



June 23, 2021

Allison J. Mitchell
Fond du Lac Band of Lake Superior Chippewa
Legal Affairs Office
1720 Big Lake Road
Cloquet, Minnesota 55720

RE: Response to June 21, 2021 Information Request on the Project Boundary Adjustment within the St. Louis River Project (FERC License No. 2360)

Dear Ms. Mitchell,

ALLETE, Inc. (d.b.a Minnesota Power, hereafter “MP”) is providing the following response to the June 21, 2021 letter requesting additional information on the non-capacity amendment application (application) MP sent to the Federal Energy Regulatory Commission (FERC) on December 22, 2020, for adjustment of the Project Boundary on the St. Louis River Hydroelectric Project (FERC Project No. 2360). MP deeply values our relationship with the Fond du Lac Band of Lake Superior Chippewa (FDL) and is pleased to provide the information requested by FDL.

History of MP’s FERC Project Boundary Application Engagement with FDL

As part of MP’s voluntary efforts to ensure FDL had the opportunity to review and participate in the FERC application process, MP first communicated the proposed changes to FDL’s Wayne Dupuis via telephone on August 11th, 2020. At Mr. Dupuis’s request, an executive summary of the proposed changes was sent via email on August 20, 2020. Subsequent to that communication, MP provided a copy of the application for review by FDL on October 13, 2020, before submission to FERC, with a request for comments within forty-five days. The distribution of both the executive summary and application were not required by FERC, but rather were conducted in a voluntary manner by MP to ensure FDL had an opportunity to engage early in the FERC application process. No comments were received from FDL on the executive summary or the application.

A 30-day formal request for comments was initiated by FERC on April 29, 2021 under FERC Docket 2360-272. FERC conducted direct tribal outreach to FDL as well.

Overall Project Boundary Adjustment Rationale

The purpose of adjusting the Project Boundary is to remove non-project purpose lands that are not needed for operations, maintenance, or other project purposes, while adding other lands needed for project purposes. The lands that are proposed to be removed are used solely for residential purposes by MP’s leaseholders; no other lands will be removed from the Project Boundary. As described in the application, a shoreline buffer area will be preserved in the Project Boundary along these residential lease lots to ensure continued shoreland protection under the FERC license. All other local, state, and federal shoreland protections will also remain in effect.



AN ALLETE COMPANY

As part of this process, MP also made a concerted effort to ensure no cultural resource sites would be impacted as a result of this Project Boundary adjustment. Any lands eligible for the National Register of Historic Places (NRHP) will remain within the Project Boundary. These sites were identified through Phase I archaeological surveys during the Project relicensing, with additional Phase II evaluation in the fall of 2019 and summer of 2020. As a result of this extensive survey work, eight lease lots were identified as possibly eligible for NRHP; those lots will not have the Project Boundary reduced and the Area of Potential Effect (APE) will not change at these locations. The State Historic Preservation Office (SHPO) made a “no effect” determination on April 20, 2021 for MP’s proposed project boundary adjustment.

Once removed from the Project Boundary, it is MP’s intention to offer these lands for sale to the existing leaseholders. Proceeds from the sales will be returned to MP’s electric utility customers, which will include FDL. MP is currently in the approval process for the sales of these lots with the Minnesota Public Utilities Commission (MPUC) in Docket No. E015/PA-20-675.

Lands Added to the Project Boundary & Natural Character Areas

As part of our Project Boundary review process, MP identified other areas which meet the definition of lands needed for project purposes, which can include lands needed for operational, maintenance, or other project purposes. These additional lands, totaling 468 acres, are undeveloped and would be added to the Project Boundary under the proposed amendment.

Approximately 261 acres are located downstream of the dams; including these lands in the Project Boundary serves as an additional protection to ensure there is not future development in areas subject to flooding during catastrophic weather events. These would generally be classified as lands needed for the operation and/or maintenance of the hydro project, although they also provide environmental, recreational, and other project uses. They would remain undeveloped once added to the Project Boundary; any sale, transfer, or significant alteration of the land would subsequently require FERC approval.

The remaining lands, approximately 208 acres, are located at Fish Lake Reservoir, Whiteface Reservoir, and Island Lake Reservoir are being added for “other project purposes”. FERC describes “other project purposes” as lands used for recreation, shoreline control, or protection of environmental resources. Once added to the FERC Project Boundary, these lands would be classified as Natural Character Areas (NCAs). MP’s Land Management Plan (LMP), required under SLRP License Article 427, defines NCAs as “major stretches of undeveloped shoreline”.

