a result of the project is not supported.

Water Quality Impacts - Section 13

Generation/Storage of Solid Waste (Section 13. b.) - Potential water quality issues related to the Confined Disposal Facility necessitate further investigation. As discussed in the DNR comment letter for the previous EAW,

outflow from the CDF will return to an unnamed ditch, eventually entering Bancroft Creek and Fountain Lake. The nutrients from the spoil also have the potential to enter the shallow groundwater and be discharged to the drainage ditch. The EAW does not discuss the interaction between shallow groundwater, spoil, outlet flows, and the transport of nutrients back into Fountain Lake. Water quality data from the CDF outflow should be referenced to support this section.

Fish and Wildlife Impacts - Section 14

The conclusion that no negative environmental effects are anticipated from excavation in North Bay is without merit. Removing most of the remaining intact habitat requires thorough investigation, sampling, data analysis, and consideration, which has yet to occur.

Fish, Wildlife, and Plant Communities (Section 14. a)—The most recent aquatic vegetation survey was completed on September 18, 20, and 22, 2023, after the peak season for native vegetation, which extends from July to early August. Many aquatic plants have senesced by this point. Completing an aquatic vegetation survey during peak season is necessary to assess current conditions and potential impacts accurately.

Fish surveys have not been completed in North Bay. However, given the lack of vegetation in the rest of Fountain Lake and the life history requirements for documented fish species, North Bay is a critical spawning and nursery habitat.

Rare Features (Section 14. b) - The EAW's discussion of Blanding's turtles is inaccurate. The environmental review factsheet referenced in the EAW does not cover the full range of habitat use or necessary guidance. The [DNR Rare Species Guide](#) and the attached *General Blanding's Turtle Avoidance Measures and Best Practices for Project Areas in the MNDNR Southern Region* provide additional, relevant information.

Blanding's Turtles have been documented in Albert Lea as recently as 2015, with confirmed incidental reports from the general area within connected waterways. These connections facilitate considerable movement by Blanding's turtles. The species is also semi-terrestrial and travels overland. The species is long-lived, and the lack of recent reports or formal survey efforts does not indicate that the population is no longer present or that the area is of no importance. Avoidance of state-protected species is required, and based on available data and expert knowledge of this species and its habitat use within the DNR, there is a high potential for its occurrence in North Bay. **An avoidance plan is required.** DNR staff are available for consultation. Access roads, equipment staging areas, and spoil deposition locations must also be reviewed for potential impacts.

The measures proposed to avoid and minimize disturbance also require further scrutiny. Measure (a) does not include all suitable Blanding's turtle habitat. It is also unlikely that the actions described in measure (d) can be

achieved during dredging operations. Visual observation and relocation of turtles is not a viable option to prevent take due to turbid conditions and the presence of turtles within the sediment itself. Turtles are vulnerable to this practice year-round.

The 2016 EAW FOF referenced coordinating with the DNR on future project proposals. To ensure the accuracy of Blanding's turtle discussion, initiating this coordination before publishing the EAW would have been beneficial.

Natural Heritage Review: The most recent Natural Heritage Review letter sent on April 3, 2024, is attached.

Fish, Wildlife, and Plant Community Impacts (Section 14. c) - Dredging North Bay will diminish critical natural habitat, and understanding the ability of native species to persist in a lake system lacking substantial habitat following dredging needs to be evaluated. As noted in the aquatic plant survey, beyond the 1.0-foot zone, there may be limited plant growth for aquatic vegetation due to an average water clarity measurement of 1.0 feet. Healthy shallow lakes are fully vegetated, and increasing the depth in North Bay will likely significantly hinder native vegetation from reestablishing and create the conditions for invasive aquatic plants that can grow in lower-light environments to move in. It may also shift North Bay to an algal-dominated system.

Vegetated shallow lakes play a critical role in supporting fish and wildlife populations. They provide spawning and nursery habitat and support diverse invertebrate populations. North Bay is the only remaining shallow vegetative bay connected to the main lake. It provides critical spawning and nursery habitat for northern pike, largemouth bass, bluegill, sunfish species, and various shiners and minnow species, which produce first-year classes for the entire lake. Dredging also has an immediate and direct negative impact on forage fish, their habitat, and their food web. Aquatic vegetation is also essential for producing dissolved oxygen for fish. North Bay also provides a critical habitat for feeding, resting, and nesting birds such as waterfowl, shorebirds, herons, egrets, pelicans, and many other bird species.

