

CORDELIA S.C. PIERSON

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July 30, 2009

VIA ELECTRONIC AND HAND DELIVERY

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

Re: Citizens' Petition for an Environmental Assessment Worksheet (EAW) for a Six-Story Building and Underground Parking at 600 Main Street, SE, Minneapolis, within the Boundaries of the Mississippi National River and Recreation Area, Mississippi Critical Area and the St. Anthony Falls National Historic District

Dear Mr. Downing:

Enclosed for the Minnesota Environmental Quality Board (MEQB) is the Citizens' Petition (Petition) for an EAW for the six-story apartment building proposed for development by Call Your Bluff Development, LLC and Bluff Street Development (collectively, Proposers) at the head of the Stone Arch Bridge within the Mississippi National River and Recreation Area, a unit of the National Park Service, and within the St. Anthony Falls National Historic District in Minneapolis. The Petition satisfies each of the requirements of Minn. R. 4410.1100, subs. 1-2. By copy of this letter, the Petitioners are sending notice of the Petition to the Proposers in compliance with Minn. R. 4410.1100, sub. 4. The Petitioners are also sending this letter and the attachments directly to the anticipated Responsible Government Unit (RGU), the City of Minneapolis.

Pursuant to Minn. R. 4410.1100, sub. 5, MEQB must forward this Petition to the Responsible Governmental Unit (RGU) within five days. **Because the Minneapolis City Council is scheduled to consider approving land changes concerning this project on July 31, 2009, the Petitioners respectfully request that MEQB immediately notify the City of Minneapolis of the filing of this Petition, as well as the resulting prohibition on any final approvals while the Petition is pending.** See Minn. Stat. § 116D.04; Minn. R. 4410.3 100, sub. 1(A); MEQB, Guide to Minnesota Environmental Review Rules at 5 ("[the statute and rule prohibit final decisions' granting permits. In this context, final means 'not to be altered or undone,' rather than last. Any discretionary step in an approval process that conveys rights to the proposer and is not subject to further review or change is a final decision.").

The EAW petition requirements and the petitioners' satisfaction of these requirements are set forth as follows:

EAW Petition Requirements	Response
1. Sub. 1 --- (EAW petition w/ 25 or more signatures with mailing addresses)	1. See EAW Petition, with 40 petitioners and mailing addresses
2. Sub. 2(A) --- (description of project)	2. Proposers are intending to build a six-story apartment building, including excavation beneath the bedrock, within an historic district, and river critical area, on a parcel within the shoreland district
3. Sub. 2(B) (proposer of the project).	3. Call Your Bluff Development, LLC and Bluff Street Development, LLC.
4. Sub. 2(C) (name, address and telephone number of the representative of the petitioners.)	Cordelia Pierson 512 SE 7 th Street, Minneapolis, MN 55414 612-379-8196
5. Sub. 2(D) (brief description of the project's potential environment effects)	See Petition and Exhibits 1-13
6. Sub. 2(E) (material evidence of the project's potential environmental effects)	See Petition and Exhibits 1-13

Sincerely,



Cordelia Pierson

Enclosures

cc: RT Rybak, Mayor, City of Minneapolis
 Steve Minn, Call Your Bluff Development, LLC and Bluff Street Development, LLC.
 Barbara Sporlein, Planning Director, City of Minneapolis
 Barbara Johnson, President, City Council
 Diane Hofstede, City Council Member, Ward 3

PETITION TO MINNESOTA ENVIRONMENTAL QUALITY BOARD

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

Re: Petition for an Environmental Assessment Worksheet for Six-Story (70 ft) Building with Underground Parking within the Boundaries of the Mississippi National River and Recreation Area and Historic District at 600 Main Street, SE, Minneapolis

1. PETITIONERS' REQUEST

The petitioners listed below (Petitioners) submit this **petition requesting an environmental assessment worksheet (EAW) be prepared** pursuant to Minn. R. 4410.1100 for the six-story (70 foot) apartment building proposed for development within the Mississippi National River and Recreation Area, a unit of the national park system, within a designated regional park, and within the St. Anthony Falls National Historic District at the bridgehead of the Stone Arch Bridge in Minneapolis.

Petitioners also request that the Minnesota Environmental Quality Board (MEQB) **assign an appropriate responsible governmental unit (RGU)** to prepare the EAW.

Petitioners further request that **MEQB immediately notify all governmental bodies with jurisdiction over the proposed project that they are "prohibited" under Minn. R. 4410.31007 sub. 1 from taking "[a]ny discretionary step in an approval process that conveys rights to the proposer and is not subject to further review or change."** MEQB Guide to Minnesota Environmental Review Rules (MEQB Guide) at 5.

2. THE DESCRIPTION OF THE PROPOSED PROJECT

Call Your Bluff Development, LLC and Bluff Street Development (Proposers) propose to build a six-story (70 foot) apartment building on a triangular piece of land containing approximately 0.84 acres of land, all of which is designated for acquisition for the Central Mississippi Riverfront Regional Park. The parcel is situated on the bluff of the East bank of the Mississippi River at the bridgehead of the Stone Arch Bridge, a National Engineering Landmark, and an individually listed structure on the 1971 application for the National Historic District. See Staff Report and Planning Commission Denial, June 8, 2009, at http://www.ci.minneapolis.mn.us/cped/agendas/planning-commission/2009/docs/20090608CPC_BZZ4405.pdf.

The project is to contain 15,863 square feet of subsurface parking for 48 cars. The developer has stated that this will entail removing all surface soils and part of the bedrock. *Id.*

The legal description of the affected property given by the developer is “That part of Government Lot 4, Section 23, Township 29, Range 24, and parts of Lots 11 and 14, Auditor’s SUBDIVISION NO. 44, Hennepin County, Minnesota.” *Id.*

The proposed property for the Project is entirely within the Mississippi National River and Recreation Area, a unit of the National Park System; the Mississippi River Critical Area; and the St. Anthony Falls National Historic District. Exhibit 1, Letter from Superintendent Labovitz to Jim Voll, April 2009; Exhibit 2, NPS map from Jim Von Haden, NPS staff (green line = MNRRA boundary; yellow line = St. Anthony Falls National Historic District); Exhibit 3, Minneapolis Heritage Preservation Commission Map of St. Anthony Falls Historic District. The St. Anthony Falls National Historic District is the second oldest national historic district in Minnesota. While this Project lies with the National Historic District, it is adjacent to but is not within the city-designated local Historic District. Exhibits 2 and 3. Part of the property is also within Minneapolis’s Shoreland Overlay zone. See http://www.ci.minneapolis.mn.us/zoning/maps/overlay_plate15_a.pdf

3. PETITIONERS' REPRESENTATIVE

The petitioners’ representative is Cordelia Pierson, 512 Southeast Seventh Street, Minneapolis, MN 55414; phone 612-379-8196; cordelia.pierson@gmail.com

4. THE PROPER RESPONSIBLE GOVERNMENT UNIT

The Project lies within the City of Minneapolis, and the City of Minneapolis is the governmental body with the greatest responsibility for supervising and approving this Project.

6. THE PROJECT'S NEED FOR ENVIRONMENTAL REVIEW

An EAW is required if the petition demonstrates either (1) the Project fits within a mandatory EAW category (Minn. R. 4410.4300, sub. 1) or (2) the Project "may have the potential for significant environmental effects" (Minn. R. 4410.1100, sub. 6). **This Project meets the mandatory EAW categories. The Petition additionally supports the RGU finding that the Project meets the discretionary categories as well.**

a. The Project's mandatory EAW categories

Minn. R. 4410.4300, sub. 1 mandates that "[a]n EAW must be prepared for projects that satisfy the threshold of any of subparts 2 to 36." (Emphasis added). Two of the mandatory EAW categories are triggered by the Project.

(1) "Natural areas"

Minn. R. 4410.4300 sub. 30 provides:

For projects resulting in the [1] permanent physical encroachment on lands [2]

within a national park, state park, wilderness area, state lands and waters within the boundaries of the Boundary Waters Canoe Area, scientific and natural area, or state trail corridor [3] when the encroachment is inconsistent with [(a)] laws applicable to or [(b)] the management plan prepared for the recreational unit, the DNR or local government unit shall be the RGU.

(Brackets & emphasis added). Therefore, this mandatory EAW category has three components: (1) "permanent physical encroachment on land"; (2) the affected lands are "within a national park"; and (3) "the encroachment is inconsistent with [(a)] laws applicable to or [(b)] management plan prepared for the recreational unit." This Project satisfies all three requirements.

Building proposed six-story (70 foot) apartment building with underground parking indisputably constitutes a "permanent physical encroachment."

The affected parcel at issue is **indisputably within the boundaries of "a national park."**

As Superintendent Paul Labovitz has stated, "[t]he parcel at this address is located within the Mississippi National River and Recreation Area (MNRRA), a unit of the national park system, and the coterminous Mississippi River Corridor Critical Area. The MNRRA was established by Congress in 1988 to protect and enhance the nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resources of the river corridor." Exhibit 1.

