MINNESOTA ENVIRONMENTAL QUALITY BOARD

Wednesday, February 18, 2015

Meeting Location: MPCA Board Room
520 Lafayette Road North
St. Paul, Minnesota 55155
1:00 p.m. – 4:00 p.m.

ATTENTION
The main entrance to our building will be closed for lobby construction.
An alternate (secure) entrance will be located on the west side of the building by the cafeteria from 6:00 a.m. to 5:00 p.m.
Please see attached maps for building entrance and visitor parking.

AGENDA

I. *Adoption of Consent Agenda
Proposed Agenda for February 18, 2015 Board Meeting
December Meeting Minutes

II. Introductions

III. Chair's Report

IV. Executive Director's Report

V. ** Designation of a different Responsible Governmental Unit for Environmental Review of Lock and Dam 1 Scour Repair by the U.S. Army Corps of Engineers

VI. Adjourn

Note: Items on the agenda are preliminary until the agenda is approved by the board.

This agenda and schedule may be made available in other formats, such as Braille, large type or audiotape, upon request. People with disabilities should contact Elizabeth Tegdesch, Board Administrator, as soon as possible to request an accommodation (e.g., sign language interpreter) to participate in these meetings.

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Wednesday, February 18, 2015

Meeting Location: MPCA Board Room
St. Paul, Minnesota
1:00 p.m. – 4:00 p.m.

ANNOTATED AGENDA

General
This month's meeting will take place in the MPCA Board Room at 520 Lafayette Road in St. Paul. The EQB board meeting will be available via live stream on February 18 from 1:00 p.m. to 4:00 p.m. You will be able to access the webcast on our website: www.eqb.state.mn.us
Please see attached maps for an alternative building entrance and visitor parking. The Jupiter Parking Lot is for all day visitors and is located across from the Law Enforcement Center on Grove Street. The Blue Parking Lot is also available for all day visitors and is located off of University and Olive Streets.

I. *__Adoption of Consent Agenda__
Proposed Agenda for February 18, 2015 Board Meeting
December Meeting Minutes

II. Introductions

III. Chair's Report

IV. Executive Director's Report

**V. **__Designation of a different Responsible Governmental Unit for Environmental Review of Lock and Dam 1 Scour Repair by the U.S. Army Corps of Engineers__

Presenter: Caroline Magnuson
EQB Staff, 651-757-2472

Materials enclosed:
- Resolution, Findings, Conclusions, and Order
- Project description document from USACE titled "Section 404(b)(1) Evaluation Upper Mississippi River Lock And Dam 1 Ambursen Dam Scour Repair Hennepin And Ramsey County, Minnesota"
- Request from Hennepin County to determine RGU
- Request from Hennepin County to reassign RGU duties
- Memo from DNR agreeing to accept RGU duties

** Items requiring discussion may be removed from the Consent Agenda*
***Denotes a Decision Item*

Issue before the Board:
Reassignment of Responsible Governmental Unit duties from Hennepin County to the Minnesota Department of Natural Resources (DNR) for a project proposed by the U.S. Army Corps of Engineers for Lock and Dam 1 Scour Repair.

Background:
The U.S. Army Corps of Engineers (USACE) intends to fill scour holes with rock rip rap from immediately downstream of the Ambersen Dam spillway to approximately 150 feet downstream. The project by the USACE is intended to protect the lock and Ambursen Dam structure from excessive scouring within the project's original footprint.

The project will change the cross-section of more than one acre of a public water (the Mississippi River). Under the Minnesota environmental review program, the project requires an Environmental Assessment Worksheet with a local government as the Responsible Governmental Unit (RGU). (Specifically, Minnesota Rules 4410.4300, Subp. 27.)

The proposed channel work will occur in both Hennepin and Ramsey Counties, neither of which has approval authority over the project. Hennepin County is the RGU and is requesting a re-designation to the DNR, as they have more expertise in this area.

Discussion:
The scour repair project is described in the document by USACE titled "Section 404(b)(1) Evaluation Upper Mississippi River Lock And Dam 1 Ambursen Dam Scour Repair Hennepin And Ramsey County, Minnesota". (See attached). As stated in the attached publication:

"The objective of the proposed project is to protect the lock and Ambursen Dam structure from excessive scouring within the project's original footprint. The plan is to fill scour holes with rock rip rap from immediately downstream of the Ambersen Dam spillway to approximately 150 feet downstream (figure 2). The reason rock placement needs to extend beyond the existing footprint is to maintain proper slope of rock to the dam. Rock rip rap material will be brought to the site by barge and most likely offloaded along the western or lock side of the island downstream of the proposed fill area using a front end excavator. The upstream portion of the island may serve as a staging area. The rocky nature of the island will be a good base to drive on and there is no need to disrupt the vegetated part of the island. It is not anticipated that any improvement will be necessary to facilitate hauling on the island, however if required, improvements will not be permanent. If there is rutting or there is a need to improve parts of the haul road the area will be graded to the previous slope. A temporary access road extending approximately 50 feet long by 20 feet wide from the head of the island to the scour area to be repaired will be constructed with rock rip rap material to be used for the repairs. The excavator will use the temporary road to access the scour area to be repaired and spread the rock to specifications. As part of demobilization, the rock rip rap material used for the temporary access road will be removed and placed into the scour area."

MN Rules 4410 for environmental review identify the local governmental unit as the RGU. Although neither Hennepin County nor Ramsey County have an approval role in this project, EQB precedent has shown the County has been identified as the RGU.

The rule was written based on the typical situation where a development project or local stormwater or stream maintenance projects created the need for altering public waters. In these cases the local government unit would have approval authority and would be the appropriate RGU for the project. Similar projects have arisen in the past where a project is proposed by a federal agency, over which the local government unit has no regulatory authority. This project requires permit approval by the DNR under Minnesota Statute 103 G.245, Subdivision 1 for work in public waters. The DNR has agreed to

accept the re-designation as they have greater expertise in this subject matter which will help in the assessment of this project.

Staff recommendation:
Staff recommends adoption of the resolution and approving the Findings, Conclusions, and Order reassigning RGU duties to the DNR.

VI. Adjourn

NOTICE OF CLOSED

EQB MEETING

On February 18th, 2014 at 12:00 pm the Minnesota Environmental Quality Board ("EQB") will hold a closed meeting for Board members to discuss the lawsuits, *Friends of the Headwaters and the Minnesota Center for Environmental Advocacy v. Minnesota Public Utilities Commission and the Minnesota Environmental Quality Board, Ramsey County District Court File No. 62-CV-14-8242 and In the Matter of the App. Of North Dakota Pipeline Co. LLC, No. A15-0016, Minnesota Court of Appeals.*

The meeting will be closed as permitted by the attorney-client privilege and in accordance with Minnesota Statute §13D.05, subdivision 3 (b).

MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES

Wednesday, December 17, 2014
MPCA Room Board Room, 520 Lafayette Road N, St. Paul

EQB Members Present: Dave Frederickson, Kate Knuth, Mike Rothman, John Saxhaug, Erik Tomlinson, Charlie Zelle, Matt Massman, Kristen Eide-Tollefson, Tom Landwehr, Katie Clark-Sieben, Julie Goehring, Brian Napstad, Michelle Beeman, Dr. Ed Ehlinger, John Stine, Sandy Rummel (Met Council)

Staff Present: Will Seuffert (EQB), Megan Eischen (EQB), Caroline Magnuson (EQB), Heather Arends (EQB), Anna Henderson (EQB), Beth Tegdesch (MPCA for EQB)

Chair Dave Frederickson called the meeting to order at 1:10 p.m.

I. Adoption of Consent Agenda and Minutes

A motion to adopt the Consent Agenda and approve the November meeting minutes was made and seconded.