POTENTIAL IMPACTS THAT WARRANT FURTHER INVESTIGATION

Filing data gaps and accurately discussing potential impacts is critical to making well-informed lake management decisions. Further investigation that is needed includes:

- Water Quality Monitoring (Bancroft Creek and North Bay Outlet)
- Recreational Use Surveys
- Fish Surveys
- Wildlife Surveys
- Peak Season Aquatic Vegetation Survey

DNR staff are available to consult on the design and implementation of data-gathering activities.

NEED FOR ENVIRONMENTAL IMPACT STATEMENT

There are several options to ensure potential significant environmental impacts are thoroughly analyzed.

Option 1: [MINN. R. 4410.1700 Subp. 7](#) Order EIS

Based on the available data, a reasonable conclusion can be made that the proposed dredge extent for North Bay has the potential for significant environmental effects. This letter does not include a thorough review of the criteria; however, DNR staff are available to consult on those items.

Option 2: [MINN. R. 4410.1700 Subp. 2a](#). Insufficient Information.

Pursuing this option would also be reasonable, given the scope of potential impacts that warrant further investigation. A positive declaration can be made that includes within the scope the appropriate studies to obtain lacking information, or the decision can be postponed until the lacking information is obtained.

PUBLIC WATERS WORK PERMIT

A [Public Waters Work Permit](#) is required for the project. The information in the EAW and subsequent environmental review efforts relate directly to project permitting. To increase efficiency, information required for environmental permitting is encouraged to be included within environmental review documents. The proposed dredge extent for North Bay has the potential for significant environmental effects, and additional data needs to be collected before the full extent of those effects is accurately understood.

The following sections of Minnesota Administrative Rules [Chapter 6115 Public Water Resources](#) must be thoroughly reviewed.

- [6115.0200 Excavation of Public Waters](#)
- [6115.0201 Specific Standards; Excavation](#)
- [6115.0215 Restoration of Public Waters](#)
- [6115.0250 Permit Review](#)

Contact your local area hydrologist with questions related to public waters work permitting and to identify permit-specific information requirements.

Sincerely,

Todd Kolander
South District Manager

CC:
Scott Roemhildt, South Regional Director
Korey Woodley, EWR Regional Manager
Tim Gieseke, EWR Assistant Regional Manager
Haley Byron, Regional Environmental Assessment Ecologist

Todd Piepho, Area Hydrologist
Lisa Gelvin-Innvaer, Regional Nongame Specialist
David Trauba, Regional Wildlife Manager
Jeanine Vorland, Area Wildlife Manager
Jack Lauer, Regional Fisheries Manager
Craig Soupir, Area Fisheries Supervisor
Bridget Henning-Randa, Endangered Species Consultant

Equal Opportunity Employer

March 8, 2024

Nick McCabe
ISG
115 E. Hickory St, Suite 300
Mankato, MN 56001

RE: Fountain Lake Dredging Phase 3
Albert Lea, Freeborn County
SHPO Number: 2024-0929

Dear Nick McCabe:

Thank you for consulting with our office during the preparation of an Environmental Assessment Worksheet for the above-referenced project. According to your submission, the project includes the removal of accumulated sediment from three portions of Fountain Lake.

There are several known archaeological sites located along the shores of Fountain Lake. Therefore, due to the nature and location of the proposed project, we recommend that an underwater archaeological survey be completed by a qualified archaeologist to assess the potential for intact archaeological sites in the project area. The survey must meet the requirements of the Secretary of the Interior's Standards for Identification and Evaluation and should include an evaluation of National Register eligibility for any properties that are identified. For a list of consultants who have expressed an interest in undertaking such surveys, please visit the Preservation Specialist Directory website of the Minnesota Historical Society, <https://www.mnhs.org/preservation/directory>, and select "Archaeologists" in the "Specialties" box.

Additionally, there are several known burial mounds/cemeteries that have been identified along the shores of Fountain Lake that may be partially submerged, therefore we recommend that you consult with the Minnesota Indian Affairs Council (MIAC) and the Office of the State Archaeologist (OSA) to determine how to proceed regarding the project's potential to affect cemeteries and burials under the Minnesota Private Cemeteries Act, Minn. Stat. 307.08.