Finally, the Project is "inconsistent" with the "laws applicable to" and the "management plan prepared for the recreational unit." As stated by Superintendent Labovitz, "[t]he MNRRA Comprehensive Management Plan (CMP) incorporates by reference the requirements of the state Critical Area Program, Shoreland Management Program, and other programs and plans that implement the plan's vision." *Id.*

Superintendent Labovitz indicated that he felt that the land use applications made in March, for a similarly sized structure, were inappropriate as it was inconsistent with the MNRRA's CMP, laws and plans regarding the recreational unit and asked the Minneapolis City Council to deny the application, which the Council did. *Id.*

Superintendent Labovitz stated that "the Marcy-Holmes Master Plan, adopted by the City of Minneapolis in 2003, identifies this triangle-shaped parcel as future parkland. NPS supports the use of this land as park and believes that its proposed development runs counter to established trail and open space goals. A central goal of the MNRRA CMP is to achieve a continuous trail and open space corridor along both sides of the Mississippi River through the entire 72-mile length of the national park. The NPS-facilitated Trail and Open Space Partnership (TOSP), of which the City of Minneapolis and the Minneapolis Park and Recreation Board are key partners, has identified a future trail connection along this portion of the river as a high priority. Because of its proximity to the eastern terminus of the Stone Arch Bridge, this parcel also has the potential to serve, in part, as a gateway to the bridge and as a compliment to the adjacent Father Hennepin Bluffs Park. NPS is unable to support rezoning to Community Activity Center District (C3A), as such action would not serve to achieve well-

established park and open space goals for this parcel. In addition to the potential loss of this parcel as future parkland, **the National Park Service does not see a compelling reason to relax building height restrictions at this location and does not support a conditional use permit** for a 68-foot height within the Shoreland Overlay District.” *Id.*

Superintendent Labovitz may not have been aware when he wrote his letter that this parcel is also **within the boundaries of the acquisition and development plan for the Central Mississippi River Riverfront Regional Park**, adopted by both the Metropolitan Council and the Minneapolis Park Board in 2003. Exhibit 4, Central Mississippi Riverfront Regional Park Plan. Regional Parks were intended to be the equivalent of state parks and are funded to a large extent with state funds that are administered by the Metropolitan Council. Plans for this site indicate land acquisition for recreational open space. In fact, the Minneapolis Park and Recreation Board has indicated interest in purchasing this parcel, and the Metropolitan Council has advised that funds are available. Exhibit 5, Letter from Minneapolis Park and Recreation Board to Jim Voll; Exhibit 6, Communication from Metropolitan Council to Mike Kimble of the Minneapolis Park and Recreation Board, April 27, 2009. Therefore the **construction of a six-story (70 foot) building is inconsistent with the adopted plan for that site, indicating that the threshold for a mandatory EAW has been met through regional park plan conflict as well.**

The DNR opposed an increase in building height at this site because it would be in direct conflict with Mississippi River Critical Area standards, reinforcing the National Park Service’s views. Exhibit 7, Communication from DNR to Jim Voll.

Furthermore, the DNR has recently stated that it considers projects in the MNRRA and in this regional and state trail corridor as satisfying the mandatory categories for an EAW: land within a national park, and land in a state trail corridor. Exhibit 8, Letter from Charlotte Cohn. This site was also included in the Whitewater Park Study completed by the Army Corps of Engineers and the DNR. See http://files.dnr.state.mn.us/aboutdnr/reports/trails/mwp_report_to_legislature_revised_021406.pdf

In summary, this Project meets the mandatory categories for an EAW as a “natural area:” permanent physical encroachment on lands within a national or state park or trail; and "the encroachment is inconsistent with laws applicable to or management plan prepared for the recreational unit.”

(2) "Historical places"

The Project also meets mandatory category criteria as an historical place impacted by the Project. Minn. R. 4410.4300, sub. 31 provides:

For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local unit of government shall be the RGU, except this

does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966, United States Code, title 16, section 470, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, section 303, or projects reviewed by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7. This subpart does not apply to a property located within a designated historic district if the property is listed as "noncontributing" in the official district designation or if the State Historic Preservation Office issues a determination that the property is noncontributing.

Recent changes in the rules regarding this subpart have exempted properties from environment review when the project is subject to review by a local heritage preservation commission certified by the State Historic Preservation Office pursuant to Code of Federal Regulations, title 36, sections 61.5 and 61.7.

This project is subject to environmental review as a “historical place,” and not exempt from environmental review under sub part 31. Although the project is within the boundaries of the federally created St. Anthony Falls National Historic District, it is not within the local historic district overseen by the Minneapolis Heritage Preservation Commission. Exhibits 2 and 3. As a consequence, the local historic preservation commission has not reviewed this Project.

This is not a unique situation. For example, The City of Minneapolis recently has worked to merge the boundaries of the National and local districts in the Warehouse area and has published the reasons on its website. <http://www.minneapolismn.gov/hpc/>

“Merger of the Local and National Warehouse Historic Districts

In 1978 the North Loop Warehouse Historic District was locally designated by the Minneapolis City Council. Then in 1989 the Minneapolis Warehouse Historic District was added to the National Register of Historic Places (NHRP). The NHRP Minneapolis Warehouse Historic District is substantially larger in size than the locally designated North Loop Warehouse District; this difference in size is attributed to a larger scope of significance for the NHRP district.

Locally designated districts receive greater protection from demolition and inappropriate changes than National Register Designations. The North Loop Warehouse Historic District has benefited from regulation and design review not afforded to NHRP Minneapolis Warehouse Historic District.

In response to recent development pressures that threaten the historical integrity of the National Register Historic District, the Heritage Preservation Commission (HPC), on December 2, 2008, directed staff to prepare a nomination for local designation of the area known as the National Register of Historic Places Minneapolis Warehouse Historic District. This direction from the HPC follows City

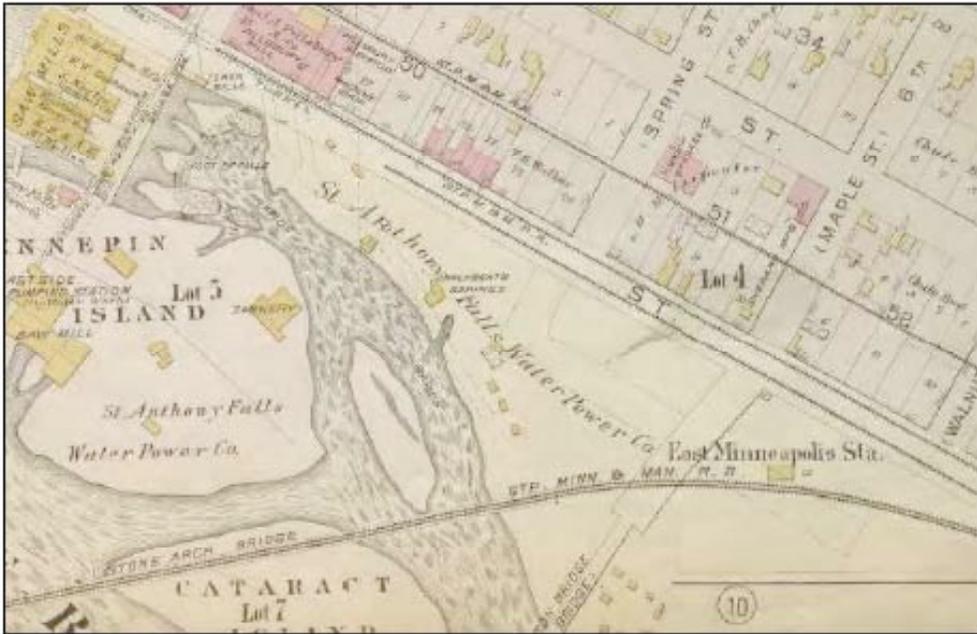
Council direction from 2000 when the City Council adopted the Warehouse Action Plan. The Warehouse Action Plan called for the boundaries of the local North Loop Warehouse Historic District to be expanded to include the boundaries of the national historic district.”

An EAW is mandated for this project because extensive grading to and beneath bedrock required to construct an underground parking facility will forever destroy archaeological resources that are potentially contained on the site.

The Saint Anthony Falls Historic District is known for its significant archaeological resources. An entire part of the park on the other side of the Stone Arch Bridge is called the Mill Ruins Park. While still in progress, the park is one of the only industrial archaeological parks in the nation. The discovery of the possible wealth of archeological resources in the Saint Anthony Falls Historic District is due to the 1983 work of Dr. Scott Anfinson, documented during work for the West River Parkway as archaeologist for the Minnesota State Historical Society.

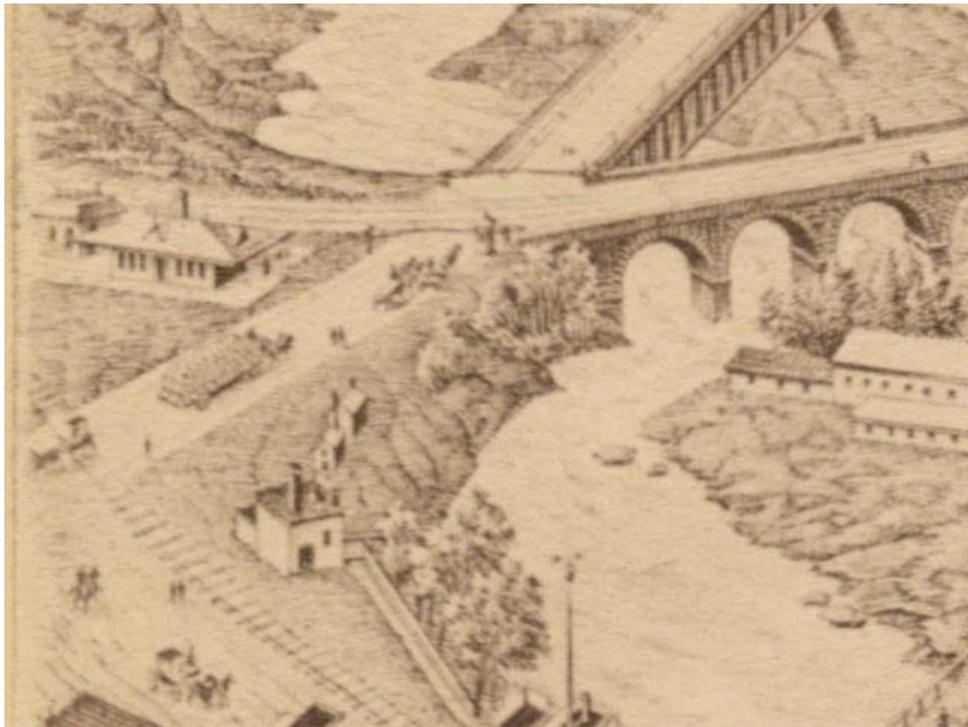
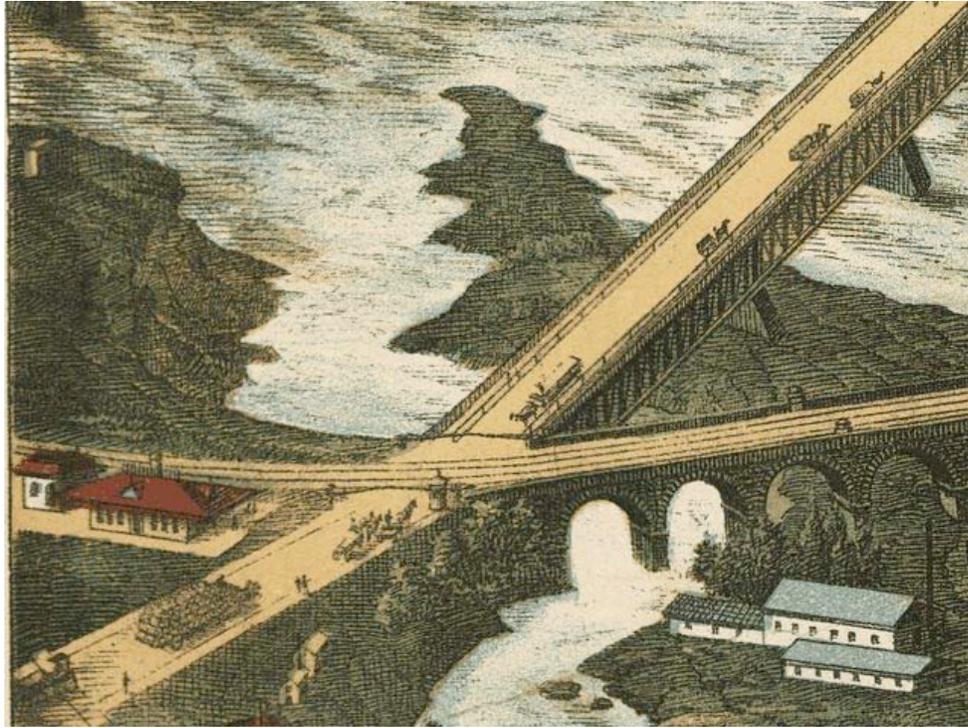
With respect to the 600 SE Main site, Dr. Anfinson reported that it contained a small railroad depot and that in his opinion, “some foundations may remain beneath the parkland that now occupies the site.” Archaeology of the Central Minneapolis Riverfront, Scott F. Anfinson,
<http://www.fromsitetostory.org/sources/papers/mnarch48/48inv-em.asp>