II. Introductions

III. Chair's Report – No report

IV. Executive Director's Report

Will Seuffert, EQB Executive Director shared silica sand accomplishments as well as other 2014-2015 accomplishments. He gave a general overview of the budget and budget priorities and shared fiscal year 2015 projects and fiscal year 2016-17 opportunities.

V. Minnesota Environment and Energy Report Card Update

Presenter: Megan Eischen, Communications, EQB Staff
Todd Biewen, Assistant Division Director, Minnesota Pollution Control Agency
Steve Loomis, Planner Principal State, Minnesota Department of Commerce
Andy Holdsworth, Data and Performance Management Supervisor, Minnesota Department of Natural Resources

Pursuant to Executive Order 11-32, interagency staff provided updates to the 2012 Minnesota Environment and Energy Report Card. EQB and interagency staff led a discussion with the Board on the updated metrics and discussed opportunities for communicating annual updates going forward.

Discussion followed.

Public testimony: Dan Gilchrist, Assistant Director of the U of M Regional Sustainable Development Partnership, invites the EQB Citizens' Board to attend and work with them on climate change mitigation convenings in greater Minnesota in 2015.

VI. CSEO Update
Presenter: Anna Henderson, Planner, EQB Staff

The goal of the CSEO work is to identify strategies that bend the curve. Anna provided an overview of the project and an update on the results and led a discussion with the Board.

VII. Adjourn

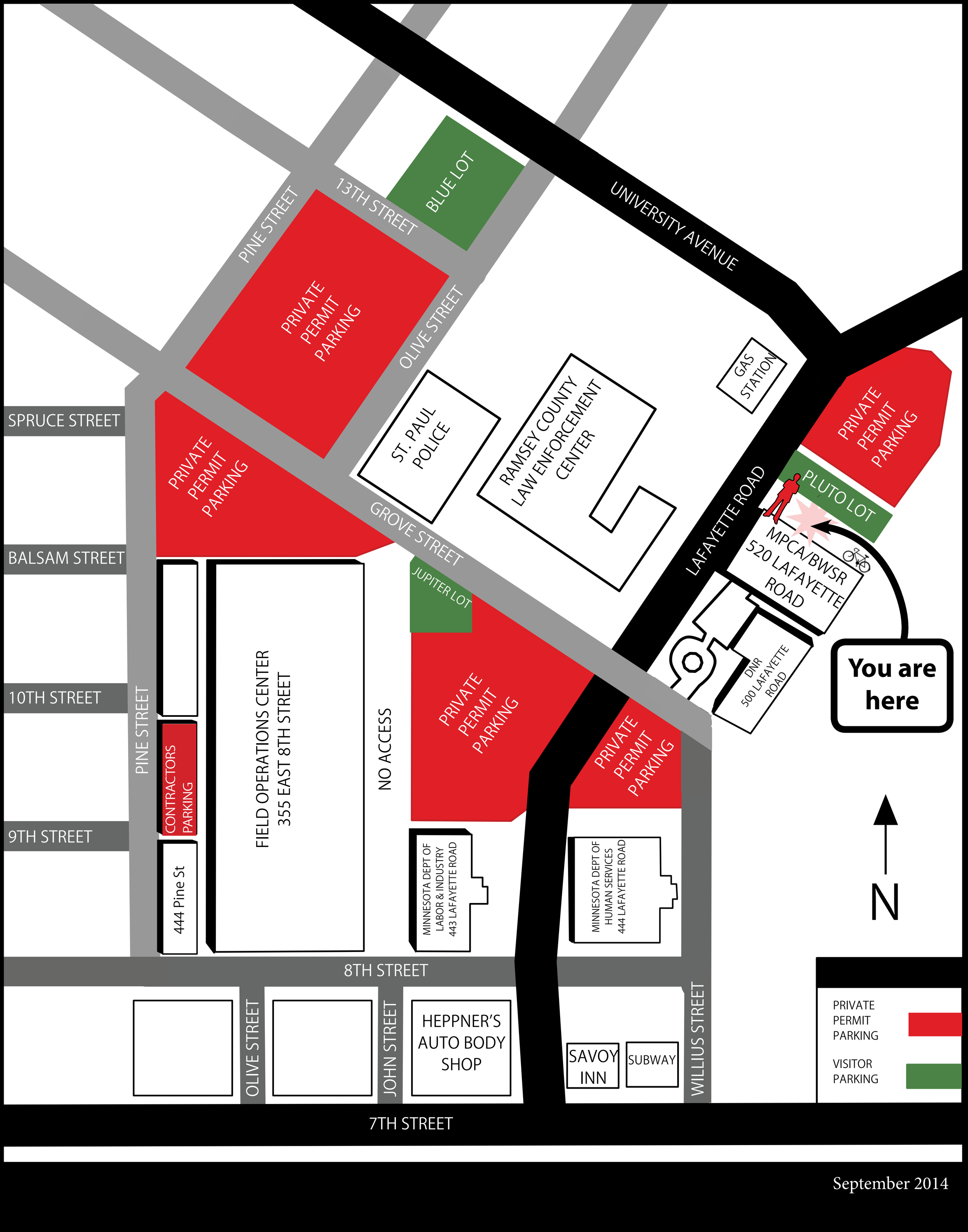
If you would like to hear the audio recording of this meeting, go to the following link:
ftp://files.pca.state.mn.us/pub/EQB_Board/

VISITOR TEMPORARY ENTRANCE

Minnesota Pollution Control Agency
Board of Water and Soil Resources

VISITOR PARKING MAP

Minnesota Pollution Control Agency
Board of Water and Soil Resources



September 2014

RESOLUTION OF THE

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Designation of a Different Responsible Governmental Unit for Environmental Review of Lock and Dam 1 Scour Repair by the U.S. Army Corps of Engineers

BE IT RESOLVED, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order designating the Minnesota Department of Natural Resources as the responsible governmental unit (RGU) for the environmental review of the proposed Lock and Dam 1 Scour Repair by the U.S. Army Corps of Engineers; and

BE IT FURTHER RESOLVED, that David J. Frederickson, Chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order.

STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD

In the Matter of the request to Designate a Different Responsible Governmental Unit For Environmental Review of Lock and Dam 1 Scour Repair by the U.S. Army Corps of Engineers	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-captioned matter came before the Minnesota Environmental Quality Board (EQB) at a regular meeting on February 18, 2015 pursuant to a request from Hennepin County to designate a different responsible governmental unit (RGU) for Lock and Dam 1 Scour Repair by the U.S. Army Corps of Engineers.

Based upon all of the proceedings herein, the Minnesota Environmental Quality Board makes the following:

FINDINGS OF FACT

1. The U.S. Army Corps of Engineers (USACE) is proposing a scour repair project at Lock and Dam 1.

2. The scour repair project is described in the document submitted to the EQB via email on December 4, 2014 titled, “Section 404(b)(1) Evaluation Upper Mississippi River Lock And Dam 1 Ambursen Dam Scour Repair Hennepin And Ramsey County, Minnesota.”

3. Minnesota Rule 4410.0200, subp. 33 reads:

   > Subp. 33. **Governmental action**. "Governmental action" means activities including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by governmental units, including the federal government.
   >
   > Minn. R. 4410.0200, subp. 33.

4. Minnesota Rule 4410.0200, subp. 65 reads:

   > Subp. 65. **Project**. "Project" means a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project.
   >
   > Minn. R. 4410.0200, subp. 65.

5. The EQB finds that the proposed USACE repair activity is a “governmental action” under Minnesota Rule 4410.0200, subp. 33, and is a “project” under Minnesota Rule 4410.0200, subp. 65.