Once added to the FERC Project Boundary and designated as NCAs, these lands will have additional protections to ensure continued recreational, shoreline control, and environmental value. This includes the need for FERC approval prior to the sale, transfer, or alteration of the lands. While not exactly the same as a conservation easement, designation of lands as NCAs functions in a similar manner to ensure additional protections of the land’s unique environmental, recreational, scenic, and/or cultural attributes.

To summarize, MP will not develop or otherwise alter the lands to be added to the Project Boundary; rather, the inclusions of these lands and designation as NCAs will ensure additional protections of these lands.

FDL also requested additional documents in their letter to MP. A CD with the GIS shapefiles of the figures that were included in the application, the Cultural Resource Management Plan (CRMP), and the Westwood Cultural Survey Report are all included as attachments to this letter.



AN ALLETE COMPANY

If you have any further questions please contact me electronically at gprom@allete.com or by phone at 218-461-6856.

Best Regards,

A handwritten signature in blue ink that reads "Greg Prom".

Greg Prom
Senior Environmental Compliance Specialist
Minnesota Power

Cc: Jill Hoppe, FDL (CD included)
Nancy Shudlt, FDL (letter only)
Wayne Dupuis, FDL (letter only)
David Moeller, MP (letter only)
Kurt Anderson, MP (letter only)
Mark Carter, FERC (letter only)

176 FERC ¶ 62,050
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Allete, Inc.

Project No. 2360-272

ORDER AMENDING PROJECT BOUNDARY

(Issued July 26, 2021)

1. On December 22, 2020, and supplemented on April 27, 2021, Allete, Inc. (licensee) filed an application requesting Commission approval to amend the project boundary to more accurately reflect the lands needed for project purposes at the St. Louis River Hydroelectric Project No. 2360.¹ The proposed amended project boundary involves three of the project's developments: Island Lake Reservoir, Fish Lake Reservoir, and Whiteface Reservoir in St. Louis County, Minnesota.

I. Background

2. The project consists of four hydroelectric developments, each with a reservoir, and five headwater reservoirs. The licensee uses the headwater reservoirs, which are located on various tributaries to the St. Louis River, to control the flow of the St. Louis River Basin, in coordination with the operation of the downstream hydroelectric facilities. The project boundary for the reservoirs was established in 1991 during project relicensing and at that time was set to encompass lands where key project structures (e.g., dams, inlets, etc.), recreation areas, environmental areas, and cultural resource areas were located. Additionally, the project boundary includes certain lands around the reservoirs that are used solely for private residential use by individual leaseholders on licensee-owned lands.

II. Licensee's Proposal

3. The licensee is proposing to amend its project boundary at three of the project's reservoirs (i.e., Island Lake Reservoir, Fish Lake Reservoir, and Whiteface Reservoir) to more accurately reflect the lands needed for project purposes. The licensee would remove approximately 191 acres² of land around the reservoirs that are currently leased

¹ Order Issuing License (72 FERC ¶ 61,028), issued July 13, 1995.

² The acreages reported in the licensee's application, as well as reflected in this order, are approximations. Section 7 of the licensee's application includes maps of each reservoir that depict the current and proposed project boundaries.

to individuals for private residential use, while preserving an upland buffer area around the reservoirs in the areas to be removed from the project boundary. Of these 191 acres, 125 acres are located around Island Lake Reservoir, 18 acres are located around Fish Lake Reservoir, and 48 acres are located around Whiteface Reservoir. After removing the leased lots from the project boundary, the licensee would offer lots for sale to existing leaseholders.

4. Additionally, the licensee would add 469 acres of land around the three reservoirs, 468 acres of which are undeveloped lands that would be managed as Natural Character Areas for scenic and environmental protection uses. This includes several islands that were not previously included in the project boundary as well as a reflection of actual acreages of some islands that were previously in the project boundary based on revised cartographic calculations. Additionally, other lands would be added to the project boundary to clarify recreation site boundaries inside the project boundary. Of these 469 acres to be added to the project boundary, 261 acres are located around Island Lake Reservoir, 57 acres are located around Fish Lake Reservoir, and 151 acres are located around Whiteface Reservoir.

5. The licensee's filing includes a description of the affected environment (i.e., characteristics of the lands to be added and removed from the project boundary) and an analysis of effects of the project boundary adjustment on project operations, shoreline vegetation, sensitive species, wetlands, recreation, and historic properties. The licensee's analysis finds that its proposal would not affect these or any other project resources. Specifically, the licensee states that its proposal would not affect its license obligations or requirements, would result in a project boundary that more accurately reflects the lands needed for project purposes, and would not remove from the project boundary any lands with unique (i.e., environmental, recreational, or cultural resources) features. Rather, the only lands to be removed from the project boundary are lands used solely for private residential use but the licensee would preserve an upland buffer (i.e., three feet of shoreline land measured horizontally from the reservoir edges) within the project boundary in these areas to ensure adequate shoreline protection along the reservoirs.