In Rapids, Reins, Rails and Transportation on Minneapolis Riverfront, a study published by the St. Anthony Falls Heritage Board in May 2009, the authors wrote that the depot noted by Anfinson was built in 1883 for James J. Hill’s Minneapolis, St Paul and Manitoba railroad in conjunction with the Stone Arch Bridge, between Sixth and Seventh Avenue Southeast. http://www.mnhs.org/places/safhb/pdf/earlytransportation_report.pdf With the Stone Arch Bridge as one of Minneapolis’s most significant historic resources, the connection of James J. Hill’s railroad and Stone Arch Bridge to this bridge adds to the potential significance of potential archeological resources noted by Dr. Anfinson at this Project site. In fact, the St. Anthony Falls Heritage Board is now completing an interpretive study and plan for the area, to be complete by December. Granting permission to intensify development at this site now could easily preclude interpretive priorities being achieved in the future.



East Side Station adjacent to the Stone Arch Bridge
Taken from 1885 Map of Minneapolis, Minnesota Digital Library

Drawings from the 1891 Birds eye view of the city of Minneapolis, Minn., Pezolt, Frank, Minneapolis, A.M. Smith, 1981 in the Library of Congress show an attractive, wide roofed depot adjacent to another structure with a Mansard roof, in the French Second Empire Style that was popular at the time. A colorized version of the same drawing shows a red roof on the depot.



In addition, the area surrounding St. Anthony Falls has been documented as holding special status for native people. The August 2006 report, *Arts and Culture on the Minneapolis Riverfront*, published by the St. Anthony Falls Heritage Board, states:

Cultural events have been associated with the Minneapolis riverfront since the beginning of recorded history. Father Hennepin, a Jesuit priest who visited the riverfront in 1680, noted that the Indians viewed Saint Anthony Falls as a sacred place. Father Hennepin had observed an Indian man, who with great emotion, left a valuable beaver robe decorated with porcupine quills as an offering to the god *Oanktehi*, who was said to dwell beneath the waterfall.

<http://www.mnhs.org/places/safhb/pdf/researchReport/ArtCultureOnTheMplsRiverfront06/ArtCultureReport.pdf> When explorer Jonathan Carver traveled the area in 1766, he reported that the waterfall still inspired reverence. Carver was accompanied by a Winnebago man, whom he characterized as a “prince”:

The prince had no sooner gained the point that overlooks this wonderful cascade, than he began with an audible voice to address the Great Spirit, one of whose places of residence he imagined this to be. He told him that he had come a long way to pay his adorations to him, and now would make him the best offerings in his power. He accordingly first threw his pipe into the stream; then the roll that contained his tobacco; after these, the bracelets he wore on his arms and wrists; next an ornament that encircled his neck, composed of beads and wires; and at last the ear-rings from his ears; in short, he presented to his god every part of his dress that was valuable: during this he frequently smote his breast with great violence, threw his arms about, and appeared to be much agitated . . . nor would he leave the place till we smoked together with my pipe in honour of the Great Spirit.

Id. In addition, Father Hennepin is thought to have first viewed the falls in 1680 from the area around Sixth Avenue SE, though the falls have moved towards Nicollet Island since then. According to the National Park Service, Father Hennepin Bluffs Park is “the traditional location of ancient portage route around St. Anthony Falls.” See <http://www.nps.gov/miss/planyourvisit/fatherhennepin.htm>

As it is well documented that native peoples used the area around the site, archeological resources from pre-Industrial times may be found. In 2008, during an excavation on Nicollet Island, archaeologists discovered prehistoric stone artifacts that could exist at this site as well. Exhibit 9, Scott Anfinson communication, July 31, 2008.

Potential impact on these nationally significant historic resources warrants an EAW. An EAW for this Project, comparable to the environmental research done for other projects in the St. Anthony Falls Historic District, would study the impact on archeological resources, among other resources impacted. In particular, the excavation for the project necessary to build underground parking will forever destroy any historic resources on the site.

b. The Project "may have the potential for significant environmental effects"

Even if the RGU somehow determines that the Project does not fit within a mandatory EAW category, the Project still "may have the potential for significant environmental

effects" to warrant an environmental assessment worksheet. The Project's "potential for significant environmental effects" includes, without limitation:

- 1) The Project's permanent **physical impact on the environmental quality of the river bluff area**, within the state-designated Mississippi River Critical Area; Exhibit 1; Exhibit 7; Exhibit 10; Letter from Friends of the Mississippi River, March 23, 2009;
- 2) The Project's permanent impact on **surface water quality and erosion in the sensitive area near the bluff line**, including impacts on the shoreland management area, surface water drainage, and sewer issues; Exhibit 11, Letter from Mississippi Watershed Management Organization;
- 3) The Project's permanent impact on an **historic district and archeological resources**, potential and known; Exhibit 12, Letter from Preservation Alliance of Minnesota;
- 4) The Project's permanent impact on the **historic nature and character of the Central Mississippi Riverfront Regional Park**; Exhibit 4; Exhibit 10;
- 5) The Project's permanent impact on **the completion of the East River Road Parkway** connecting East River Road at the University of Minnesota to Main Street Southeast and the Stone Arch Bridge, a regional non-motorized trail connection of national significance, which is **currently being considered for funding from federal sources**; Exhibit 1; Exhibit 13, Map of Project with respect to Parkway;
- 6) The Project's permanent **impact on the proposed Whitewater Park**, the subject of studies by the Department of Natural Resources and the Army Corps of Engineers
http://files.dnr.state.mn.us/aboutdnr/reports/trails/mwp_report_to_legislature_revised_021406.pdf; Exhibit 8;
- 7) The Project's permanent **impact on traffic patterns** in the area, both generated by the development and in relation to trail and road connections existing and proposed in the area; and
- 8) The Project's permanent impact on **subsurface geology and associated state-listed bat species** known to be in the area.
<http://www.ci.minneapolis.mn.us/cped/a-mill.asp>, EIS for the Pillsbury A Mill Project.

This Project lies within an area designated for significant non-motorized and parkway improvements. Indeed, a federal funding request for the East River Road – Stone Arch Bridge – Main Street connection is now pending. This area was identified as key to mitigate Central Corridor Light Rail development in the University area. **Given these eight listed facts, this Project meets the requirements for an RGU to require an EAW.**

7. MATERIAL EVIDENCE INDICATING THE PROJECT’S POTENTIAL FOR SIGNIFICANT ENVIRONMENTAL EFFECTS

Material evidence has been cited above, and is listed in summary below:

- Exhibit 1, Letter from Superintendent Labovitz to Jim Voll, April 2009
- Exhibit 2, National Park Service map from Jim Von Haden, NPS staff (green line = MNRRA boundary; yellow line = National Historic District)
- Exhibit 3, Minneapolis Heritage Preservation Commission Map of St. Anthony Falls Historic District
- Exhibit 4, Central Riverfront Regional Park Master Plan
- Exhibit 5, Letter from Jon Gurban, Minneapolis Park and Recreation Board, to Jim Voll
- Exhibit 6, Communication from Arne Stefferud, Metropolitan Council, to Mike Kimble, Minneapolis Park and Recreation Board, April 27, 2009
- Exhibit 7, Communication from DNR to Jim Voll
- Exhibit 8, Letter from DNR, Charlotte Cohn
- Exhibit 9, Communication from Scott Anfinson, State Archaeologist, July 31, 2008
- Exhibit 10, Letter from Friends of the Mississippi River, April 2009
- Exhibit 11, Letter from Middle Mississippi Watershed Management Organization, March 2009
- Exhibit 12, Letter from Preservation Alliance of Minnesota, July 29, 2009
- Exhibit 13, Map of the Pattern of Our Public Realm, Spring 2008, Friends of the Mississippi River

