



Minnesota Department of Natural Resources
Division of Ecological Services
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October 25, 2005

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LAND & RESOURCE

Bill Kalar, Administrator
Ottertail County Land and Resource Management
Government Services Center
540 Fir Ave. West
Fergus Falls, MN 56537
FAX: 218-998-8112

Re: Comments on Notice in the EQB Monitor, "Proposed Scope for Environmental Impact Statement for Blue Heron Bay Development"

Dear Mr. Kalar:

Thank you for the opportunity to comment on the proposed scope of this Environmental Impact Statement (EIS). As you know, we have previously commented several times on this project, as well as met with the developer and Ottertail County, and participated in the mediation process that has occurred. We look forward to further work with you as the EIS is developed under county direction.

We have some general comments on the process, and comments on the EIS scope, as follows:

A. General comments on the process of preparing the EIS.

1. We understand that Ottertail County is considering forming an EIS study committee, based on a recommendation from the Dead Lake Association. So far, the project has been discussed in a number of legal and other forums that have been essentially adversarial. We feel that it is to everyone's benefit that the EIS preparations occur with a cooperative approach. If the county does create such a body, the DNR would be willing to participate. The DNR would provide technical assistance regarding environmental impacts. Since a number of technical fields are represented by the initial EIS scope, this person's role would also be consultative with other DNR staff. We would want to have some idea of the charge to the group from the County, workload, and agenda, however, before we finalized any assignment.

We also would urge that any such committee operate informally and be flexible on seeking advice; however, it would need to be made clear that Ottertail County makes the final decisions on EIS scope and content. As mentioned during the October 11 public meeting, having Jon Larsen from the MEQB staff participate is a good idea.

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2. New information about Dead Lake and about possible impacts and mitigation measures has been developed since the EAW was prepared. It would be helpful to bring this information together as a first step, and it should also make the EIS easier to prepare (See Item B. 4 and 7 below.)

3. The general approach should be that this EIS is site-specific to Dead Lake, and to this project on Dead Lake. One of the difficulties in preparing an EIS such as this is separating the proposed project from the other ongoing impacts from existing boating and lakeshore development. Nevertheless, the project will contribute to cumulative impacts on the lake as a whole. We feel that the extensive analysis and discussion that has taken place since the EAW was prepared will make these sorts of problems easier to resolve. For example, the Lake Protection Plan, even though it is an unimplemented proposal, provides a good framework within which to analyze impacts and develop mitigation to deal with cumulative impacts as well as the project-specific impacts.

B. Specific comments on the EIS scope.

1. Previous relevant comments. Besides the discussions we have had about this project in meetings, we have submitted three previous written comments relevant to the EIS scope. These were letters to you from Paul Swenson, previous Regional Director of the Department of Natural (DNR) Resources Northwest Region, dated March 5, 2003; March 17, 2003; and April 16, 2003. This letter references relevant portions of the prior correspondence, since they contain more detail.

2. Environmental effects of increased boating activities. The Scoping Decision appropriately states these impacts will be addressed in the EIS. A literature review of the types of impacts that can occur to fish, wildlife, and ecologically sensitive from boating should be included and then applied to this project specifically. Generally, these are: impacts to waterfowl and other water birds from disturbance, impacts to aquatic vegetation and fish and wildlife habitats, wake impacts to over-water and shore-nesting species, and changes in water quality from re-suspension of sediments and mobilization of phosphorus in the water column from sediment disturbance. More detail on these impacts is provided in the March 5, 2003 letter (especially pages 10-13 of the attachment), and in the March 17, 2003 letter (See most of Attachment.)

In order to assess these impacts, the EIS should include an estimate of boat travel destinations and routes to and from the proposed docking locations, since impact magnitude will be dependent on these factors. (See also next item.)

The EIS should discuss boating impacts during low water seasonal periods, and during low water periods that extend over several years. Historic information indicates that the peninsula may be mostly surrounded by emergent vegetation or very shallow water during such periods. The EIS should indicate whether dredging would be requested during such periods, for example.