III. Agency Consultation and Public Notice

6. Prior to filing its application, the licensee met with shoreline leaseholders and discussed its proposal with St. Louis County staff as well as state and federal legislators. On October 13, 2020, the licensee provided a draft project boundary amendment application to a number of interested stakeholders for a 45-day comment period. Among these consulted stakeholders were the U.S. Army Corps of Engineers, National Park Service, U.S. Fish and Wildlife Service (FWS), Fond du Lac Reservation, Boise Forte Band of Minnesota Chippewa, Minnesota Department of Natural Resources (MDNR), Minnesota Pollution Control Agency (MPCA), Minnesota State Historic Preservation Office (SHPO), and St. Louis County. Only the MPCA and SHPO responded to the

licensee's request for comment. The MPCA requested further information regarding the potential for further residential development of project lands in the future, which the licensee adequately responded to. The SHPO responded with its general agreement with the licensee's conclusions in its draft project boundary amendment application but stating its expectation that further consultation with its office would be needed. In its April 27, 2021 supplemental filing, the licensee provided an updated documentation of consultation with the SHPO, including an April 20, 2021 letter from the SHPO concurring that the proposed project boundary amendment would have no effect on historic properties. The licensee's application also includes letters from two Minnesota senators, one Minnesota representative, and one member of the U.S. House of Representatives commenting on the licensee's proposal.

7. The Commission issued a public notice of the application on April 29, 2021, which established a deadline of May 31, 2021, for filing comments, motions to intervene, and protests. The MDNR was the only entity to respond to the public notice, stating that it concurs with the licensee's proposal to amend the project boundary while not changing project operations and while retaining an upland buffer around the reservoirs, but that it recommends that the licensee provides specific information to leaseholders and landowners to make them aware of all license requirements. Additionally, Commission staff made separate efforts to consult with tribal interests in the area of the project.³

IV. Discussion

8. Section 4.41(h)(2) of the Commission's regulations provide that a project boundary "must enclose only those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources.... Existing residential, commercial, or other structures may be included within the boundary only to the extent that underlying lands are needed for project purposes." Thus, in evaluating the licensee's proposal, we must determine whether the lands proposed to be added to and removed from the project boundary serve a project purpose. The project license and approved plans include requirements for the licensee to implement a land management plan, protect cultural resources, and operate and maintain project recreation facilities. The below analysis reviews project purposes,

³ A Communication Memorandum filed on June 17, 2021, summarizes the tribal consultation efforts conducted by Commission staff between May 4, 2021, and June 9, 2021. No tribes expressed any concerns with the proposal. Additionally, in a June 21, 2021 email, the Fond du Lac Reservation requested additional information on the proposal from the licensee, which the licensee subsequently provided, and the Fond du Lac informed the licensee on July 22, 2021 that it did not have any concerns with the licensee's project boundary amendment proposal.

approved plans, and other environmental considerations to determine the potential impacts of amending the project boundary and removing some lands from Commission jurisdiction.

A. Lands to be Removed

Land Use

9. Article 427 of the license required the licensee file a land management plan for the all licensee-owned land within the project boundary. The licensee filed its plan on April 2, 2007, and it was subsequently approved.⁴ Among other things, the land management plan discusses the licensee's Recreation Lease Lot Program (Lease Program) as well as Natural Character Areas (discussed further, below). The approved plan describes the Lease Program as including nearly 1,000 cabins and homes that occupy project lands owned by the licensee across the project's developments and that such leased lots are subject to strict lease agreements. The lands proposed to be excluded from the project boundary are used exclusively for private residential use under the Lease Program and do not serve any operational, maintenance, or other project purpose. If the project boundary amendment is approved by the Commission, the licensee would then offer most of these lots for sale to current leaseholders. The licensee proposes to retain ownership of an upland buffer around the reservoirs that would remain in the project boundary to ensure adequate shoreline protection. Leaseholders would be eligible to obtain a riparian easement (included in Appendix 3 of the licensee's application) that, among other things, would allow the leaseholders to install boat docks, subject to existing MDNR and other authorizations.

10. In its June 1, 2021 comments, the MDNR expressed its concurrence with the licensee's proposal to amend the project boundary while not changing project operations and retaining an upland buffer around the reservoirs. The MDNR expressed the importance of providing specific information to leaseholders about project operations and other license requirements. We agree with the MDNR regarding the importance of such matters and appreciate the licensee's outreach and communications efforts, noted above, with leaseholders and county government. Further, we note the provisions of the riparian easement in Appendix 3 that address this issue, especially Condition 7 which specifies that the easement is subject to the authority of the Commission and highlights the importance of the project license in governing what may activities may occur on project lands.