Web sites referenced above:

MAP of HPC St Anthony Falls boundary

http://www.ci.minneapolis.mn.us/hpc/docs/St_Anthony_Falls_HD.pdf

Scott Anfinson report

<http://www.fromsitetostory.org/sources/papers/mnarch48/48inv-em.asp>

Rapids, Reins and Rails SAFHB

http://www.mnhs.org/places/safhb/pdf/earlytransportation_report.pdf pg 87&90

Architecture and Culture

<http://www.mnhs.org/places/safhb/pdf/researchReport/ArtCultureOnTheMplsRiverfront06/ArtCultureReport.pdf>

Map of the depot

http://memory.loc.gov/cgi-bin/query/D?gmd:17:./temp/~ammem_zvWp::

Color map of depot

http://memory.loc.gov/cgi-bin/query/D?gmd:18:./temp/~ammem_zvWp::

NPS on Father Hennepin -- portage

<http://www.nps.gov/miss/planyourvisit/fatherhennepin.htm>

8. PROHIBITION ON ANY INTERIM GOVERNMENTAL APPROVALS

If an EAW is required for a governmental action, or if a petition is filed under Minn. R. 4410.3100, a project may not be started, and a final government decision may not be made to grant a permit, approve a project, or begin a project, until the petition is dismissed; the EAW is completed and a negative declaration on the need for an EIS is issued; an EIS is determined adequate; or a variance is granted under other subparts. Minn. R. 4410.3100 sub. 1-2. As the MEQB instructs in its guide, “[a]ny discretionary step in an approval process that conveys rights to the proposer and is not subject to further review or change is a final decision.” The examples include conditional use permits, or any decision that conveys development rights under applicable ordinances. MEQB Guide, 5-6.

With the filing of this petition for an EAW, the City of Minneapolis may not act on this Project until it determines its response to this petition.

9. CLOSING

Thank you for your consideration of this petition for an Environmental Assessment Worksheet for the Project at 600 SE Main Street in Minneapolis. **This Project warrants a mandatory EAW based on natural area and historic place criteria, as well as additional potentially significant environmental impacts.**

Pages with 43 Signatures (25 required)
supporting petition omitted from online version.



United States Department of the Interior

NATIONAL PARK SERVICE
 Mississippi National River and Recreation Area
 111 E. Kellogg Blvd., Ste. 105
 St. Paul, Minnesota 55101-1256

IN REPLY REFER TO:

L7621(MISS)

March 23, 2009

Minneapolis Planning Commission
 c/o Jim Voll, Senior Planner
 250 South 4th Street, Room 300
 Minneapolis, Minnesota 55415

Dear Commissioners:

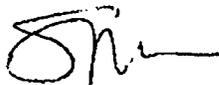
This letter concerns the matter of rezoning and conditional use permits for the proposed Bluff Street Development at 600 Main Street SE. The parcel at this address is located within the Mississippi National River and Recreation Area (MNRRA), a unit of the national park system, and the coterminous Mississippi River Corridor Critical Area. The MNRRA was established by Congress in 1988 to protect and enhance the nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resources of the river corridor. The MNRRA Comprehensive Management Plan (CMP) incorporates by reference the requirements of the state Critical Area Program, Shoreland Management Program, and other programs and plans that implement the plan's visions. Based on our review of the proposed actions, the National Parks Service (NPS) recommends denial of requests by Bluff Street Development LLC for rezoning, conditional use permits and variance, and site plan approval.

We note that the Marcy-Holmes Master Plan, adopted by the City of Minneapolis in 2003, identifies this triangle-shaped parcel as future parkland. NPS supports the use of this land as park and believes that its proposed development runs counter to established trail and open space goals. A central goal of the MNRRA CMP is to achieve a continuous trail and open space corridor along both sides of the Mississippi River through the entire 72-mile length of the national park. The NPS-facilitated Trail and Open Space Partnership (TOSP), of which the City of Minneapolis and the Minneapolis Park and Recreation Board are key partners, has identified a future trail connection along this portion of the river as a high priority. Because of its proximity to the eastern terminus of the Stone Arch Bridge, this parcel also has the potential to serve, in part, as a gateway to the bridge and as a compliment to the adjacent Father Hennepin Bluffs Park. NPS is unable to support rezoning to Community Activity Center District (C3A), as such action would not serve to achieve well-established park and open space goals for this parcel. In addition to the potential loss of this parcel as future parkland, the National Park Service does not see a compelling reason to relax building height restrictions at this location and does not support a conditional use permit for a 68-foot building height within the Shoreland Overlay District.

Thank you for the opportunity to comment on the proposed actions at 600 Main Street SE. We welcome the opportunity to partner with the city and other interested stakeholders in working to achieve MNRRA CMP and community goals for this parcel and other lands along the Mississippi

riverfront. If you have questions about our comments, please feel free to contact me or Jim Von Haden of my staff at 651-290-3030, ext. 235.

Sincerely,

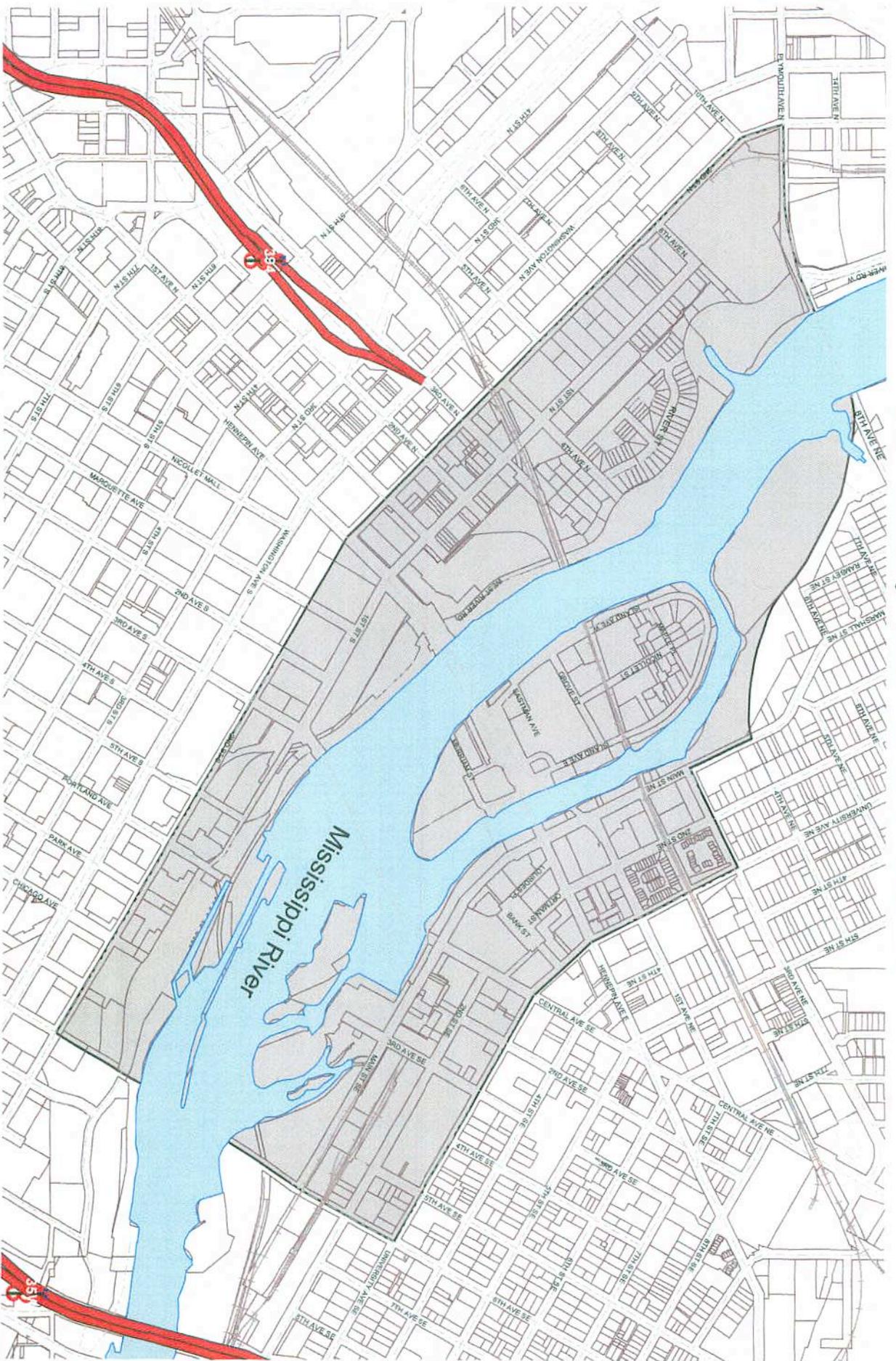
A handwritten signature in black ink, appearing to be 'PL' followed by a horizontal line.