3. Water surface use effects. As noted in the Scoping Decision Notice, this is addressed in EAW Item 15, which requires an assessment of conflicts with other uses and potential overcrowding. The EAW used DNR calculations which are based on an assumption that boats can travel

anywhere on the lake within the Ordinary High Water. This is useful for roughly comparing lakes with normal water depths in the same region of Minnesota. However, this method is not suitable for an EIS that is site-specific for Dead Lake. Much of Dead Lake is very shallow and is not accessible to boat traffic for much of the summer season because of heavy emergent or submerged vegetation. (Other parts are shallow and rocky, and are avoided by regular users.) The EIS should use a method that more realistically addresses this issue. For example, the shallow areas of the lake routinely contain emergent vegetation. These areas, as well as shallow rocky areas, could be removed from the calculation.

4. Relevant data about Dead Lake. There are some important data about Dead Lake that is crucial to addressing a broad range of project impacts and mitigation. It appears that some of this information has already been developed since the EAW was done. In our view, data should include:

--Up-to-date aquatic vegetation maps using Ottertail County's 2002 data, plus any information gathered since then, including reference to vegetation of special significance as fisheries habitat, waterfowl habitat, and non-game bird species.

--Current and historic lake elevations tied to a common benchmark. This should include the date the outlet was constructed and any pre-outlet elevations, if known.

--Historic information on coverage of aquatic vegetation based on a review of past aerial photography, and a review of DNR/USFWS lake data. This should include as much information as possible about fluctuations in wild rice and other aquatic vegetation important to waterfowl.

--Historic information about shoreline development, based on county records and aerial photography. (Some of this information was already gathered for the EAW.)

--Current and historic waterfowl use (spring, summer, and fall), and waterfowl management of Dead Lake, based on DNR and USFWS records, and including information on specific high value aquatic vegetation, if available. (A review of the past proposal for establishing a feeding and resting area should be included.)

--Description of the Dead Lake fishery, including a description of sensitive habitats and any available angler use data.

5. Water quality impacts. We note that the EIS is to address potential for nutrient flow from the wastewater treatment system into the lake through groundwater. This part of the EIS should discuss potential impacts to aquatic habitats, if any, from this effect.

6. Shoreline impacts. Our comments on the EAW and other comments noted the very high importance of the transition zone between upland terrestrial habitats and aquatic habitats. We also noted that much of the current shoreline transition zone has been adversely impacted from past land uses, and that the project proposal was to improve portions of this habitat. However, the mechanism for permanently protecting this habitat, which is especially important because of the steep terrain, is not clear. The EIS should provide a clear description of this shoreline, and

describe how proposed mitigation and restoration measures will be permanently maintained (See also next item, and appropriate section of the attachment to the DNR March 17, 2003 letter.)

7. Mitigation of impacts. During our involvement with the project there has been extensive discussion about mitigation of impacts from development of the project, including a number of good proposals from the project developer. Important comprehensive mitigation measures to permanently address major impacts from development of the entire Dead Lake shoreline that went beyond the project itself have also been discussed. This was primarily because of the mediation process that developed as an attempt to settle the Minnesota Environmental Rights Act (MERA) lawsuit that had been brought by the Minnesota Center for Environmental Advocacy. This information, and especially the plans regarding specific project mitigation and an overall lake protection plan, is very helpful in providing a framework for the EIS and a guide to assessing mitigation measures and plans. The EIS should explain how to put these plans into effect so that actual mitigation of impacts is achieved.

If you have any questions, or if I can be of assistance, please give me a call. Again, thank you for the opportunity to provide comments, and we look forward to working on this project with you in the future.

Sincerely,



Mike Carroll,
Regional Director

c: Pedar Larson
 DNR staff
 Dan Stinnett, US Fish and Wildlife Service
 Will Haapala, PCA