



# United States Department of the Interior

NATIONAL PARK SERVICE  
St. Croix National Scenic Riverway  
401 Hamilton Street  
St. Croix Falls, Wisconsin 54024

IN REPLY REFER TO:

September 10, 2012

L7615 (SACN)

City of Scandia  
Attention: Anne Hurlburt, City Administrator  
14717 209<sup>th</sup> St. N.  
Scandia, Minnesota 55073

Dear Ms. Hurlburt:

The National Park Service (NPS) has reviewed the Final Environmental Impact Statement (EIS), dated August 8, for the proposed Zavoral Mining and Reclamation Project. As you know, the proposed mine is adjacent to the Lower St. Croix National Scenic Riverway (Riverway), a unit of the National Park System, managed by the NPS. The Riverway was established under the Wild and Scenic Rivers Act (WSRA) in 1972 to protect and enhance its water quality, scenic, aesthetic, recreational, and geologic values for the benefit and enjoyment of present and future generations (Public Law 92-542 as amended; 16 U.S.C. 1271-1287). It includes the St. Croix River from the hydropower dam at Taylors Falls, Minnesota to the confluence with the Mississippi River and a narrow strip of land on each side averaging ¼ mile wide.

The NPS has expressed concern about the proposed mine since learning of it in 2008. The proposed mine has the potential to damage the resource values that were intended to be protected by establishing the Riverway. Furthermore, the NPS believes that the analysis presented in the Final EIS understates the impact of the proposed mine to the Riverway and, therefore, is inadequate for decision-making by the City of Scandia. The Final EIS is inadequate because: 1) the rationale it uses to conclude that the proposed mine would have no discernible impact on local tourism is flawed; 2) it does not apply the appropriate noise standard to the Riverway; 3) it does not adequately respond to substantive comments made by the NPS; and 4) it does not adequately consider cumulative impacts.

### The Final EIS uses flawed rationale for determining the impact to local tourism

Several parties who commented on the Draft EIS expressed concern about the negative impact the mine could have on local tourism-related business. The Final EIS responds to this concern with the statement that the proposed mine would have no discernible impact on local tourism because it “would not be visible or audible from key tourism destinations, such as sites in Scandia Village and William O’Brien Park” (page 21, Bullet 3, “Responses to Comments”). The fact that the mine would be audible from the Riverway, and that the Riverway is a key tourism destination, is not mentioned at all in Bullet 3. This despite the fact that the language on preceding page recognizes that “tourism is largely related to the St. Croix River and river corridor” and that page 4-108 of the Final EIS recognizes that the mine would be audible from the river. The rationale for determining there would be no discernible impact to tourism should be reexamined in light of the fact that the mine would be audible from the Riverway and that the Riverway is a key tourism destination. In addition, although the rationale on page 21 indicates that truck volumes are within the capacity of the roadways, it seems questionable that 440-

736 trucks per day, depending on the alternative selected, would have “no discernible impact on local tourism.” This should be reexamined as well, taking cumulative impacts into consideration as described below.

#### The Final EIS does not apply the appropriate noise standard to the Riverway

Page 21, Bullet 4 of “Responses to Comments” states that the proposed mine would have no discernible impact on local tourism because the “analyses conducted for the Draft EIS determined that although mining noise could be audible to people using the St. Croix River, it would fall below applicable standards.” The NPS pointed out in our comments on the Preliminary Draft EIS, dated December 1, 2011 and in our comments on the Draft EIS, dated May 18, that the EIS applies the wrong noise standards to the Riverway. The EIS uses State of Minnesota noise standards that would allow for such an increase in noise levels on the Riverway that two people canoeing side-by-side would not be able to carry on a conversation. Such an increase in noise levels is clearly not applicable to the Riverway or any unit of the National Park System. **The NPS reiterates that the State noise standards should not be used as a basis for comparison in the EIS.**

The appropriate standards can be found in the 2006 *NPS Management Policies*. These policies require that the “natural ambient sound level – that is, the environment of sound that exists in the absence of human-caused noise” be used as the baseline condition and standard against which current and projected conditions are measured and evaluated. The Final EIS responds to this on page 64, “Responses to Comments” that the “Minnesota state noise standards are the enforceable limits currently available to the City of Scandia” and that “the NPS goals are not enforceable.” The purpose of an EIS is to fully disclose the environmental impacts of a proposal for use by decision-makers, regardless of the decision-makers enforcement abilities. If a proposal conflicts with the goals of an affected land manager, the EIS should explain those goals and disclose how the proposal would conflict with them. The fact that the City of Scandia cannot enforce the NPS goals is not relevant to the analysis. **The City of Scandia could help the NPS meet the goal of protecting natural soundscapes by making a decision consistent with *NPS Management Policies*.**