for

Paul Labovitz
Superintendent



St. Anthony Falls Historic District



December 2005 Community Planning and Economic Development Department



Riverfront Developmen
R00690

LIBRARY

302 Central
Minneapolis Minnesota 55415

CENTRAL RIVERFRONT REGIONAL PARK

APPLICATION

Recreation Areas

Specifics of Development

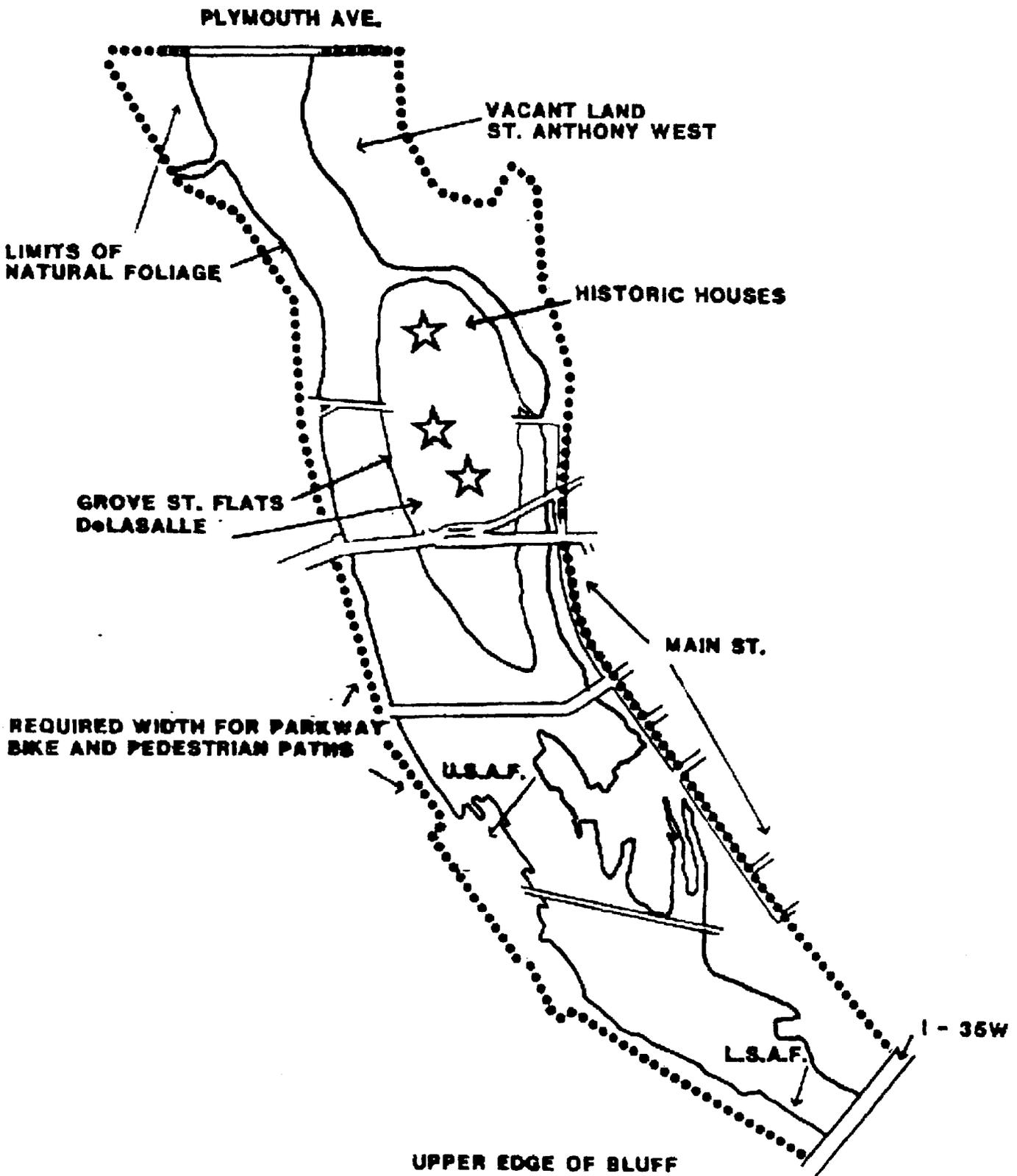
Capacities

Estimated Costs

June 2, 1982

Minneapolis Park and Recreation Board

Minneapolis, Minnesota



BOUNDARY LOCATION
CENTRAL RIVERFRONT MASTER PLAN
MINNEAPOLIS PARK AND RECREATION BOARD

April 13, 1982

Identification of Specific Boundaries

The boundaries of the Central Riverfront Regional Park are depicted on the attached map.

The upstream limit is defined by the Plymouth Avenue Bridge and the downstream limit is defined by I-35W. The lateral limit on the easterly bank is defined by Main Street with the boundary in the vicinity of Boom Island being defined by the limits of unoccupied land immediately adjacent to the new housing being constructed in the Saint Anthony West Urban Renewal Area.

The lateral limit on the westerly side is defined by the limits of national tree cover in the vicinity of Bassett's Creek and the existing property lines which most closely approximate the width required for a corridor to carry the parkway.

All of Nicollet Island is included in the park except less than fee interest will be taken where the 17 remaining turn-of-the-century houses will be located, where De LaSalle High School is located, and no fee interest where the Grove Street Flats is located, nor will fee interest be needed for the existing public streets.

**PUBLIC COPY
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Minneapolis
Park and Recreation
Board

Administrative Offices
2117 West River Road
Minneapolis, MN 55411-2227
Phone: 612-230-6400
Fax: 612-230-6500

Operations Center
3800 Bryant Avenue South
Minneapolis, MN 55409-1000
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April 15, 2009

Jim Voll, AICP
Principal City Planner
Mpls. Community Planning and Economic Development (CPED)
Planning Division
Room 300 Public Service Center
250 South 4th Street
Mpls., MN 55415

Re: Rezoning of property located at 600 SE Main Street

Dear Jim:

After further review with staff and Park Board Commissioners, I would request that the Planning Commission and the City Council reject efforts to rezone the subject property. It has been determined that the property is located within the master plan area of the Central Riverfront Regional Park and as such it is identified as a parcel that would contribute to the Regional Park system if it were acquired. Although the Park Board has not made any efforts to acquire the property at this time, it is possible that future acquisition would be considered to accommodate the demands placed on the Park System due to the additional development occurring in this area of the City.

Thank you for considering this request.

Sincerely

Jon Gurban
Superintendent of Parks
Minneapolis Park & recreation Board

Cc:
Board of Commissioners
Council Member Hofstede

-----Original Message-----

From: Stefferud, Arne [<mailto:arne.stefferd@metc.state.mn.us>]

Sent: Monday, April 27, 2009 12:40 PM

To: Kimble, Michael W.

Cc: 'Ijones@fmr.org'; Beckman, Ann

Subject: Inquiry on potential funding sources for regional park land acquisition for Central Mississippi Riverfront Regional Park

Mike:

I have received an inquiry from Irene Jones (Friends of the Mississippi Riverfront) regarding potential funding sources for acquiring land within the approved boundary of Mississippi Riverfront Regional Park-specifically a parcel south of Main Street and east of 6th Ave. SE. The potential funding sources to acquire this land are (1) a grant from the Metropolitan Council's Park Acquisition Opportunity Fund, and (2) the I-35 W Bridge Fund.

The maximum Park Acquisition Opportunity Fund grant that could be awarded to the Park Board is \$1,560,330 if the grant was awarded prior to June 30 since the Council has already awarded \$139,670 on December 10, 2008 for the Galka parcels acquisition. If the grant was awarded after June 30, then \$1.7 million could be awarded. As you know, this grant could finance up to 75% of the purchase price of the land plus the associated costs for an appraisal, survey. 180% of city property taxes on the land in the year it is acquired (state law required payment in lieu of property taxes), the pro-rated share of all property taxes due in the year the land is acquired, legal costs, closing costs, and site restoration costs.

The 25% match to the Park Acquisition Opportunity Fund grant could be the I-35 W Bridge Fund since it must by State law be used to acquire regional park land on the Mississippi River (2008 Laws of MN, Chapter 257). It is my understanding that there is about \$700,000 in that account.

Assuming the Park Acquisition Opportunity Fund grant was awarded after June 30, and the total cost of acquisition as described was no more than \$2,267,000 - it could all be financed from these two sources (\$1.7 million from the Park Acquisition Opportunity Fund and \$567,000 from the I-35 W Bridge Fund). If the Park Acquisition Opportunity Fund grant was awarded before June 30, then up to \$1,560,330 could be awarded and matched with \$520,110 from the I-35 W Bridge Fund for a total of \$2,080,440.

On April 22nd, the Metropolitan Council's Management Committee recommended that \$4.7 million of Council bonds be added to the Park Acquisition Opportunity Fund. The Metropolitan Council will consider that recommendation on May 13. If it is approved, the new balance in that portion of the Fund for parcels like the one described above would be \$4,800,682.

This funding information should be helpful in considering actions to acquire this land.
Please contact me if you have any questions.

Arne Stefferud
Planning Analyst-Parks
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101
651-602-1360
arne.stefferud@metc.state.mn.us

From: John Gleason
To: Jim G. Voll
CC: Dale Homuth
Date: 3/25/2009 9:03 AM
Subject: Re: 600 Main Street SE

Jim, thank you for providing me with this information.

The DNR is opposed to this rezoning proposal as it appears to be inconsistent with the Mississippi River Critical Area standards.

Sincerely,
Jack

John (Jack) Gleason,
Area Hydrologist -West Metro
MN DNR Waters
1200 Warner Road
St. Paul, MN 55106
651-259-5754 (W)
651-772-7977 (F)
John.Gleason@dnr.state.mn.us

Visit our website at:
<http://www.dnr.state.mn.us/waters/index.html>

>>> "Voll, Jim G." <James.Voll@ci.minneapolis.mn.us> 3/24/2009 8:46 AM >>>
Here is the staff report and some of the plans. The project was denied by the City Planning Commission last night, but I assume it will be appealed to the City Council.

<<SP-BZZ4319-600MainSE.doc>>
<<600 Main St SE.pdf>>

Jim Voll, AICP
Principal City Planner
Mpls. Community Planning and Economic Development (CPED)
Planning Division
Room 300 Public Service Center
250 South 4th Street
Mpls., MN 55415

612-673-3887
612-673-2526 (fax)
P Please consider the environment before printing this e-mail.



Minnesota Department of Natural Resources

500 Lafayette Road
St. Paul, Minnesota 55155-4025

Date: June 1, 2009

To: Gregg Downing, EQB Staff

From: Charlotte W. Cohn *Charlotte W Cohn* **Phone:** 651-259-5072
Division of Ecological Resources

Subject: Crown Hydro, LLC Hydroelectric Project in City of Minneapolis, Hennepin County
Potential need for State Environmental Review Documents

Based on a number of discussions that we have had over the past weeks, you requested information from the Minnesota Department of Natural Resources (DNR) on the potential need for State Environmental Review for the proposed Crown Hydro, LLC Hydroelectric Project (formerly known as Crown Hydro Company's proposed project). As we discussed, this is a proposed hydroelectric project, and thus the DNR has been actively involved for a number of years in aspects related to the potential development of this project as part of our responsibilities through the Federal Power Act as both the State Resource Agency and the State Fish and Wildlife agency for hydropower projects. Just this year, at various times, Crown Hydro, LLC has been discussing with various entities, actions and documentation necessary for potential permits and approvals associated with this proposed project.