6. Minnesota Rule 4410.0500 provides for selection of the RGU for environmental reviews. Subp. 1 reads in relevant part:

   > **RGU for mandatory categories**. For any project listed in part 4410.4300 or 4410.4400, the governmental unit specified in those rules shall be the RGU unless the project will be carried out by a state agency, in which case that state agency shall be the RGU.
   > ***
   > Minn. R. 4410.0500, subp. 1.

7. Minnesota Rule 4410.4300 establishes mandatory categories for the preparation of an EAW. Subp. 27 reads:

   Subp. 27. **Wetlands and public waters**. Items A and B designate the RGU for the type of project listed:

   A. For projects that will change or diminish the course, current, or cross-section of one acre or more of any public water or public waters wetland except for those to be drained without a permit pursuant to Minnesota Statutes, chapter 103G, the local government unit shall be the RGU.

   Minnesota Rule 4410.4300, subp. 27.

8. Minnesota Rule 4410.0200, subp. 69, defines "public waters":

   Subp. 69. **Public waters**. "Public waters" has the meaning given in Minnesota Statutes, section 103G.005.

   Minn. Rules 4410.0200, subp. 69.

9. The Mississippi River is identified as a public water by the public waters inventory map in accordance to Minnesota Statute 103G.

10. Minnesota Rule 4410.4300, subp. 27, paragraph A. applies to the USACE Lock and Dam 1 Scour Repair project and therefore the local government unit would be the RGU for environmental review.

11. The proposed project would occur in both Hennepin and Ramsey County.

12. Minnesota Rules. 4410.0500 provides for selection of the RGU for environmental reviews. Subp. 1 reads in relevant part:

    RGU for mandatory categories. For any project listed in part 4410.4300 or 4410.4400, the governmental unit specified in those rules shall be the RGU unless the project will be carried out by a state agency, in which case that state agency shall be the RGU.
    ***

    Minn. R. 4410.0500, subp. 1.

13. Minnesota Rule 4410.0500, subp. 5B. provides further instruction for identifying an RGU:

    B. When two or more governmental units propose to carry out or have jurisdiction to approve the project, the RGU shall be the governmental unit with the greatest responsibility for supervising or approving the project as a whole. Where it is not clear which governmental unit has the greatest responsibility for supervising or approving the project or where there is a dispute about which governmental unit has the greatest responsibility for supervising or approving the project, the governmental units shall either:

    (1) by agreement, designate which unit shall be the RGU within five days of receipt of the completed data portion of the EAW; or

    (2) submit the question to the EQB chairperson, who shall within five days of receipt of the completed data portions of the EAW designate the RGU based on a consideration of which governmental unit has the greatest responsibility for supervising or approving the project or has expertise that is relevant for the environmental review.

    Minnesota Rule 4410.0500, subp. 5B.

14. On December 31, 2014, the EQB received a letter from Hennepin County requesting the EQB chair "review the details of this proposed project and make a determination as to what entity should fulfill the role of the Responsible Governmental Unit."

15. EQB staff received data portions of a draft EAW from the project proposer, USACE, prior to designation of any RGU.

16. On January 8, 2015, EQB staff received a letter from Hennepin County rescinding their December 31, 2014 request and indicating "…the county's willingness to accept the role of RGU for the above noted project." However, in the same letter requested that the EQB "transfer the RGU designation for this same USACE project to the Minnesota Department of Natural Resources."

17. Minnesota Rule 4410.0500, subp. 6 reads:

> Subp. 6. **Exception.** Notwithstanding subparts 1 to 5, the EQB may designate, within five days of receipt of the completed data portions of the EAW, a different RGU for the project if the EQB determines the designee has greater expertise in analyzing the potential impacts of the project.
>
> Minn. R. 4410.0500, subp. 6.

18. The matter was placed on the next available Board meeting agenda for February 18, 2015.

19. The EQB finds that, to designate a different RGU than Hennepin County, under Minnesota Rule 4410.0500, subp. 6, the EQB must determine that the designee has greater expertise in analyzing the potential impacts of the project.

20. In the letter dated January 8, 2015 from Hennepin County requesting reassignment of RGU duties to theDNR, they state, "…the USCAE has already applied for a MnDNR Protected Waters Permit, and the 30 day review period has expired. The USACE will collaborate closely with the MnDNR in addressing comments. It is because of this level of expertise needed to evaluate the potential impacts to the Mississippi River, and the fact that the MnDNR has permitting authority over channel fill activities, that better positions the MnDNR to be the RGU."

21. Under Minnesota Statute 103G.245, subdivision 1 (except as provided in subdivisions 2, 11, and 12), the state, a political subdivision of the state, a public or private corporation, or a person, must have a DNR Public Waters Work Permit to:

    1. construct, reconstruct, remove, abandon, transfer ownership of, or make any change in a reservoir, dam, or waterway obstruction on public waters; or

    2. change or diminish the course, current, or cross section of public waters, entirely or partially within the state, by any means, including filling, excavating, or placing of materials in or on the beds of public waters.

22. On February 5, 2015, the Minnesota Department of Natural Resources sent a letter to the EQB indicating DNR staff had been in communication with Hennepin County and the USACE representatives, and that the DNR would be willing to serve as RGU for the Lock and Dam 1 Scour Repair project. The letter states: "MnDNR expertise in work in public waters and aquatic ecosystems will assist in the assessment of the project."

26. The EQB finds that the DNR has greater expertise than Hennepin County in analyzing the potential for environmental impacts of projects involving work in public waters and preparing EAWs and Environmental Impact Statements (EIS) for such projects.

Based on the foregoing Findings of Fact, the Minnesota Environmental Quality Board makes the following:

CONCLUSIONS OF LAW

1. Any of the foregoing Findings of Fact more properly designated as Conclusions of Law are hereby adopted as such.

2. The Environmental Quality Board concludes it has jurisdiction over the subject matter of this proceeding pursuant to Minnesota Statutes chapter 116D and Minnesota Rules 4410.0500.

3. The EQB concludes the request for EQB to decide the question whether to designate a different RGU for the proposed project was properly brought to the EQB Board.

4. The EQB concludes that the DNR has greater expertise in analyzing the potential for environmental impacts of the proposed USACE project than Hennepin County, and is therefore better suited as RGU to conduct the environmental review of the proposed Lock and Dam 1 Scour Repair project by the USACE.

Based on the Findings of Fact, Conclusions and the entire record of this proceeding, the Minnesota Environmental Quality Board hereby makes the following:

ORDER

The EQB hereby orders and designates the Minnesota Department of Natural Resources as the responsible governmental unit for environmental review of the proposed USACE Lock and Dam 1 Scour Repair project, replacing Hennepin County.

Approved and adopted this 18th day of February, 2015.

_____

David J. Frederickson, Chair
Minnesota Environmental Quality Board

SECTION 404(b)(1) EVALUATION
UPPER MISSISSIPPI RIVER LOCK AND DAM 1 AMBURSEN DAM SCOUR REPAIR
HENNEPIN AND RAMSEY COUNTY, MINNESOTA

I. PROJECT DESCRIPTION

A. Location - The fill action is proposed for the Corps of Engineers' (Corps') Lock and Dam 1 facility on the Upper Mississippi River (UMR) (figure 1). LD1 is located on the Upper Mississippi River (UMR) within the 9-foot Navigation Project. The Ambursen Dam is the spillway at LD1 between the lock chambers and the Ford hydropower facility. LD1 is at UMR River Mile 847.5, Minneapolis, Minnesota.

