City of Duluth
Planning Division

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Duluth City Planning Commission, File Number PL14-127
Slip 2 Capping and Shallowing project

ENVIRONMENTAL ASSESSMENT, RECORD OF DECISION

BACKGROUND

The City of Duluth Planning Commission is the responsible governmental unit for environmental review of the Slip 2 project. The preparation and distribution of the EAW was in accordance with the Environmental Review Regulations of the Minnesota Environmental Quality Board (MEQB).

The EAW was filed with the MEQB and circulated for review and comment to the EQB's EAW Distribution List. The notice was published in the EQB Monitor on September 1, 2014. The 30 day comment period ended on Wednesday, October 1, 2014. A notice was sent to the Duluth News Tribune and other area media, and a press release was issued informing the public of the EAW and that written comments were being received by the Duluth Planning Commission.

The Duluth Planning Commission, at its regular September 9, 2014 meeting, held an optional public hearing on the project's potential environmental impacts, and considered oral public comments from its staff and the public.

Following careful evaluation of the documents and testimony at its regular October 14, 2014 meeting, the Commission approved a "negative declaration" on the need to prepare an Environmental Impact Statement (EIS) for the project.

BRIEF PROJECT DESCRIPTION

The proposed project involves capping legacy contaminants with clean dredged material and the subsequently shallowing of Slip 2 from its current average depth of 20 feet to a new depth range of 5 to 10 feet. This action will provide a protective cap of clean dredged material over contaminated sediments, while also providing stability to the remaining dock walls associated with Pier B and the City of Duluth Bayfront Park.

COMMENTS RECEIVED, RESPONSES, AND OTHER DOCUMENTS REVIEWED

1. Minnesota Historical Society dated September 29, 2014

Comment: Section 106 Review. Comment on EAW Item #14 (impact on historic property) .

Response: See attached responses.

2. Minnesota Pollution Control Agency Dated October 1, 2014

Comment: Questions/comments on EAW Item #8 (may require Section 401 Water Quality Certification determination) and #20 (need plan to manage fuel and lubricants in the event of a spill).

Response: See attached responses.

3. Minnesota Department of Natural Resources dated October 1, 2014

Comment: General comments and questions.

Response: See attached responses.

4. Citizen Email, September 15, 2014

Comment: Request for cross-section.

Response: See attached responses.

DECISION ON NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT
An environmental impact statement is not considered necessary for the project based on the following criteria.

A. Type, extent, and Reversibility of Impacts. Based on the information in the EAW and the comments/and responses, the proposed project has no other/additional environmental impacts.

B. Cumulative Potential Effects of Related or Anticipated Future Projects. This project is not dependent on any other projects. There are no known anticipated future projects at this time on which this project would depend.

C. Extent to Which the Environmental Effects are Subject to Mitigation By Ongoing Public Regulatory Authority. Mitigation of the impact shall be achieved through design or regulations currently in place.

D. Extent to Which Environmental Effects Can Be Anticipated and Controlled as a Result of Other Environmental Studies undertaken by public agencies or the project proposed, or of EISs previously prepared on similarly projects.
No other environmental effects are anticipated.

CONCLUSIONS

Based on the above findings, the Planning commission has determined (vote: 7 in support, 0 opposed, and 2 absent) that the environmental review requirements have been met by the EAW, that the proposed project does not pose the potential for significant environmental impacts, and that, therefore, an Environmental Impact Statement is not required.

Decided at Duluth, Minnesota, on Tuesday, October 14, 2014

BY ORDER OF THE CITY PLANNING COMMISSION

Charles Froseth, Secretary

Attachments: copies of questions raised, and responses

Comments Received

Minnesota Historical Society

Using the Power of History to Transform Lives
PRESERVING › SHARING › CONNECTING

STATE HISTORIC PRESERVATION OFFICE

September 29, 2014

Charles Froseth
Land Use Supervisor
City of Duluth
411 West First Street
Duluth, MN 55802

RE: Slip 2 Capping and Shallowing; Pier B Development Project
Duluth, Saint Louis County
SHPO Number: 2014-1873

Dear Mr. Froseth:

Thank you for providing this office with a copy of the Environmental Assessment Worksheet (EAW) for the above-referenced project.

Because activities associated with the Pier B Development Project, including the Slip 2 Capping and Shallowing, will require a Department of the Army Permit, we have consulted with the federal agency pursuant to Section 106 of the National Historic Preservation Act and 36 CFR 800 and have executed a Programmatic Agreement (PA) with the St. Paul District, Corps of Engineers (Corps). The PA outlines stipulations that the Corps must complete in order to fulfill requirements of Section 106, among them potential direct effects to the Slips 1, 2, and 3 Historic District which has previously been determined eligible for listing in the National Register of Historic Places.