Project background

The proposed Crown Hydro, LLC Hydroelectric Project is an proposed approximately 3.2 megawatt (MW) hydroelectric project on the west bank of the Mississippi River in the City of Minneapolis, generally in the vicinity of Upper St. Anthony Falls between Portland Avenue South and 5th Avenue South and West River Parkway. The project proposes to use up to 1,000 cubic feet per second (cfs) of water from the Mississippi River. The project includes a new intake structure adjacent to the Mississippi River; two eight foot diameter 250 feet long penstocks; a new powerhouse; and two discharge tubes to move water after it has passed through the turbines to the existing First Street Tunnel. (i.e., Description based on August, 2007 report for the Minneapolis Park and Recreation Board by Emmons & Olivier Resources, Inc.. "An Evaluation of the Crown Hydroelectric Power Plant.")

DNR Information: 651-296-6157 • 1-888-646-6367 • TTY: 651-296-5484 • 1-800-657-3929

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The exact location of the proposed facility is uncertain and/or unsettled. As currently proposed, Crown Hydro plans to locate the facility in Mill Ruins Park, an established and current park and land owned and managed by the Minneapolis Park and Recreation Board (MPRB). The proposed powerhouse is planned to be located in a parking lot north of Mill Ruins Park, also owned and managed by the MPRB. (i.e., Description based on August, 2007 report for the Minneapolis Park and Recreation Board by Emmons & Olivier Resources, Inc., "An Evaluation of the Crown Hydroelectric Power Plant.") The MPRB is the owner and operator of both Mill Ruins Park and the parking lot.

Previous Federal or State Environmental Review

A summary of relevant previous and potential State and Federal Environmental Review is important. This is generally presented chronologically except when necessary to add explanatory information.

- In January, 1995, Crown Hydro Company filed an application with the Federal Energy Regulatory Commission (FERC) for a new license for a 3.4 mw hydroelectric project (i.e., this is larger than the size indicated in the August, 2007 report to the MPRB). The project proposed to remove water from the Mississippi River, to run turbines in what is known as the Crown Roller Mill Building generating electricity for the building (an off-the-river location), and then to return the water to the Mississippi River downstream of the point of taking.
- The project requires a federal hydropower license from the FERC. As part of the FERC licensing process, in September, 1997, the FERC prepared a Federal Environmental Assessment (Federal EA).
- In October, 1997, the DNR prepared a State Environmental Assessment Worksheet (State EAW) on the proposal. The project, appropriating water from the Mississippi River off-the-river to run the turbines in the Crown Roller Mill Building, involved a new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30 million gallons per month. A State EAW was required (Minnesota Environmental Quality Board Environmental Review Program Rules, Minn. Rules, part 4410.4300, subp. 24.A.) and the DNR is the Responsible Governmental Unit (RGU) for this mandatory EAW category. Since a Federal EA had just been prepared, the DNR reissued the Federal EA as the State EAW (Minn. Rules, part 4410.1300 providing that when a federal EA has been prepared, the federal EA document may be circulated in place of the State EAW form).
- The DNR issued the State EAW in late October, 1997, the public review and comment period was between November and December, 1997, and in December, 1997, the DNR issued its Record of Decision on that State EAW finding the project does not have the potential for significant environment effects and no Environmental Impact Statement was needed. There were substantive comments on the DNR's EAW but there were no challenges to the DNR's decision on the need for an Environmental Impact Statement.

- Sometime in 1997 or 1998, Crown Hydro Company applied for a DNR Water Appropriation permit. That permit application was pending for a number of years and the DNR officially closed the file on July 12, 2007 due to the long period of time of no pending activity. At the time the file was being closed, the applicant was advised and informed of the option to apply in the future for a new DNR water appropriation permit.
- In March, 1999, a FERC hydropower license was issued to Crown Hydro Company (after 2001, Crown Hydro, LLC) for the proposed hydropower project in the Crown Roller Mill Building (i.e., current FERC license P-11175). There are a number of terms and conditions and requirements associated with the issued license, the specifics of which are not necessary for this evaluation. However, a number of these terms and conditions and requirements have not yet been met or fulfilled.
- Crown Hydro, LLC does not own the Crown Roller Mill Building and has not secured a lease or right to install the turbines in the building.
- At various times in approximately April, July, and December, 2002, Crown Hydro, LLC filed a license amendment application with the FERC requesting an amendment to the existing FERC license for its plans to move the project from the Crown Roller Mill Building to the MPRB's Mill Ruins Park. Various agencies including the DNR filed what is called a Motion to Intervene on the proposed license amendment. Various agencies including the DNR also submitted written comments on the amendment proposal. For your information, I can provide you additional detail on the state, federal, and local agencies that submitted Motions to Intervene and/or Comments on the proposed license amendment.
- In June, 2003, as part of the FERC license process, the FERC issued a notice that the project would be subject to review for Section 106 of the federal National Historic Preservation Act.
- In May, 2004, the MPRB dismissed a lease between the MPRB and Crown Hydro (no lease was approved). Since Mill Ruins Park is an established public park and since the land is owned by the MPRB, the FERC regulations require Crown Hydro to have a lease or ownership interest in the land in order to receive a FERC license amendment and to construct and install a hydropower project. Between May, 2004 and June, 2005, Crown Hydro requested numerous extensions from the FERC regarding the FERC decision on the license amendment application contending (including but not limited to) that Crown Hydro was either challenging or appealing certain statements by the MPRB and/or its staff, or that Crown Hydro would still be working on negotiating a lease with the MPRB for the use of Mill Ruins Park.
- In May, 2004, a petition for a State EAW was filed with the Environmental Quality Board (EQB). Your records are obviously the most complete but our understanding is your office referred the petition to the MPRB for action (since the project proposal was to use the MPRB's Mill Ruins Park for the project facility) and also in May, 2004, the MPRB notified the EQB that since the MPRB had rejected a lease between the MPRB and Crown Hydro for the use of Mill Ruins Park, there was no longer a need to act on the petition. Basically, the project was exempt from environmental review according to one of the standard exemptions in that the MPRB denied the lease which is one of the governmental approvals required for the proposed project (i.e., projects for which, and so long as, a governmental unit has denied a required governmental approval; Minn. Rules,

part 4410.4600, subp. 2.C.). But see also the discussion indicating the relevance of another exemption from State environmental review.

- In February, 2005, the FERC staff dismissed the license amendment application. Crown Hydro submitted a request for a rehearing of the FERC staff decision.
- On June 1, 2005, the FERC (i.e., the Commission) denied both Crown Hydro's request for a rehearing as well as Crown Hydro's request to hold the matter in abeyance pending further determinations or actions (i.e., presumably such as a subsequent decision to issue a lease). By the language in this Order, the FERC upheld the FERC staff decision dismissing the license amendment application. The FERC decision included that: (1) Crown's amendment application was pending for nearly three years before the staff dismissed it; (2) FERC staff granted Crown four extensions of time, for a total of eleven and one-half months, to submit an acceptable conveyance of Park Board land; (3) nothing in the record indicates that a grant of additional time will enable Crown Hydro to reach agreement with the Park Board; and (4) that the FERC sees no purpose in continuing to retain the amendment. For your information, I am sending you with this preliminary determination, a copy of the FERC June 1, 2005 Order dismissing the license amendment application.
- It is notable that the FERC Order stated that "this order is in the public interest because it is consistent with Congress' intent to protect state and local public parks and recreation areas from condemnation by licensees." Also notable is that the FERC has, since June, 2005, regularly used the language from this Order on Crown Hydro as a requirement on other hydropower projects involving parkland and requiring an applicant or licensee to demonstrate the ability to "obtain the rights to develop the proposed" project and the ability to "acquire the property rights necessary to construct, operate, and maintain the project." For example, on another hydropower proposal in Minnesota involving parkland, the FERC stated that the "Commission dismissed a license amendment application in light of the applicant's failure to show that it could either use eminent domain authority to acquire municipal parkland needed for the project or obtain a voluntary conveyance of the necessary rights in the land."
- Subsequent to the MPRB's denial of the lease in June, 2005, Crown Hydro has prepared various documents and there have been proposals before the MPRB to review the proposed project as a precursor to negotiations regarding a lease for the use of Mill Ruins Park. In August, 2007, Crown Hydro submitted a report for the MPRB, "An Evaluation of the Crown Hydroelectric Power Plant." During late, 2007 to early 2008, the MPRB decided to not authorize further study of the proposal and to not engage in lease negotiations. In March, 2009, legislation was introduced in the Minnesota Legislature and then withdrawn which could have required a lease to be issued. In April, 2009, Crown Hydro made a study presentation to the MPRB as part of potentially engaging in further study and lease negotiations. In May, 2009, Crown Hydro met with representatives of the EQB regarding the potential need for State Environmental Review.

where?

Potential need for environmental review for Crown Hydro, LLC's current proposal

- In May, 2004, the MPRB dismissed a petition for State environmental review essentially finding the project to place a hydropower facility on its park property exempt from environmental review because the MPRB had denied a required governmental approval, a lease.
 - State environmental review would only apply if an EAW were required for one or more EAW mandatory categories.
 - The DNR has reviewed the EAW mandatory categories which might be applicable to the Crown Hydro, LLC project, as well as categories of projects exempt from environmental review. Based on the information known to the DNR at this time about the proposed project, the DNR's preliminary determination is that a State EAW may be required on three different bases involving two mandatory categories).
- In June, 2003, the FERC indicated that the proposed project would be subject to Section 106 of the federal National Historic Preservation Act. As a result, and in 2003, the EAW category for historical places does not apply to the Crown Hydro project because this EAW category "does not apply to projects reviewed under section 106 of the National Historic Preservation Act of 1966" (Minn. Rules, part 4410.4300, subp. 31).
- An EAW is required for a new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30 million gallons per month and the DNR is the RGU for environmental review. (Minn. Rules, part 4410.4300, subp. 24.A.)