B. General Description - The objective of the proposed project is to protect the lock and Ambursen Dam structure from excessive scouring within the project's original footprint. The plan is to fill scour holes with rock rip rap from immediately downstream of the Amberson Dam spillway to approximately 150 feet downstream (figure 2). The reason rock placement needs to extend beyond the existing footprint is to maintain proper slope of rock to the dam. Rock rip rap material will be brought to the site by barge and most likely offloaded along the western or lock side of the island downstream of the proposed fill area using a front end excavator. The upstream portion of the island may serve as a staging area. The rocky nature of the island will be a good base to drive on and there is no need to disrupt the vegetated part of the island. It is not anticipated that any improvement will be necessary to facilitate hauling on the island, however if required, improvements will not be permanent. If there is rutting or there is a need to improve parts of the haul road the area will be graded to the previous slope. A temporary access road extending approximately 50 feet long by 20 feet wide from the head of the island to the scour area to be repaired will be constructed with rock rip rap material to be used for the repairs. The excavator will use the temporary road to access the scour area to be repaired and spread the rock to specifications. As part of demobilization, the rock rip rap material used for the temporary access road will be removed and placed into the scour area.

C. Authority and Purpose – The Upper Mississippi River 9-Foot Navigation Project was authorized in the Rivers and Harbors Act of 1930, which included upgrades to LD1 to incorporate the 9-foot channel. The proposed fill is necessary to repair scour holes that have developed over time and threaten the structure. These actions would extend the useful life of the structure.

D. General Description of Fill Material

1. Physical Characteristics – For the first 50 feet downstream of the apron, the riprap protective covering would be rock, 10 to 30 inches in diameter (figure 3). Placed under this material would be rock bedding material, 1 to 8 inches in diameter. For the section 50 to 150

feet downstream of the apron, the riprap protective covering would be rock, 6 to 18 inches in diameter (figure 3). Placed under this material would be rock bedding material, ¼ inch to 6 inches in diameter.

2. Chemical Characteristics - The rock would be obtained from Corps approved commercial sources and would be free of contaminants.

3. Quantity of Fill Material – The total in-water footprint for the area would be approximately 2.0 acres and would consist of approximately14,300 cubic yards or 20,000 tons of rock. The material would be placed and moved mechanically.

E. Description of Proposed Fill Sites - The proposed fill area immediately downstream of the Ambursen Dam is within the 9-foot navigation main channel and adjacent to the lock and dam guide wall along the Hennepin County bank and the Ford hydropower facility along the Ramsey County bank. Water depth at its deepest is 10 feet under normal pool elevation and substrate within the scoured areas consists of existing rip rap rock, natural cobble and boulders that has been scoured interspersed with sand.

F. Timing, Duration and Method of Fill Activities - The proposed fill action would likely be done during mid to late summer 2015 and would be complete within three to four weeks thereafter. The proposed fill materials would be placed and moved mechanically. Rock will be loaded directly on barges and transported to location with a towboat, and unloaded directly from the barge and placed with an excavator or crane from the barge.

II. Factual Determinations

A. Physical Substrate Determinations

1. Substrate Elevation and Slope – The area extending 50 feet downstream of concrete apron at the Ambursen Dam would have rock placed approximately 62 inches thick (54 inches of rip rap, 18 inches of bedding) to a top elevation matching the top of the concrete apron of 692.5 feet and extending downstream at an 8% slope to a top elevation of 688.0 feet (LCP is 687.2) (figures 4 and 5).

The area extending 50 to 150 feet downstream of concrete apron would have rock placed approximately 45 inches thick (30 inches of rip rap, 15 inches of bedding) to a top elevation matching the top elevation of the upstream rock placement top elevation of 688.0 feet and extending downstream varying from no slope near the lock chamber to an 8% slope near the Ford hydroelectric facility to a top elevation of 680.0 feet (LCP is 687.2). Rock would be placed out another approximately 10 feet at a slope of 1V:3H (1 foot vertical on 3 feet horizontal) and tie into the existing river bed.

2. Substrate Changes - The substrate at the scour repair area would change from a combination of rock and sand to a rock substrate. Interstitial space would be lessened as a result.

3. Fill Movement - The rock protection covering the areas should prevent further erosion and ensure the structural integrity of the lock chamber and the Ambursen Dam. It is not expected to move as larger rock mixed with wider gradation of rock is being used as compared to previous rock used during construction and repairs. Smaller rock is expected to fill voids in larger rock thus making them more stable.

B. Water Circulation and Fluctuations - The proposed action would have no impact on general water chemistry, current patterns and circulation, and sedimentation patterns.

C. Suspended Particulate/Turbidity Determinations

1. Suspended Particulates and Turbidity - The rock placed would contain minimal amounts of suspendible particulate matter and thus would have little impact on this parameter. The placement of rock may suspend fine sediments, but effects will be temporary. Stabilization of the areas and preventing erosion will result in a long term reduction in suspended particulates and turbidity.

2. Effects on Physical and Chemical Properties of the Water Column - Because of the clean nature of the fill material, the proposed action would not contain toxic metals, pathogens or oxygen consuming compounds. The resuspension of the material within the construction area would reduce light penetration and aesthetic qualities and negatively affect the biota in the immediate construction area but the impacts would be temporary.

D. Contaminant Distribution Determinations - Because of the use of contaminant-free fill material and the contaminant-free nature of the existing substrate, the proposed action should cause no increase in the distribution of contaminants.

E. Aquatic Ecosystem and Organism Determinations

1. Effects on Plankton - The increased suspended solids generated in the construction areas would negatively affect the plankton in this area. Upon completion of construction activities, these impacts would cease.

2. Effects on Benthos - The placement of the fill substrate would eliminate/disturb/displace the benthic organisms currently the areas. After placement of rock, benthic organisms are expected to recolonize.

3. Effects on Fish - The placement of the fill substrate would eliminate/disturb/displace fish currently in the areas. After placement of rock, fish are expected to return. The proposed fill action would have negligible impact on the area's fishery long term.

4. Effects on Wildlife – The placement of the fill substrate would disturb wildlife currently in the area. After placement of rock, wildlife is expected to return. The proposed fill action would have negligible impact on the area's wildlife long term.

5. Effects on Aquatic Food Web - The proposed action would have minimal and temporary impacts on the aquatic food web.

6. Effects on Special Aquatic Sites

a. Sanctuaries and Refuges - The proposed project area is situated in an urban setting adjacent to county parkland. The proposed action should have no impact on sanctuaries or refuges.

b. Wetlands, Mud Flats and Vegetated Shallows - Approximately 2.0 acres of fill would be in water in areas that already generally contain rock fill material. The areas contain no wetlands, mud flats, or vegetated shallows. The proposed project area is a non-vegetated spillway.

7. Threatened and Endangered Species – No federally protected species are found in the project footprint or within areas to be used to complete the work. The federally-listed endangered Higgins eye (*Lampsilis higginsii*) has been reintroduced to an area near the downstream end of the island below the spillway. Recent mussel surveys within the proposed scour repair area and potential offloading area along the island have not detected Higgins eye. There would be no impacts to Higgins eye from the proposed action. A peregrine falcon (*Falco peregrinus*), which is delisted but is protected by the Migratory Bird Protection Act and is listed as a species of special concern in Minnesota, has a nest immediately adjacent to the site and frequents the area but construction will be in mid to late summer or fall after fledging of young from nests has occurred.

8. Actions Taken To Minimize Impacts – Rock to be placed in the scour holes will be temporarily placed close to the scour area at the head of the island. Disturbance of shoreline or shallow water habitat is expected to be minimal. The site will be restored to previous conditions after completion of the project. An exclusion zone has been designated at the downstream end of the island where no shallow water activity will be allowed to avoid impacts to mussels (figure 2).

F. Proposed Fill Site Determinations

1. Mixing Zone - The in-water placement at the sites could produce a mixing zone and suspension of fine material is expected.

2. Compliance with Applicable Water Quality Standards - Water quality standards for contaminants of concern would not be exceeded because of the clean nature of the fill. Water quality standards for other contaminants are also expected to be met. A grant or waiver of Water

Quality Certification under Section 401 of the Clean Water Act has been requested from the State of Minnesota. A Protected Waters Permit from the Minnesota Department of Natural Resources has been requested.