It is also stated on page 64, that worst case modeled noise levels would essentially be the same as the NPS monitored values from summer 2011 in the Riverway. What they fail to point out is that the NPS monitored values of median existing daytime ambient ( $L_{50}$ ) of 39.4 dBA consisted primarily of natural sounds (the median natural ambient ( $L_{nat}$ ) was 35.1dBA) (NPS, 2011). Because the NPS monitoring was conducted during midsummer, there is a large component of bird, amphibian, and insect activity in these sound values. These natural sounds are much different than the noise that would be generated by mining operations. In addition, the high level of natural ambient sound documented by the NPS would only apply during late spring and midsummer. Natural ambient levels are undoubtedly much lower at other times of the year, which means that the mining noise would be much more audible.

Tiller’s Noise analysis also “indicated that mining noise would be less than an outboard motor at certain frequencies.” However, mining activity would occur continuously from 7:00am to 7:00pm when the mine is in operation, while the NPS monitoring documented that motorized water craft were only audible only from 5 to 13 minutes out of every hour between 7:00am and 7:00pm during midsummer. Therefore, the fact that mining noise would be less than that of an outboard motor does not mollify the NPS concerns about the impact of noise from the mine.

**The Final EIS should be revised to apply NPS noise standards and disclose the true level of the noise impacts from the proposed mine. Without such full disclosure, the City of Scandia cannot make an environmentally informed decision on the permit request.**

### The Final EIS does not respond to several substantive comments made by the NPS

The format of the Final EIS makes it difficult to track whether all substantive comments have been responded to. However, careful review of the document shows that there are several substantive NPS comments that have either not been responded to or are responded to only in part. These include the NPS comment that the impact of noise to wildlife should be considered, including stress responses, the loss of listening area, and related impacts to predator/prey relationships. The NPS comment that the EIS should consider the impact of noise on the recreational enjoyment of the Riverway also does not appear to be responded to. Our concern about a sediment release occurring, similar to that which occurred in April at Tiller's Grantsburg Frac Sand Mine but "brought about by rainfall rather than wash water" is only partially responded to. Page 38 of the "Responses to Comments" states that since "there would not be any wash water basins...there is no chance for a similar failure." However, the crux of the NPS comment, about the potential for a sediment release "brought about by rainfall rather than wash water" appears to have been ignored. The Final EIS should be revised to provide responses to all substantive comments and be laid out in such a way that reviewers can easily track the responses. An example of that type of format is enclosed for the City's reference.

### The Final EIS does not adequately consider cumulative impacts

According to Table 1 of the Final EIS, "EIS Content Requirements" there should be a thorough but succinct discussion of potentially significant adverse or beneficial effects generated, be they direct, indirect, or cumulative. Minnesota Rule 4410.0200, Subpart 11 defines cumulative impact as "the impact on the environment that results from incremental effects of the project in addition to other past, present, and reasonably foreseeable future projects regardless of what person undertakes the other projects." The Final EIS addresses cumulative impacts on a half a page on page 4-118 of the Final EIS. The potential for additional development-related actions to occur is discussed, but their cumulative environmental impact is not analyzed as required by the Minnesota Rules. According to the Minnesota Rules cited on page 12 of "Responses to Comments" a decision as to whether a project has the potential for significant environmental effects is based, in part on the cumulative potential effects. **Because the Final EIS does not consider adequately address cumulative effects, the City of Scandia cannot make a determination as to whether the potential cumulative impacts could be significant. The Final EIS should be revised to adequately address cumulative impacts.**

As part of the revised cumulative impacts discussion, the noise analysis should consider the number of trucks that could potentially be on area roads. Currently, the noise analysis is based on an assumption that gravel truck traffic currently coming into the City of Scandia from Tiller's mines in Franconia, Minnesota and Wisconsin would be discontinued when the Scandia mine is in operation. The NPS is not aware of any mechanism available to the City of Scandia to ensure that trucking is discontinued from other Tiller sites while the Scandia mine is in operation. Unless there is some mechanism, the EIS should be looking at the worst-case analysis with all area mines operating and trucking during the same time period.

### Other areas of concern

The Final EIS does not explain how mining depths that would range from 25-50 feet above the groundwater table would be converted to depths of 45 to 78 feet above groundwater post-reclamation (page 36). If fill material is to be brought in to achieve these depths, it should be described. If not, it should explain where the material to achieve the post-reclamation depths would come from. **An explanation of how these depths would be achieved is critical to determining whether the mine could have significant impacts on the seeps and springs within the Riverway.**

The statement on page 4-104 of the Final EIS that in June and July 2011, the NPS completed noise monitoring at four locations on the St. Croix River” is incorrect. The NPS completed 34 consecutive days of sound monitoring at one location from June 23 to July 27, 2011.