Under Question #14 of the EAW, you have stated that the proposed project will not adversely affect the historic property. We are unable to offer our concurrence with this statement at this time because the assessment of effects will be undertaken at a later date, in consultation with the Corps, pursuant to the PA for the Pier B Development Project.

Please contact me at (651)259-3456 if you have any questions regarding our comments on this project.

Sincerely,

Sarah J. Beimers

Sarah J. Beimers, Manager
Government Programs and Compliance

cc: Brad Johnson, St. Paul District Corps of Engineers

Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us | Equal Opportunity Employer

October 1, 2014

Mr. Charles Froseth
Land Use Supervisor
City of Duluth
411 West First Street
Duluth, MN 55802

Re: Slip 2 Capping and Shallowing Environmental Assessment Worksheet

Dear Mr. Froseth:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Slip 2 Capping and Shallowing project (Project) located in the city of Duluth, Minnesota. 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.

- Item 8 – The Project may require a Section 401 Water Quality Certification determination from MPCA, depending upon the permitting mechanism provided by the U.S. Army Corps of Engineers.

- Regarding Item 20 of the EAW, the operation of heavy equipment in and near streams and wetlands obligates the Project proposers to develop a plan for managing fuels and lubricants, including a plan of action to implement in the event of spills. Project proposers and their contractors should be prepared to respond to spills and to recover and contain spilled material as quickly and thoroughly as possible. For petroleum spills that are five or more gallons, the Project proposers and/or their contractors are required to contact the State Duty Officer at 651-649-5451 or 800-422-0798. Information on reporting spills and leaks is available on the MPCA website at: http://www.pca.state.mn.us/index.php/view-document.html?gid=2807.

We appreciate the opportunity to review this Project. Please provide your specific responses to our comments and the notice of decision on the need for an Environmental Impact Statement. 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 action(s) 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 at 651-757-2482.

Sincerely,

Kevin Kain
Planner Principal
Environmental Review Unit
Resource Management and Assistance Division

KK:bt

cc: Craig Affeldt, MPCA, St. Paul
Tom Estabrooks , MPCA, Duluth

Minnesota Department of Natural Resources

Northeast Region • 1201 East Highway 2 • Grand Rapids MN • 55744

October 1, 2014

Charles Froseth
Land Use Supervisor
City of Duluth
411 West 1st Street
Duluth, MN 55802

ERDB # 20150048

RE: Slip 2 Capping and Shallowing Environmental Assessment Worksheet (EAW)

Dear Mr. Froseth:

The Minnesota Department of Natural Resources Northeast Region has reviewed the Environmental Assessment Worksheet (EAW) for Slip 2 Capping and Shallowing. We recognize the project achieves multiple beneficial outcomes, including remediation aligned within goals of the Area of Concern (AOC) delisting for beneficial re-use of dredge material. The project also provides improved public access and recreational opportunities to Lake Superior. We have the following comments and questions for your consideration.

- It may be worthwhile to have an estimate of how much dredge material (in cubic yards) will be required to cap and bring the slip up to the planned bathymetry. Quantifying dredge material may help the U.S. Army Corp of Engineers (USACE) estimate needs of other AOC restoration projects.
- What is the thickness range of the cap and will there be an impermeable membrane between the cap and the contaminated sediments?
- The DNR would like to attempt to provide recreational shoreline fishing opportunities along the northeast shoreline and at the mouth of the slip. This may require bottom structure in the plan.
- Under item 11. Water Resources, iv. Surface Waters, part b
  A discussion of alternatives will be required by MN Rules for the Public Waters Work Permit, please see attached highlighted reference.

Thanks for the opportunity to comment, we look forward to cooperating with you on the upcoming permitting and implementation phases of this project. Please feel free to call or email me with any questions you have.