3. Potential Effects on Human Use Characteristics

a. Municipal and Private Water Supply - No municipal or private water supplies would be affected by the proposed fill action.

b. Recreational and Commercial Fisheries - Commercial and recreational fisheries are minimal in the general area because of the close proximity to the dam. Because of the disturbed nature of the affected areas and limited use, the proposed action would have no impact on these resources.

c. Water Related Recreation and Aesthetics - Impacts to these resources would be negligible because of the restricted scope of the proposed action and lack of use in these areas.

d. Cultural Resources - The Corps has determined the project will have no adverse effects to historic properties. The proposed action is being coordinated with the Minnesota State Historic Preservation Office.

G. Cumulative Effects on the Aquatic Ecosystem - The proposed action is needed to replace erosion protection that has either degraded or been lost as a result of scour activity. As such, the proposed work would occur mostly within the original footprint of the project and extend downstream to main proper slope. The extensions of erosion protection downstream of the Ambursen Dam are proposed to ensure the longevity of the repairs and would have no appreciable effect on aquatic habitat in area. Similar work of the same magnitude and scope is being developed for other Upper Mississippi River lock and dam structures and embankments. Because of the extent of repairs, the proposed fill activities, either individually or cumulatively, would have no significant effect on the aquatic ecosystem.

H. Secondary Effects on the Aquatic Ecosystems - No secondary impacts would be associated with the proposed fill actions.

III. Findings of Compliance or Noncompliance with Restrictions on Discharge

The proposed fill activity presently complies with the procedural and substantive requirements of the Section 404(b)(1) guidelines of the Clean Water Act.

No action and the recommended plan were evaluated. The no action alternative is not recommended because of the inability to meet the established objectives. Without action, continued scour at the current locations could lead to structural damages at Lock and Dam 1.

The proposed fill is not expected to exceed water quality standards set by the State of Minnesota. The State of Minnesota is reviewing the District's request for water quality certification for the proposed project under Section 401 of the Clean Water Act. No action would be initiated until a grant or waiver of the water quality certification is received. A Protected Waters Permit from the Minnesota Department of Natural Resources has been requested.

At this point in the review process, the project complies procedurally with Section 307 of the Clean Water Act and with the Threatened and Endangered Species Act of 1973, as amended. The proposed activity would not have significant adverse impacts on human health or welfare, including municipal and private water supplies, and commercial and recreational fishing.

On the basis of this evaluation, therefore, I conclude that the proposed discharge site complies with the requirements and guidelines for the discharge of fill material.

_____
Date

Daniel. C. Koprowski
Colonel, Corps of Engineers
District Engineer

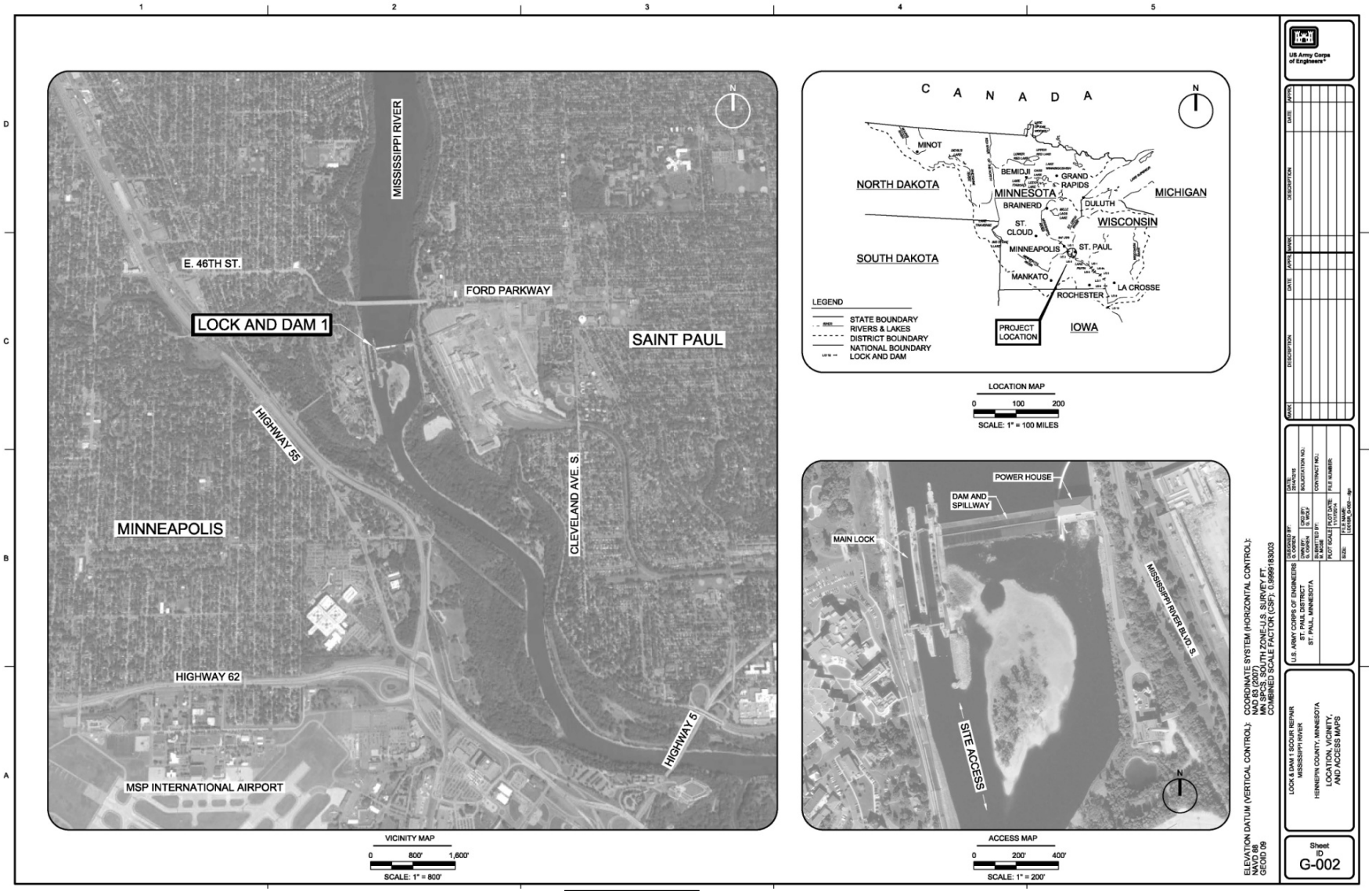

MISSISSIPPI RIVER
E. 46TH ST.
FORD PARKWAY
LOCK AND DAM 1
SAINT PAUL
HIGHWAY 55
CLEVELAND AVE. S.
MINNEAPOLIS
HIGHWAY 62
HIGHWAY 5
MSP INTERNATIONAL AIRPORT
VICINITY MAP
0 800' 1,600'
SCALE: 1" = 800'
C A N A D A
MINOT
NORTH DAKOTA
BEMIDJI
GRAND RAPIDS
MINNESOTA
MICHIGAN
BRAINERD
DULUTH
WISCONSIN
ST. CLOUD
MINNEAPOLIS
ST. PAUL
SOUTH DAKOTA
MANKATO
LA CROSSE
ROCHESTER
IOWA
PROJECT LOCATION
LEGEND
STATE BOUNDARY
RIVERS & LAKES
DISTRICT BOUNDARY
NATIONAL BOUNDARY
LOCK AND DAM
LOCATION MAP
0 100 200
SCALE: 1" = 100 MILES
POWER HOUSE
DAM AND SPILLWAY
MAIN LOCK
MISSISSIPPI RIVER BLVD S.
SITE ACCESS
ACCESS MAP
0 200' 400'
SCALE: 1" = 200'
ELEVATION DATUM (VERTICAL CONTROL): NAVD 88 GEOID 09
COORDINATE SYSTEM (HORIZONTAL CONTROL): NAD 83 (2007) MN SPCS, SOUTH ZONE-U.S. SURVEY FT. COMBINED SCALE FACTOR (CSF): 0.9999183003
US Army Corps of Engineers
U.S. ARMY CORPS OF ENGINEERS ST. PAUL DISTRICT ST. PAUL, MINNESOTA
LOCK & DAM 1 SCOUR REPAIR MISSISSIPPI RIVER
HENNEPIN COUNTY, MINNESOTA
LOCATION, VICINITY, AND ACCESS MAPS
Sheet ID G-002

Figure 1.