## Conclusion

**The NPS believes that the Final EIS is inadequate for the reasons stated above. Because of these inadequacies the statement that “no impacts that reached the level of significant impacts were identified in association with the Project” (page 12, “Responses to Comments”) is not defensible. The Final EIS should be revised to provide the City of Scandia with the necessary environmental information upon which to base their decision.**

**Regardless of the City’s decision on the adequacy of the Final EIS, the NPS reiterates that we are opposed to issuance of a Conditional Use Permit for the proposed Zavoral Mine.** The Lower St. Croix National Scenic Riverway was set aside to protect its water quality, scenic, aesthetic, geologic, and recreational values. Section 10(a), the non-degradation clause of the WSRA, states that national wild and scenic rivers “shall be administered in such a manner as to protect and enhance the values which caused it (them) to be included in the system.” The proposed mine would not be consistent with the WSRA. In fact, at minimum, it would degrade the aesthetic and recreational values of the Riverway because it would create a source of industrial noise that would be audible from within the boundary, including the river surface.

While the NPS has the ultimate responsibility for protecting the Riverway, we can only do so with the help of local units of government and private citizens. The NPS reminds the City of Scandia Council that activating a mine on the boundary of the Riverway is no different than activating a mine on the boundary of any national park such as Yellowstone, the Grand Canyon, or Yosemite.

In creating the Riverway as a unit of the National Park System in 1972, the U.S. Congress recognized that the St. Croix River is very special and stands out amongst the thousands of rivers found throughout America. It should be protected for the benefit and enjoyment of this and future generations. **We urge the City of Scandia to join us in protecting this treasure by selecting the no action alternative and denying the request for a conditional use permit to operate the mine.** Instead, the area should be reclaimed, as was the intention in 1991, and placed in a more compatible use per the 2008 City of Scandia’s Comprehensive Plan.

Thank you for the opportunity to provide comment. If you have any questions, please call Jill Medland of my staff at 715-483-2284.

Sincerely,



Christopher E. Stein  
Superintendent

Enclosure

## References

National Park Service. 2001. St. Croix National Scenic Riverway. Acoustical Monitoring 2011. Natural Resource Technical Report.

# Letter 10

# Responses to Letter 10

Save-Our Unique Lands  
SOUL  
PO Box 175  
Glen Flora, WI 54526

Ms. Jill Medland, Superintendent  
St. Croix National Scenic Riverway  
PO Box 708  
St. Croix Falls, WI 54024

May 29, 2004

Dear Ms. Medland,

SOUL has reviewed the Draft Environmental Impact Statement, and have several areas of concern regarding the contents of this document.

First, SOUL has followed the sentiments of the NPS through their comments on this project. These comments are incorporated in the FEIS prepared by the Wisconsin Public Service Commission in 2000. Those comments questioned the need for the project, therefore favoring the No Action Alternative as proposed in the DEIS. While the NPS provided testimony opposing the project in November of 2000, this testimony was later withdrawn, due to confusion as to whether testimony should be given at public or technical hearings. This same testimony was incorporated as language in the FSC's FEIS. We are also aware, after the first approval of this project by the Wisconsin Public Service Commission, a letter from Minnesota Power was sent to a President's Special Task Force requesting project streamlining. Although we do not know of any resultant action to this letter, we would hope that as the project has not changed in scope the National Park Service would not change its impression or analysis of this project.

Secondly, SOUL is concerned about the Long Span Conductor Option, which appears to be favored by the National Park Service. We were quite appalled by the offer of \$2,750,000 offered by the applicants to "enhance scenery and recreation". Certainly, we would argue, as did Gaylord Nelson, and Walter Mondale years ago that the scenery can not be enhanced by anything short of total protection for this river. In fact, this river was designated under the Wild and Scenic Rivers Act in 1968 to protect the Riverway from any further degradation such as this. No amount of money will be able to "enhance this scenery" from as it is today, protected and managed in a near primitive state. This designation was made to preserve this quality waterway for posterity, not to allow denigration for dollars that will never be able to return the waterway to the state it is today.

Other problems with this plan would include the transition station for partial undergrounding. The transition station will be a permanent public eyesore, which will require a road for upkeep and maintenance, certainly not conducive to the current management plan for the waterway. Technically, our experts have concerned doubts that the undergrounding of the shield wire would be feasible and/or operational. The overhead span may sag greatly, which may lead to safety issues for canoeists who are on

10-1

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10-4

10-1

Comment noted. Please refer to response to Comment 6-9.