Sincerely,

Rian Reed
Northeast Regional Environmental Assessment Ecologist
MNDNR, 1201 East Hwy 2
Grand Rapids, MN 55744
218-999-7826
rian.reed@state.mn.us

Steven Robertson

From: Charles Froseth
Sent: Monday, September 15, 2014 10:23 AM
To: Steven Robertson
Subject: FW: USACE 21st Avenue West Dredged Material Project Cross-section illustration

Steven
Unless you have an answer to Thom's question please forward to Brian Murdock so we can respond appropriately.
Thanks
Chuck

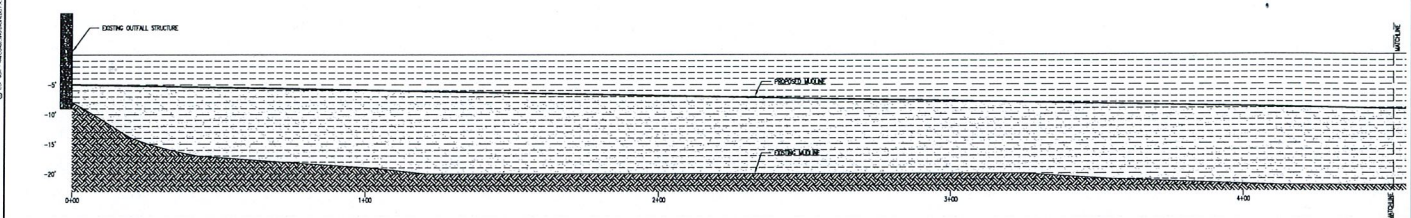
From: Thom Holden [mailto:kamloops27@chartermi.net]
Sent: Monday, September 15, 2014 10:10 AM
To: Charles Froseth
Subject: USACE 21st Avenue West Dredged Material Project Cross-section illustration

I am trying to find an illustration of this project. What I am looking for is a schematic cross section, not necessarily to scale, that would show the approximate intended depths when finished and the attendant plant life such as lily pads in the water and cattails along the shore type of thing. I think I have seen a black and white line drawing of this, but cannot seem to locate one. It is proposed to use in a temporary exhibit at the Corps of Engineers' marine museum.