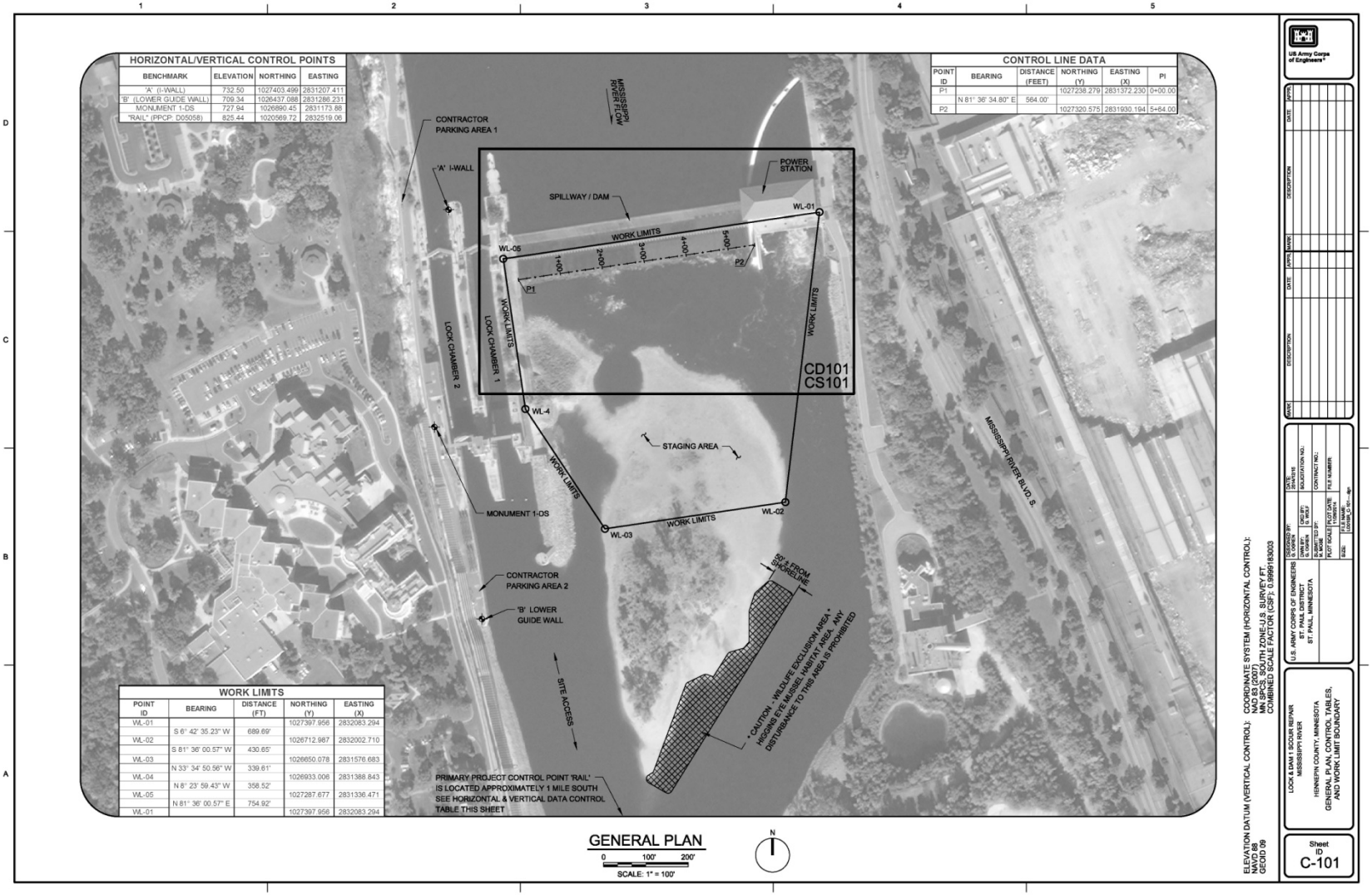


Figure 2. Scour hole repair placement site at Lock and Dam 1

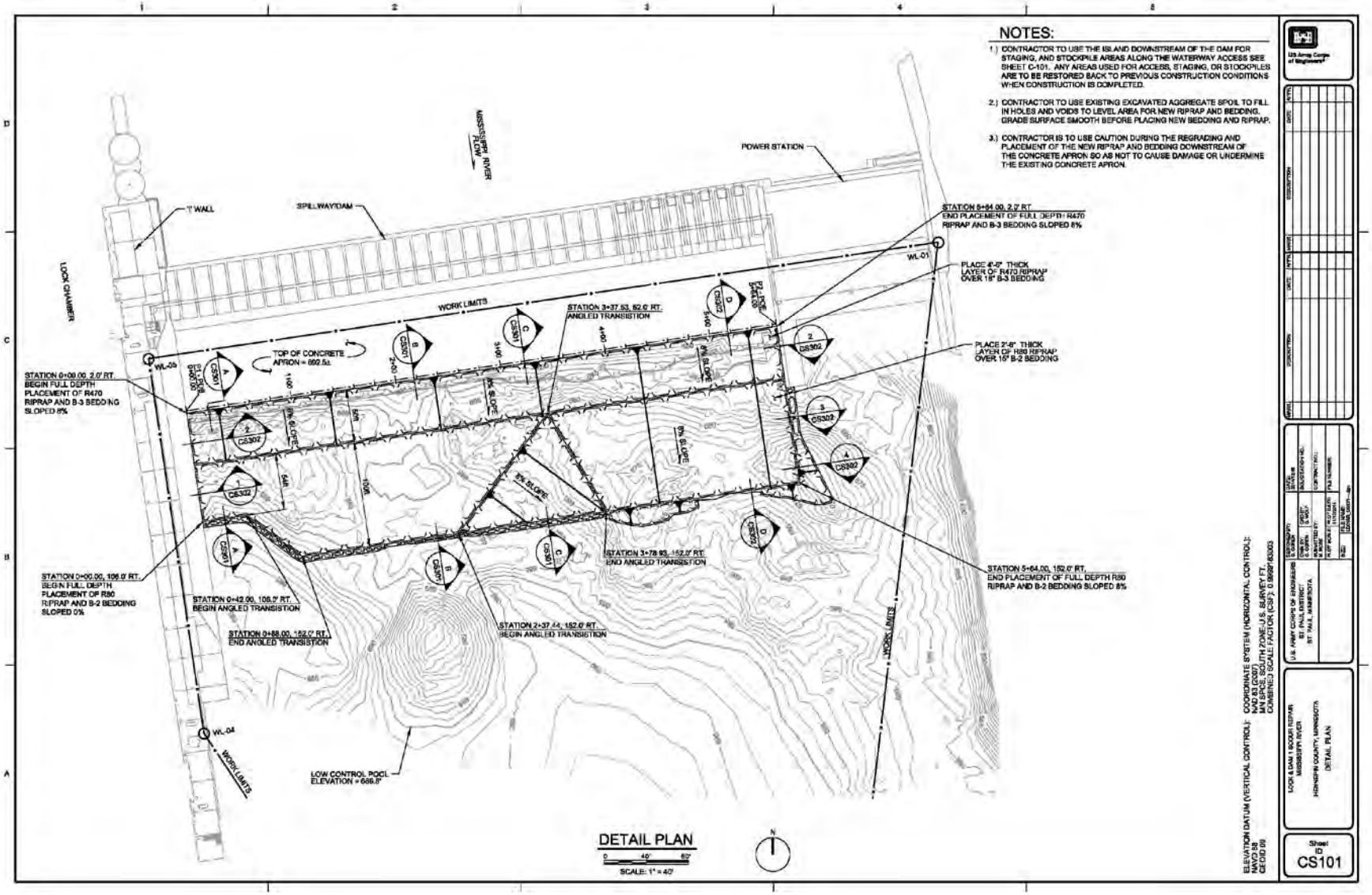


Figure 3. Scour hole repair placement site at Lock and Dam 1

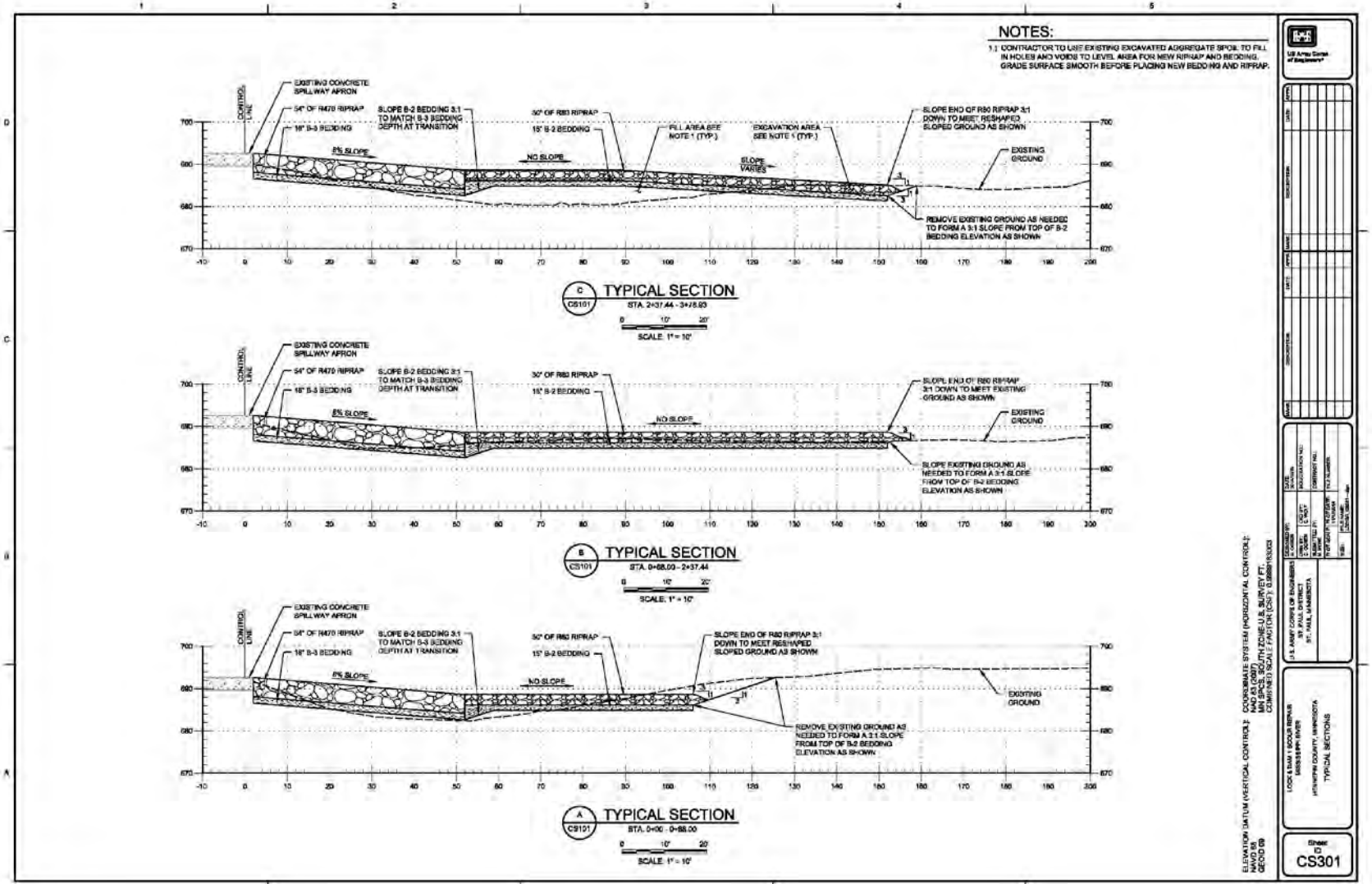


Figure 4. Scour hole repair placement site at Lock and Dam 1

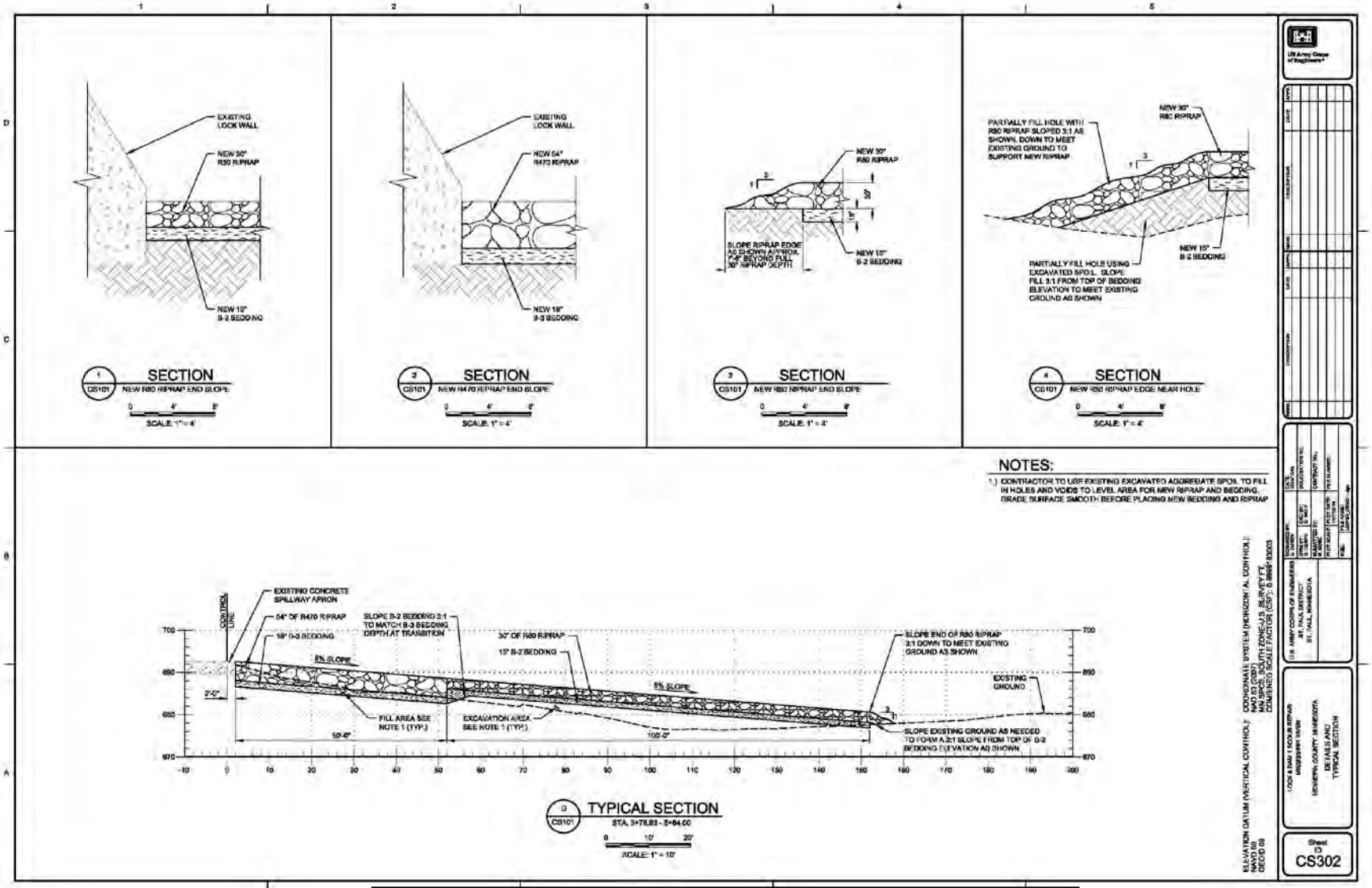


Figure 5. Scour hole repair placement site at Lock and Dam 1

Hennepin County
Public Works

Strategic Planning and Resources Department
Alene Tchourumoff, Director
701 Fourth Avenue South, Suite 700
Minneapolis, Minnesota 55415-1842

612-348-8532, Fax
www.hennepin.us/spr

December 31, 2014

Caroline Magnuson
Environmental Quality Board
520 Lafayette Road North
St. Paul, MN 55155

RE: Request for Responsible Governmental Unit Designation for USACE Project: Lock and Dam 1 Scour Repair

Dear Ms. Magnuson:

With this letter I am requesting that the Environmental Quality Board chair review the details of this proposed project and make a determination as to what entity should fulfill the role of the Responsible Governmental Unit (RGU). For clarity, I have attached a working E-copy of the mandatory Environmental Assessment Worksheet (EAW) that was prepared by USACE (United States Army Corps of Engineers) staff.

The USACE is proposing to repair scouring immediately downstream of the Lock and Dam 1 facility on the Upper Mississippi River to ensure its structural integrity. This would involve placing about 14,000 cubic yards of rock below the water surface along the width of the dam and up to 150 feet downstream. In all, an estimated three acres south of the dam would be impacted by the project; 2 acres of rock fill and about one acre of temporary disturbance. Due to the size of the project, an EAW is mandated.

At this point, the USACE is the proposer of this project and what organization should function as the RGU is unclear. The project roughly straddles the Hennepin-Ramsey county line, however, due to time constraints it may be difficult for either county to provide the proper authority for staff to perform the duties of the RGU in a timely fashion and meet the needs of this important project.

Thanks for all the help you've provided thus far. If you have any questions, I can be reached at 612-348-5714 or david.jaeger@Hennepin.us. Please keep me posted.

Sincerely,

David Jaeger
Hennepin County, Environmental Policy Manager

CC: Bob Edstrom, USACE

Hennepin County Department of Environmental Services
417 North Fifth Street, Suite 200