①
DNR
would be
RGU
re: water
appropriation
EAW

The operative question in determining whether an EAW is required is whether the project currently proposed involves a new appropriation of surface water of the amount to require the preparation of an EAW (i.e. 30 million gallons per month). The DNR does not have detailed current information by which to review the current proposal. However, the DNR reviewed existing department files, historical maps and diagrams in the DNR's files, and also completed a cursory and minimal review of information about the current project proposal known to the DNR based on the August, 2007 report for the MPRB by Emmons & Olivier Resources, Inc., "An Evaluation of the Crown Hydroelectric Power Plant." The Crown Hydro, LLC proposal clearly includes a new intake structure and new powerhouse. The proposal appears to the DNR to involve the construction of a new intake structure that did not exist historically and which will be used for the express purpose of appropriating water from the Mississippi River. Based on the DNR's review of historical maps of the project vicinity, including maps showing what is known as Upton Island, it appears that the Crown Hydro lines and powerhouse (power station) may be near or outside the bank of the original riverbed. Appropriating surface water from the Mississippi River to operate a commercial hydroelectric project and then to return the water to the Mississippi River is a new appropriation of surface water. Since the project proposal is for a new appropriation for commercial purposes, the DNR's

determination based on information known to the DNR is that preparation of an EAW is required. The current proposal indicates Crown Hydro, LLC plans to use up to 1,000 cfs of river water, and thus they will be appropriating approximately 19 billion gallons a month, well in excess of the 30 million gallons per month required for an EAW.

DNR
Water
Permit
requires
ownership

A DNR water appropriation permit is required for Crown Hydro, LLC's proposal. DNR rules for water permits require evidence of ownership and "the applicant must provide written evidence of ownership, or control of, or a license to use, the land overlying the groundwater source or abutting the surface water sources from which the water will be appropriated (Minn. Rules, part 6115.0660, subp. 2).

There could be a question raised about how the Crown Hydro, LLC project varies from a previous project of the MPRB for development of the Mill Ruins Park Project (DNR permit file 99-6121). In the case of the MPRB's Mill Ruins Park project, the DNR decided a water appropriation permit was not required, partly because the water flows were staying within the original channel area. However, another reason was the purpose and intent was to put everything back exactly the way it was before the turn of the century when water flowed into the tunnel. Therefore, the DNR decided it was not an appropriation, but a historical restoration. In addition, the Mill Ruins Park project just uncovered an old illegally filled structure. All work done on the Mill Ruins Park project was clearly within the boundary of the original (circa 1900) riverbed.

This determination about the need for an EAW due to a new water appropriation is based on information known to the DNR at this time. If Crown Hydro, LLC is able to provide the DNR with specific and detailed information that proves that the intake previously existed and the powerhouse is clearly located within the original channel, the DNR may alter this determination. However, also relevant to our determination is that Crown Hydro is taking the water for a commercial purpose rather than restoring a historic flow.

(2)

DNR or local
govt will
would be
RGU

An EAW is also required for "projects resulting in the permanent physical encroachment on lands within a national park, state park, wilderness area, state lands and waters within the boundaries of the Boundary Waters Canoe Area, scientific and natural area, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit (emphasis added). The DNR or the local government unit is the RGU for environmental review. (Minn. Rules, part 4410.4300, subp. 30.) The RGU is subject to interpretation and resolution for this particular EAW requirement.

An EAW is required through two bases, lands within a national park or state trail corridor.

re: phys.
encroach
until paid

1) state trail
corridor

The proposed project is within the Mississippi National River and Recreation Area (MNRRA or MISS). The MNRRA or MISS is a 72-mile reach along the Mississippi River from the area of the Coon Rapids Dam downstream to Hastings. Formally, the MNRRA or MISS is a National Park administered by the National Park Service (NPS). Based on discussions with NPS representatives and review of the NPS' website, the MNRRA or MISS is known and regarded as a National Park. The MNRRA or MISS was designated by the U.S. Congress in 1988 to "preserve, protect and enhance the significant values of the Mississippi River and to provide for orderly public and private development in the Twin Cities metro area." There is a Comprehensive Management Plan (CMP) for the MNRRA or MISS and the NPS has the responsibility to review potential projects to ensure project compatibility with the CMP.

The area of the Mississippi River at the project site appears to the DNR to be a state trail corridor designated by actions of the Minnesota Legislature in 1998 and in 2003 (Minn. Stat. section 85.0156). Initially in 1998, the Minnesota Legislature created "an urban whitewater trail" ... along the Mississippi River in the Lower St Anthony Falls Area below the Stone Arch Bridge." The trail must be primarily developed for whitewater rafters, canoers, and kayakers. In 2003, the Minnesota Legislature revised the statute creating "an urban whitewater trail ... along the Mississippi River in the St. Anthony Falls area in Minneapolis." There was no change to the language that the trail must be primarily developed for whitewater rafters, canoers, and kayakers. A management plan has not been prepared for this recreational unit. The applicable language about the encroachment is an EAW is required when the encroachment is inconsistent with laws applicable to recreational unit. There is no geographic reference to a specific location or to a particular side of the Mississippi River other than in the St. Anthony Falls area; the area of the state trail broadly is "along the Mississippi River in the St. Anthony Falls area in Minneapolis." The statutory language clearly states the primary purpose of the trail is to be "developed primarily for whitewater rafters, canoers, and kayakers." The statutory language does not refer to or fail to refer to commercial or industrial purposes. Other language applicable to the creation of this trail assigns certain responsibilities directly to the Commissioner of the DNR. The DNR's view is this is a state trail corridor and an EAW is required.

The DNR's review of the exemptions from environmental review identify two possible exemptions applicable to this proposed project.

One is projects are exempt from environmental review which, and so long as, a governmental unit has denied a required governmental approval (Minn. Rules, part 4410.4600, subp. 2.C.). This is the exemption essentially used by the MPRB in 2004 when the MPRB had denied the lease, a governmental approval required for the project.

(1)
no review
w/o req.
govt. approval
i.e. lease

②

less
than 5 MW

The other is that construction of an electric generating plant or combination of plants at a single site with a combined capacity of less than five megawatts is exempt from environmental review (Minn. Rules, part 4410.4600, subp. 3).

However, the DNR's view is that neither of these exemptions apply because of the application of the mandatory categories as described above which override the possibility that the proposed Crown Hydro, LLC project is exempt from environmental review.

BUT ⇒
reject both
exemptions

Please feel free to contact me or discuss this determination with me if you have additional questions or if I can provide additional information to you.

Thank you.

Attachment: FERC June 1, 2005 Order

c: Steve Colvin
Judy Boudreau
Ian Chisholm
Erik Wrede
Dale Homuth
Molly Shodeen

"Scott Anfinson" <Scott.Anfinson@state.mn.us>

07/31/2008 02:43 PM EST

To: "John Anfinson" <john_anfinson@nps.gov>

cc: "Bruce Koenen" <Bruce.Koenen@state.mn.us>

Subject: Nic Island find

Michele Terrell just called to report a prehistoric component they just discovered at the DeLaSalle site on the public land. It appears to be from a natural horizon that is primarily clay so it may be relatively deep (early?). So far they have a large ovate biface (PdC) and some lithic debris. She is going to consult with geomorphologist Mike Kolb this afternoon. If the find appears to be significant and more extensive, we will invoke the 72 hour emergency removal clause. There is only a small remnant of this soil horizon that was sandwiched between the historic-era foundations.

There would have been no way to predict this from the lit search or the initial testing so I don't think it should be used as the basis for further opposition to the project. (We wouldn't have found it without the project.)

Bruce: You may want to go over there to get some pictures and look over the site tomorrow. I will be in western Minnesota.

Scott



Friends of the Mississippi River

360 North Robert • Suite 400 • Saint Paul, MN 55101 • 651/ 2222193 • www.fmr.org

Working to protect the Mississippi River and its watershed in the Twin Cities area

March 23, 2009

President David Motzenbecker
Minneapolis Planning Commission
350 S. 5th St
Room 210 City Hall
Minneapolis, MN 55415-1385

President Motzenbecker and Planning Commissioners,

Friends of the Mississippi River (FMR) is a local non-profit organization that works to protect and enhance the natural and cultural assets of the Mississippi River and its watershed in the Twin Cities. We have 1,400 active members and 3,200 volunteers who care deeply about the river's unique resources.

The parcel at 600 Main Street is located adjacent to the Mississippi River, within the Central Riverfront Regional Park boundaries, within the Mississippi River Critical Area, and within the St. Anthony Falls Historic District. As stewards of the river's natural, recreational and historic values, we take particular interest in this site.

The Minneapolis Riverfront is one of the state's premier public spaces. In order to protect these key civic values, and uphold the intensive planning that has been done to date, Friends of the Mississippi River unambiguously opposes the rezoning, conditional use permits and variance proposed for the 600 Main Street development.

The Marcy-Holmes Small Area Plan identifies this land as a future park space for several very compelling reasons.

- **Following the Successful Pattern of Minneapolis Parkways, Main Street Should Delineate Public Space from Private Space.** Developing this property would disrupt the pattern of parkways that is part and parcel of Minneapolis' identity. The Minneapolis parkway system works so well, and is recognized nationally because one side of the parkway is always preserved as public park space. The area between parkway and water is almost universally reserved for park-related uses. The few times that structures have been permitted on the water side of a parkway, they

almost universally have been small park-related buildings, or buildings that were built with an explicitly river-dependent use.

This proposal disrupts that pattern. A quick review of a map shows that if and when a proposed parkway connection is built between the U of M and Main Street, the only sensible way to build it would be by using the Main Street right of way in front of Stone Arch Apartments. The adopted City Critical Area Plan says as much: “extend existing Main Street to connect with East River Parkway at University of Minnesota” (page 24). Throughout its length, Main Street predictably serves as the division between the public realm on the river side of the street, and the private buildings on the inland side of the street. Developing this parcel would infringe and disrupt that pattern of public space.