Based on the documentation provided, it appears that there are no properties listed in the National or State Registers of Historic Places that will be affected by this project. However, please note that this comment letter does not address the requirements of Section 106 of the National Historic Preservation Act of 1966 and 36 CFR § 800. If this project is considered for federal financial assistance, or requires a federal permit or license, then review and consultation with our office will need to be initiated by the lead federal agency. Pursuant to 36 CFR § 800, it is the responsibility of the federal agency to define the federal undertaking, define an appropriate area of potential effects (APE) for the federal undertaking as well as the necessary historic property identification and evaluation efforts required for a federal review. Be advised that comments and recommendations provided by our office for this state-level review may differ from findings and determinations made by the federal agency as part of review and consultation under Section 106.

MINNESOTA STATE HISTORIC PRESERVATION OFFICE

50 Sherburne Avenue ■ Administration Building 203 ■ Saint Paul, Minnesota 55155 ■ 651-201-3287
mn.gov/admin/shpo ■ mnshpo@state.mn.us

AN EQUAL OPPORTUNITY AND SERVICE PROVIDER

If you have any general questions regarding our review of this project, please contact me at 651-201-3285 or kelly.graggjohnson@state.mn.us. For questions regarding archaeology, please contact Lucy Harrington, Environmental Review Archaeologist, at (651) 201-3283 or lucy.harrington@state.mn.us.

Sincerely,

Kelly Gragg-Johnson

Kelly Gragg-Johnson
Environmental Review Program Specialist

cc: Jennifer Tworzyanski, Office of the State Archaeologist
Melissa Cerda, Minnesota Indian Affairs Council

April 8, 2024

Andy Henschel, Administrator
Shell Rock River Watershed District
305 South 1st Avenue
Albert Lea, MN 56007
Andy.henschel@co.freeborn.mn.us

RE: Fountain Lake Restoration Project – Environmental Assessment Worksheet

Dear: Andy Henschel

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Fountain Lake Restoration project (Project) located in Albert Lea, Freeborn County, Minnesota. The Project consists of dredging accumulated sediment from approximately 143.2 acres within East Main Bay and North Bay of Fountain Lake in Albert Lea, MN. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility and other interests, the MPCA staff has the following comments for your consideration.

401 Certification

- Overall, this is a good project. The dredging will improve the Fountain Lake ecosystem by reducing internal phosphorus release into the water column from accumulated sediment as well as sediment resuspension through wind and wave action. In addition, the proposed project will restore lake depths and provide greater refuge for fish during increasingly hotter summer temperatures. No negative environmental effects are anticipated to result from this Project.
- However, if the US Army Corps of Engineers Clean Water Act Section 404 permit is needed, then the State of Minnesota Section 401 Water Quality certification will also be needed. The applicant will then be required to complete the 401-program Antidegradation Assessment [process] to acquire a 401-water quality certification with conditions, have a possible waiver issued, or for an unlikely denial without prejudice issued.
- In accordance with Minnesota Statutes, the Fountain Lake Restoration project should include the MPCA as a regulator of all surface waters as defined by MN Stat. § 115.01 subd. 22. Waters of the state. Even though there may be surface waters that are determined to be USACE non-jurisdictional or exempt from the WCA, all surface waters are regulated by the MPCA, and any surface water impact needs to be described in the application and may require mitigation.

Andy Henschel

Page 2

April 8, 2024

We appreciate the opportunity to review this Project. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit actions by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EAW, please contact me by email at Chris.Green@state.mn.us or by telephone at 507-476-4258.

Sincerely,

Chris Green

This document has been electronically signed.

Chris Green
Project Manager
Environmental Review Unit
Resource Management and Assistance Division

CG:rs

cc: Dan Card, MPCA
Kirsten Dieterman, MPCA
Aaron Hinz, MPCA
William Wilde, MPCA
Kirsten Barta, MPCA
Dan Breneman, MPCA
Deepa deAlwis, MPCA
Innocent Eyoh, MPCA
Megan Kuhl-Stennes, MPCA
Wayne Cords, MPCA