Minneapolis, Minnesota 55401-3206

612-348-3777 REDUCE.REUSE.RECYCLE
612-348-8532 & 612-348-6510 Faxes
612-348-6500 Facility *INFO* Line
www.hennepin.us / environment

January 8, 2015

Caroline Magnuson
Environmental Quality Board
520 Lafayette Road North
St. Paul, MN 55155

RE: Accepting Responsible Governmental Unit Status for USACE Project: Lock and Dam 1 Scour Repair, and Requesting Transfer of the RGU Designation to the Minnesota Department of Natural Resources.

Dear Ms. Magnuson:

With this letter I am rescinding my January 8, 2015 letter request that the Environmental Quality Board (EQB) chair review the details of this proposed project and make a determination as to what entity should fulfill the role of the Responsible Governmental Unit (RGU), and am now indicating the county's willingness to accept the role of RGU for the above noted project. With this same letter, and now functioning as RGU, I am also requesting that the (EQB) chair transfer the RGU designation for this same USACE project to the Minnesota Department of Natural Resources (MnDNR).

The United States Army Corps of Engineers (USACE) is proposing to repair scouring immediately downstream of the Lock and Dam 1 facility on the Upper Mississippi River to ensure its structural integrity. This would involve placing about 14,000 cubic yards of rock below the water surface along the width of the dam and up to 150 feet downstream. In all, an estimated three acres south of the dam would be impacted by the project; 2 acres of rock fill and about one acre of temporary disturbance. Due to the size of the project, an EAW is mandated. For clarity, I have attached a copy of the USACE's public notice of this project as part of their own federal 404 (b)(1) evaluation program requirements.

The USACE will also be requesting a 401 Water Quality Certification from the Minnesota Pollution Control Agency (MPCA). As another requirement of this project, the USCAE has already applied for a MnDNR Protected Waters Permit, and the 30 day review period has expired. The USACE will collaborate closely with the MnDNR in addressing comments.

It is because of this level of expertise needed to evaluate the potential impacts to the Mississippi River, and the fact that the MnDNR has permitting authority over channel fill activities, that better positions the MnDNR to be the RGU. Similarly, Hennepin County does not have regulatory authority over such actions as those being proposed. The USACE concurs with Hennepin County's request for redesignation of the RGU status to the MnDNR. However, MnDNR staff have consistently indicated that they cannot be the RGU until requested by the EQB. It is our hope that the EQB will also concur with this proposal and implement the requested redesignation at the next scheduled meeting on February 18th, 2015.