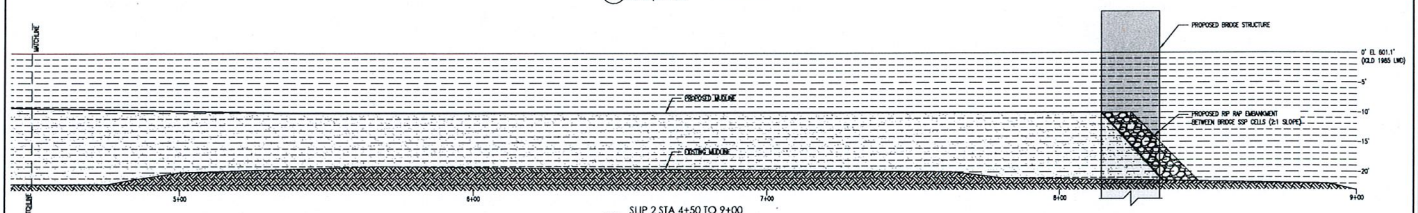
Thom Holden
Kamloops27@chartermi.net

Responses

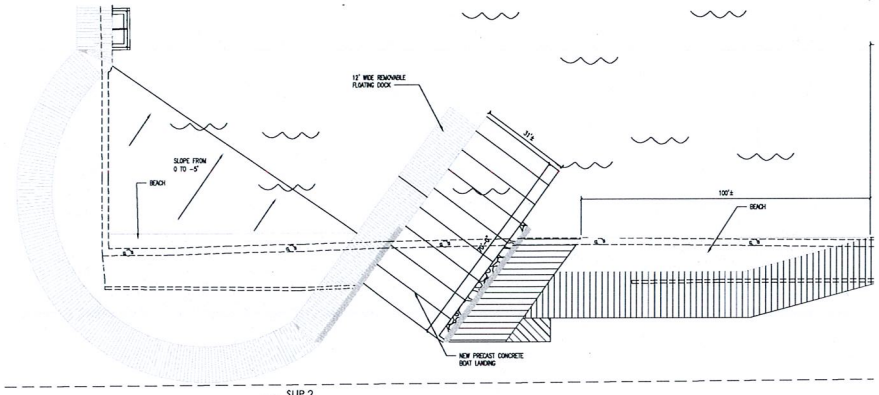
Ltr ID	Comnt ID	Last Name	First Name	Organization	Comment	Response
101	1	Beimers	Sarah	Minnesota Historic Society	Under Question #14 of the EAW, you have stated that the proposed project will not adversely affect the historic property. We are unable to offer our concurrence with this statement at this time because the assessment of effects will be undertaken at a later date, in consultation with the Corps, pursuant to the PA for the Pier B Development Project.	Pier B is currently engaged in the Section 106 process with the Corps of Engineers and SHPO where the assessment of effects is currently being evaluated. A formal determination regarding whether the proposed project will adversely affect the historic property will be decided at a later date. Pier B is extremely optimistic that their passion for preserving the historical qualities of the former cement plant through their project design will not adversely affect the historic property.
102	1	Reed	Rian	Minnesota DNR, Grand Rapids	It may be worthwhile to have an estimate of how much dredge material (in cubic yards) will be required to cap and bring the slip up to the planned bathymetry. Quantifying dredge material may help the U.S. Army Corp of Engineers (USACE) estimate needs of other AOC restoration projects.	We have estimated that at least 40,000 cubic yards of material will be needed to cap and shallow the slip. This number was provided to the Corps of Engineers many months ago.
102	2	Reed	Rian	Minnesota DNR, Grand Rapids	What is the thickness range of the cap and will there be an impermeable membrane between the cap and the contaminated sediments?	The majority of slip will be capped with at least 10 feet of dredge material. Limited areas will be capped with less, but not less than four feet.
102	3	Reed	Rian	Minnesota DNR, Grand Rapids	The DNR would attempt to provide recreational shoreline fishing opportunities along the northeast shoreline and at the mouth of the slip. This may require bottom structure in the plan.	This project was developed in consultation with DNR Fish Manager John Lindgren and we intend to incorporate his recommendations into the design of the East side of the slip (if SHPO agrees). Modification of the Bayfront Park (east) side of Slip 2 will be covered in a separate permit application submitted for the City of Duluth.
102	4	Reed	Rian	Minnesota DNR, Grand Rapids	Under Item 11. Water Resources, iv. Surface Waters, part b, A discussion of alternatives will be required by MN Rules for the Public Waters Work Permit, please see the attached highlighted reference.	A discussion of alternatives has already occurred. The publicly funded study of Slip 2 was conducted by MPCA within the context of Remedial Action Planning for the AOC. DNR has been in consultation with the MPCA in evaluation of alternatives and development of site restoration studies developed by and for both agencies. The capping and shallowing of Slip 2 is a private development and restoration project. This project will greatly reduce public expenditures in the AOC and will help the agencies make significant progress toward AOC restoration and de-listing.
103	1	Kain	Kevin	Minnesota Pollution Control Agency	Item 8 – The Project may require a Section 401 Water Quality Certification determination from MPCA, depending upon the permitting mechanism provided by the U.S. Army Corps of Engineers.	We concur that that a Section 401 Water Quality Certification determination from the MPCA is necessary and we will obtain this as part of the project permitting process.
103	2	Kain	Kevin	Minnesota Pollution Control Agency	Regarding Item 20 of the EAW, the operation of heavy equipment in and near streams and wetlands obligates the Project proposers to develop a plan for managing fuels and lubricants, including a plan of action to implement in the event of spills. Project proposers and their contractors should be prepared to respond to spills and to recover and contain spilled material as quickly and thoroughly as possible. For petroleum spills, that are five or more gallons, the Project Proposers and/or their contractors are require to contact the State Duty Officer at 651-649-5451 or 800-422-0798. Information on reporting spills and leaks is available on the MPCA website at :http://www.pca.state.mn.us/index.php/view-document.html?gid=2807.	Each contractor that will have heavy equipment will be required to have a spill prevention and response plan for fuels and lubricants. Pier B will require receipt of these plans from the contractors prior to delivering equipment to the site. Their plans will have identify best management practices for loading and managing lubricants as well as have procedures for spill containment, recovery and reporting. Copies of these plans will be maintained by Pier B.



1 / S2.0 SLIP 2 STA 0+00 TO 4+50
LINEAR CROSS SECTION
SCALE: 1/16" = 1'-0"



2 / S2.0 SLIP 2 STA 4+50 TO 9+00
LINEAR CROSS SECTION
SCALE: 1/16" = 1'-0"



3 / S7.0 SLIP 2
BEACH & LANDING DETAIL
SCALE: 1/16" = 1'-0"

AMI
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91 Main Street
Superior, Wisconsin 54880
Ph: 715-392-8176 Fax: 877-214-7058

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF

NAME: _____ AT: _____

SIGNATURE: _____ DATE: _____

DATE	REV.	DESCRIPTION	REV. BY

PIER B HOTEL & CONDOMINIUMS
DOCK REHABILITATION
DULUTH, MINNESOTA

CROSS SECTIONS & DETAILS

JOB No: 111140-3
DATE: 8-28-14
DRAWN BY: SGS/SAJ
DESIGNED BY: CES

SHEET:
S2.0