10-2

The \$2,750,000 refers to the amount that would be placed in an endowment fund if the Long-span Conductor Option were construction. Mitigation and enhancement funds such as the one proposed are fairly common. Some examples include the FERC hydropower relicensing in Wisconsin (Menominee River/Wilderness Shores), Oregon (Pelton Round Butte and North Umpqua), and a transmission line project (Kangley-Echo Lake) in Washington. To arrive at a figure for mitigation and enhancement funds, the costs of projects or programs that would help offset the impacts of a proposed action are calculated. In this case, the NPS calculated the \$2,750,000 figure as the amount needed to generate enough interest (based on 5 percent annually) to fund recurring seasonal staff costs for programs that benefit scenery and recreation such as exotic plant control and visitor services.

The amount of the fund varies under each alternative according to its relative impacts.

The concept is similar to the environmental impact assessment fees required by Wisconsin State Law to be disbursed to counties impacted by the Project to be used only for park, conservancy, wetland, or other similar environmental programs.

Comment noted.

10-3

10-4

The Long-span Conductor Option includes installing the fiber optic cable underground utilizing common HDD and open trenching construction techniques.

## Letter 10 Continued

## Responses to Letter 10

- 10-4 the waterway when the sag is the worst, in humid warm summer weather when the line would be used to its fullest capacity for exporting energy.
- 10-5 The short span option that the utility prefers also comes with a \$4,750,000 enhancement package. Again, it is our feeling that no amount of money will buy the beauty that has been lost not only by the transmission line. There is no argument that this waterway was set aside for its aesthetic beauty and pristine nature. The NSP/Xcel transmission line that is currently over the river was there when the waterway was designated. In other words, the right-of-way was already established. This is the very reason at this point in time we are even asked to consider the addition of another transmission line. If approved by the NPS, this will be the first transmission line crossing to be added to this section of the National Scenic Waterway, and thus a precedent will be set; any other transmission lines, pipelines, etc. may now use this as the corridor of choice. The No Action Alternative will keep the park preserved, as intended, thus lessening the threat of future projects further degrading the pristine character of this Riverway, and its land.
- 10-6 Undergrounding one or the other transmission lines, or both will involve removal of additional right of way (twenty feet) and subject the Riverway to concerns for siting and potential construction problems that may impact the environment. The transition station, as in the long span option will degrade additional land, and will not be allowed to return to its wooded state.
- 10-7 There is no project short of "no action" that will allow the Namekagon River to maintain its pristine nature, and preserve it for the generations to come. To think that any amount of money will protect this area from future development, or enhance what has been degraded is nothing short of a sugar coating, or a payment to allow our heads to be turned the other way as the Namekagon is not only scared, but now becomes the established corridor. By allowing the scope to entail only the current crossing, the NPS has erred in looking at this crossing in the now, and failing to project what the future will be, or could be.
- 10-8 In May of 2003 SOUL held a "Namekagon River Gathering", to celebrate the beautiful Namekagon, and to offer citizens a chance to speak for the river. Many came, many spoke. We have attached a transcription of this testimony (an eighty page transcript) to this testimony. These are the testimonies of our members for the Namekagon. Please except this as an attached exhibit. A copy of this testimony will be placed on CD and mailed with this letter also, to assure its receipt.
- 10-9 We again wish to thank the National Park Service for their protection of this exceptional water resource in the state of Wisconsin. We hope that you can continue to protect this river for all today and in the future as you make decisions that will impact this waterway, and certainly others, regarding the permitting of the Arrowhead - Weston Project. We urge you to stand by the No Build Alternative, thus saving the integrity of this beautiful resource.
- Sincerely,  
*Linda Ceylor*  
Linda Ceylor, Vice President  
For SOUL, Inc.  
*also sent via e-mail*
- 10-5 Please refer to response to Comment 6-7 for a discussion of cumulative impacts of future crossings.
- 10-6 Please refer to Section A.1.4, Applicant-committed Protection Measures, in the Final EIS for a discussion of protection measures that would be implemented to minimize impacts to vegetation and water quality.
- 10-7 Comment noted.
- 10-8 Chapter 3.0 discusses the cumulative impact of past, present, and reasonably foreseeable future actions in the affected area for each alternative and every resource topic.
- 10-9 Comment noted. The transcript of the testimony gathered at the May 2003 "Namekagon River Gathering" questions the need for and expresses opposition to the entire Project approved by the PSCW. It will become part of the administrative record for this EIS.
- 10-10 Comment noted.

Attachment to Letter 10

Exhibit 1 - CD with Transcriptions of Testimonies from Members