Thanks for all the help you've provided thus far. If you have any questions, I can be reached at 612-348-5714 or david.jaeger@Hennepin.us. Please keep me posted.

Sincerely,

David Jaeger
Hennepin County, Environmental Policy Manager

CC: Bob Edstrom, USACE

Minnesota Department of Natural Resources
500 Lafayette Road • St. Paul, MN • 55155-40_

February 5, 2015

Will Seuffert
Executive Director
Environmental Quality Board
520 Lafayette Road North,
Saint Paul, MN 55155

RE: Lock & Dam No. 1 Project

Dear Mr. Seuffert:

Pursuant to *Minnesota Rules,* part 4410.0500, subpart 1, each of the mandatory categories in *Minnesota Rules,* part 4410.4300, specify the responsible governmental unit (RGU) for completing an EAW. *Minnesota Rules,* part 4410.4300, subpart 27, dealing with projects that change or diminish the course, current, or cross-section of one acre or more of any public water or public waters wetland, the local governmental unit is designated as RGU. Hennepin County is the RGU for preparation and review of state environmental documents for the repair of Ambursen Dam at the Lock & Dam No. 1 Facility, a U.S. Army Corps of Engineers' (USACE) sponsored project.

The Project is located on the Upper Mississippi River at river mile 847.5, in Minneapolis, MN. The proposed project is to repair scour holes that have developed over time and threaten the structure. Rip rap rock fill will be placed below the Ambursen Dam to approximately 150 feet downstream to protect the lock and dam from further erosion. These actions would extend the useful life of the structure.

Hennepin County has requested that its RGU status be reassigned to the Minnesota Department of Natural Resources (MNDNR). The MNDNR has been in communication with Hennepin County and USACE on the proposed RGU reassignment. MNDNR expertise in work in public waters and aquatic ecosystems will assist in assessment of the project. The MNDNR is willing to serve as RGU for the Lock & Dam No. 1 Project. Please feel free to contact me with any further questions or comments.

Sincerely,

Kate Frantz

Kate Frantz
Environmental Review Planning Director

CC (via email): David Jaeger, Hennepin County
Daniel Kelner, Army Corps of Engineers