

March 9, 2006

Minnesota Environmental Quality Board
300 Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Board Members:

On behalf of the Dead Lake Association, attached please find several background documents pertaining to the proposed Blue Heron Bay Project in Otter Tail County, Minnesota. The following documents are included for your review:

- Court of Appeals Unpublished Opinion
- Negative Declaration
- Scoping Document/Scoping Decision Document
- Mn/DNR Comment Letter on the EAW/Scoping Document
- SHPO and State Archaeologist Comment Letters
- Section of the Otter Tail County Meeting Minutes (December 27, 2005)

We have selected these attached documents as reference materials as we feel that they provide a streamlined "snapshot" of the issues raised during the environmental review process to date.

Our letter to the EQB Board dated February 22, 2006 outlined the Association's position on why we are requesting the EQB make the adequacy determination for the Final EIS; specifically addressing the criteria outlined in Minnesota Rule 4410.2800. In effort to provide clarification regarding the information contained in the February 22, 2006 letter (and attached timeline), members of the Association attended the March 7, 2006 EQB Technical Committee meeting held in St. Paul. At the referenced meeting, Peder Larson, representing the developer was present and provided a presentation as well. During the course of the meeting, several points were made by Mr. Larson, and/or questions that were raised by the technical committee staff that we would like to address in this submittal. The basis for our points of clarification, are the documents included herein.

- The Dead Lake Association understands the importance of Otter Tail County's role in not only the environmental review process, but also the subsequent land use approvals. Hence, our request to have the EQB make the final adequacy determination has been made as we are concerned that the developer will attempt to "drive" the decision by limiting the County's ability to conduct appropriate technical analysis through their selected consultant (Wenck) and/or pressure the County to make decision's without adequate time.
- The Dead Lake Association is supportive of the County bringing on an unbiased technical consultant to assist them in the preparation of the Draft and Final EIS.

Our Association has strongly advocated for a firm that will prepare unbiased, technically sound, and thorough analysis of each of the alternatives under evaluation. The County selected the consulting firm of Wenck Associates on December 27, 2005. As presented in the December 27 County Board meeting minutes " County Attorney, David Hauser, spoke in favor of Wenck Associates, as the most responsible bidder, independent from the proposer. Because they are highly recommended by other counties, there may be more credibility to the public and he recommended Wenck Associates as the most responsible bidder."

At the time our request was submitted to the EQB, it was our understanding that the developer and the County had not been able to agree upon a reimbursement agreement for the services of the selected consultant; as the developer wants to use the work completed by firms under their contract for the technical analysis.

- The Court of Appeals Unpublished opinion states the following: "***We determine that the adverse environmental effects of the project here have not been adequately identified and evaluated in sufficient detail. We therefore reverse and remand for a more complete study of the environmental consequences of the proposed development on Dead Lake, fully examining each of the issues originally raised in the EAW, but with particular attention paid to that which was virtually absent in the EAW the impact of increased boating activities.***" Based on this statement, the Dead Lake Association firmly believes, and provided comments as such, that the EIS consider not only the potential boating impacts of the proposed development, but other potentially significant issues.

We are supportive of the " issues to be evaluated" as defined in the Scoping Decision Document issued by the County in November 2005. However, we are concerned that during the EIS phase, the specifics of each alternative is clearly defined so that the impact evaluation can be appropriately conducted, impacts disclosed, and mitigation measures identified. Again, we stress that it is imperative that the County have appropriate access and ability to utilize their selected consultant to ask the important questions pertaining to alternative evaluation so that the findings can be disclosed and adequately appraised. Additionally, we are concerned that if the information provided by the developer is "questioned" by the County, that the developer would agree to reimburse consultant fees required to complete new or modified analysis.

- During the EAW review and comment period, several governmental agencies provided comments on the EAW, and recommended the preparation of an EIS. As stated in the Court of Appeals Unpublished opinion: "***The DNR***

recommended that an EIS "should be ordered because of the potential for significant adverse effects on the aquatic resources of the lake." (emphasis added). "The USFWS concurred in recommending an EIS, "[g]iven the potential for adverse environmental impacts related to the project." More specifically, it explained, "[t]he sensitivity of shallow water bodies to relatively small amounts of pollutants combined with the scope of the project may have significant detrimental effects on water quality in Dead Lake."

The MnDNR EAW comment letter dated March 5, 2003 was not limited to potential boating related impacts associated with the proposed project (see attached letter). Other agencies, such as the SHPO provided comments on the evaluation methodology and conclusions reached in the EAW.

As Dead Lake is a Natural Environmental Lake, we are concerned that the technical analysis conducted during the EIS process adequately take into account the unique features of the Lake and the surrounding resources.

In summary, we as an Association are not opposed to development on said parcel of land. What we have consistently requested by all parties is that the environmental review document appropriately define the project, disclose the impacts, and present appropriate mitigation strategies. Based on the history of the project, we strongly feel that the EQB would be in the best position to render an objective appraisal of the impacts of the proposed project.

Sincerely,



Bob Deutschman
President, Dead Lake Association
Otter Tail County, MN