- **Land is the Terminus and Gateway to and from the historic Stone Arch Bridge.** From a design standpoint, this land in particular is of critical importance to preserve as public, open space. It is at this location that the historic Stone Arch Bridge reaches land. Travelers along the Stone Arch Bridge will be welcomed (or not) by a view at the end of the bridge of whatever is built on this particular site. A 68-foot building would greet travelers across the iconic bridge with a wall. As a gateway into Main Street and the Marcy-Holmes neighborhood, it is particularly important that this area be sensitively cultivated to be as public and welcoming as possible.

This land is most appropriately preserved as parkland. However, even if Minneapolis were unable to preserve it as parkland, it would be inappropriate to develop a building of this size on this site.

There are several ways this plan conflicts in particular with Minneapolis’ Mississippi River Corridor Critical Area Plan, an adopted Chapter of the City Comprehensive Plan. As an organization focused on the River and related resources, we take special interest in ensuring the Critical Area Plan is implemented thoughtfully.

- “The City will follow the land use guidelines of *The Minneapolis Plan* except where they may be modified or made more explicit by City-adopted small area plans; subsequent small area plans will further enhance and promote the policies necessary to maintain and protect the Critical Area” (p. 21).

Granting conditional use permits and variances that expand the density of usage on this site is at odds with the Marcy-Holmes Small Area Plan. The Small Area Plan clearly shows this parcel to be programmed as future park space. In the meantime, the landowner has every right to develop the land under the existing zoning constraints. However, as we will show, changing discretionary zoning standards to allow larger, denser buildings on this site should not be allowed, because of its proximity to the River. Documentation provided by others will demonstrate other failures to conform to existing planning documents.

- “As funding becomes available, the MPRB will acquire land for new river corridor

parks or trails through purchase or dedication based on a comprehensive park system plan” (p. 41).

Based on the Central Riverfront Regional Park Plan and the Marcy-Holmes Small Area Plan, this land should be prioritized for acquisition, and certainly not more intense development. There are many adjacent sites which are ripe for redevelopment.

- “Although the parkway may vary in distance from the riverbank in some areas, it should provide the user with visual contact of the river and river-related activities whenever feasible” (p. 39).

If Main Street is used as the parkway next to the proposed development site, the proposed development erect a 68-foot wall between the parkway and river, which will not allow travelers and opportunity to see the river, in opposition to this provision of the comprehensive plan.

- “The City will prevent development that blocks or has a significant negative impact on key scenic views and encourages design which preserves, enhances, or creates key scenic views” (p. 25).

The view to the end of the historic Stone Arch Bridge is key to ensuring a coherent context for this landmark. It is imperative that this view welcome travelers to the historic Falls District. While a gateway is what seems most appropriate, zoning changes would allow a 68-foot story wall to be erected at the end of the Stone Arch bridge.

- “In general, structures within the Critical Area should be shorter when located closer to the river. Taller structures are possible within the Critical Area as distance from the river increases or measures are taken to provide some level of screening, buffering and/or enhancement of views of and from the river. (p. 27)”

The proposed building would not step down toward the river, but rather provides a 68-foot wall at the bluff edge. As photos show, much of the Stone Arch Apartments is already visible from the river, and those apartments are set further back than this building would be.

Today, Ms. Cordelia Pierson submitted to you an outline of all the key reasons the zoning proposal fails to achieve the needed standards to warrant a rezoning, conditional use permit, or variances. We encourage you to review our testimony in tandem with that in-depth assessment.

This proposal is not simply technically out of conformance with several key plans and policies, at its core it is deeply at odds with the kind of place that Minneapolis should hope to create on its central riverfront, and contrary to the civic identity that has made Minneapolis great.

FMR strives to work to create successful partnerships with community leaders and developers to all share in the rewards of redeveloping an outstanding public riverfront. By partnering together in shared long-term planning, we can preserve a quality public riverfront for future generations. The proposal, along with the associated zoning changes, conditional use permits, and variance fall far short of that mark. The zoning requests should be denied on their obvious failure to conform with existing plans and guidelines, and overall clear lack of merit.

If you have any questions, you may call myself, or staff members Irene Jones and Bob Spaulding at 651-222-2193.

Best regards,

A handwritten signature in black ink, appearing to read "Whitney L. Clark". The signature is written in a cursive, flowing style.

Whitney L. Clark
Executive Director



Protect it. Pass it on.

MISSISSIPPI
WATERSHED
MANAGEMENT
ORGANIZATION

2520 Larpentour Avenue West
Lauderdale, Minnesota 55113

(651) 287-0948

(651) 287-1308 fax

www.mwmo.org

February 23, 2009

Mr. James Voll
300 PSC
250 South 4th Street
Minneapolis, MN 55415

Dear Mr. Voll:

I am writing to you regarding the rezoning of 600 Main Street to C3A Community Activity Center District and to remove the IL Industrial Living Overlay District. The Mississippi Watershed Management Organization (MWMO) is currently updating its 10-year comprehensive plan. As part of the planning process the MWMO has recently completed a nature resource inventory. The MWMO staff identified the Critical Area in Minneapolis as a key corridor for both water and habitat management that we hope to connect to the adjacent neighborhoods and to the park system. The change from IL to C3A will make resource management more difficult to achieve.

In addition, the MWMO staff does not agree that over time the City of Minneapolis's stormwater standard of 70 % removal of total suspended solids for waters entering the Mississippi River is sufficient to protect the river from further degradation. Allowing zero lot line development will only make it more difficult to ensure the stormwater leaving the site will be clean. The staff report does not provide enough detail to determine an impact of the proposed zoning change.

Thank you for the opportunity to comment and please consider the missed opportunities for natural resource management and activities that this change may cause.

Sincerely,

Douglas Snyder, Executive Director



Preservation Alliance of Minnesota

“... to preserve, protect and promote Minnesota’s historic resources”

July 29, 2009

Mr. Gregg Downing
Director of Environmental Review
Environmental Quality Board
658 Cedar St., Suite 300
St. Paul, MN 55155

RE: Citizen’s Petition for EAW for East Side Depot Site, Minneapolis

Dear Mr. Downing:

On behalf of the Preservation Alliance of Minnesota, I am writing in support of a Citizen’s Petition being submitted by Cordelia Pierson for the completion of an Environmental Assessment Worksheet (EAW) by the City of Minneapolis. The subject of the EAW is the residential project proposed for the former East Side Depot site, located at approximately SE Main Street and Sixth Avenue in Minneapolis.

It came to our attention today that the City of Minneapolis as the Responsible Governmental Unit (RGU) has not completed an EAW for the proposed residential development to determine its impact to environmental and cultural resources. This site is located within the National Register listed St. Anthony Falls Historic District and it is our understanding, from information attributed to the Minnesota State Archaeologist, that the site may possess historic archaeological resources from the circa 1885 Depot building. Furthermore, additional study is needed to determine the impact of the proposed residential tower on the Mississippi River viewshed and its built, historic resources.

We concur that further study of this project will ensure appropriate due diligence in protecting historic and environmental resources, as well as providing useful information to the City Council in considering the proposal. Thank you for the opportunity to comment and please do not hesitate to contact the Alliance’s Field Representative, Erin Hanafin Berg, with any questions at (651) 293-9047 x102.

Sincerely,

Bonnie McDonald
Executive Director

cc: Erin Hanafin Berg, Preservation Alliance of Minnesota
Edna Brazaitis, Friends of the Riverfront
Dennis Gimmestad, State Historic Preservation Office
Christina Morris, National Trust for Historic Preservation
Cordelia Pierson, Petitioner

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National Trust for
Historic Preservation**
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Historical Society
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Honorary Director
Richard T. Murphy, Sr.

Volunteer Coordinator
Marvel Anderson

Field Representative
Erin Hanafin Berg

Administrative Assistant
Kelli Andre



The view down the Historic Stone Arch Bridge terminates in the 600 Main Parcel. A 68-foot building would be built where the cars are parked in this photo.



A Natural Riverfront Gateway

The proposed 600 Main site stands at the northern terminus of the historic Stone Arch Bridge.

There is a long-term potential to develop this area as a key gateway from downtown to Main Street, but that potential would be significantly compromised if the 600 Main site visually hems in the area with housing.

The 68 foot condo building would be built where the cars can be seen in the photo above right.

Map from USGS • Graphic: Bob Spaulding • 4/16/09

- The Public Realm: Park and Open Space
- Generally Private Development Space
- Proposed Condo Building Site
- Facilities Built with Specific River Needs



The Pattern of Our Public Riverfront

From the Chain of Lakes to the Riverfront, the City of Minneapolis' identity is tied closely to the spectacular public spaces the City maintains along its key waterways.

Critical to this success is a uniform adherence to a particular pattern of development that preserves our waterfront as an understood public space. The parkway system is what delineates the purely public spaces along the waterfront from the increasingly private spaces along the other side of the parkway.

The area around the 600 Main site (shown in red) sits at the end of the Historic Stone Arch Bridge. As the map above shows, the land along the river side of Main Street and East River Parkway is thoroughly public in nature. The only exceptions are facilities that were built needing a waterside site, such as the Xcel Energy substation that is connected with a significant hydroelectric facility.

If the parcel were to become a housing project, it would arguably be the most significant modern-day disruption to this pattern, and diminish the sense of place at a critical place in the Minneapolis riverfront. The true potential for 600 Main is to serve as an enduring gateway to and from the historic Stone Arch Bridge, and the downtown core.

- | | | | |
|---|---------------------------------------|---|--|
|  | The Public Realm: Park and Open Space |  | Proposed Condo Building Site |
|  | Generally Private Development Space |  | Facilities Built with Specific River Needs |

The public access guaranteed by the pattern of the parkway system is credited with helping to increase the values of homes many blocks away from the riverfront.

Photo © Regents of the University of Minnesota. Used with permission of Metropolitan Design Center