11. Additionally, the licensee's proposal includes a provision for it to retain a three-foot shoreline buffer, measured horizontally from the reservoir edges, allowing it to

⁴ Order Approving Land Management Plan (119 FERC ¶ 62,246), issued June 20, 2007.

supervise and control shoreline uses in the future. This, along with robust local environmental protections (e.g., the St. Louis County Shoreline Management Guide, which was included in the application as a reference), would ensure that adequate environmental protection and shoreline controls are in place to accomplish the licensee's goals under the land management plan once the leased lands are removed from the project boundary.

Historic Properties

12. Article 424 of the license requires the licensee to implement the Programmatic Agreement (PA) among the Commission, Advisory Council on Historic Preservation, and the SHPO, executed on July 3, 1995. The PA required the licensee to file a Cultural Resources Management Plan (CRMP), which the licensee filed on May 14, 2001, and was subsequently approved.⁵ Among other things, the approved CRMP contains procedures to evaluate potential effects to cultural or historic sites prior to any earth disturbing activities on residential leased lots (e.g., a certified archaeologist reviews any proposed construction activities to either confirm it will have no effect on any historic property or mitigate any such effect).

13. Prior to filing its project boundary amendment application, the licensee conducted archaeological surveys and consulted with the SHPO to ensure that none of the lands proposed to be removed from the project boundary contain historic properties eligible for listing on the National Register of Historic Places. As noted above, in a letter dated April 20, 2021, the SHPO stated its concurrence that the proposed project boundary amendment would have no effect on historic properties. Given this information and that there would be no land disturbance with the addition and removal of lands within the project boundary, we conclude that there would be no effect on historic properties.

Recreation

14. Article 425 of the license required the licensee to revise and refile its existing recreation plan, with several specific recreation enhancements. The licensee filed its plan on October 20, 2006, and it was approved by the Commission in 2008 and has been updated several times since.⁶ The approved recreation plan identifies a number of project

⁵ Order Approving Cultural Resources Management Plan (95 FERC ¶ 62,275), issued June 27, 2001.

⁶ Order Amending Recreation Plan Under Article 425, and Amending Articles 405 and 426 (122 FERC ¶ 62,210), issued March 3, 2008. The recreation plan has been amended since then by the Order Amending Recreation Plan Under Article 425 (133 FERC ¶ 62,162), issued November 23, 2010; the Order Amending Recreation Plan Under Article 425 (140 FERC ¶ 62,220), issued September 24, 2012; and the Order Approving

recreation sites owned and operated by the licensee, including boat launches, campsites, trails, fishing areas, canoe portages, whitewater boating facilities, etc. The licensee's proposed project boundary amendment does not include any changes in operation or maintenance of any project recreation sites. Thus, we conclude that the proposed removal of lands from the project boundary would not affect project recreation facilities.

Threatened and Endangered Species

15. Using information from the FWS' Information and Planning Consultation (IPaC) website tool, the licensee initiated informal consultation with the FWS on May 12, 2020. The licensee identified the federally threatened Canada lynx, federally threatened gray wolf, federally threatened northern long-eared bat, and federally endangered piping plover as species that have the potential to occur in the project area. Section 4.5 of the licensee's application contains a robust analysis of the likelihood of occurrence of these species in the project area and determined that the proposed removal of project lands would cause no effect to federally listed species for several reasons. The licensee provided its draft application, including its analysis of effects, to the FWS on October 13, 2020, and the FWS did not respond. We have reviewed the licensee's application and similarly conclude that, because the proposal would not cause any ground disturbance or affect any wildlife habitat, the proposal would have no effect on federally listed species.

B. Lands to be Added

Land Use

16. As noted above, the approved land management plan includes provisions for managing Natural Character Areas in the project boundary. The plan defines Natural Character Areas as designated, undeveloped project lands that provide wildlife habitat and protect scenic, cultural, and watershed resources while also allowing free recreational use. As part of the proposal, the licensee would add 469 acres of project lands to the project boundary, 193 acres of which are wetlands. All of these 469 acres are undeveloped lands currently managed for environmental benefits and would be managed as Natural Character Areas under the approved land management plan. Given the historic and proposed future use of these 469 acres of land, we agree with the licensee that such lands are appropriate to be included in the project boundary and will serve project purposes, including environmental protection and recreation. In accordance with Standard Article 5 of its license, the licensee states it owns the lands proposed to be added to the project boundary. Because the licensee has reviewed its project boundary and determined that these parcels are needed for project purposes, and the licensee owns

these lands, we concur that these lands should be incorporated into the project boundary and subject to all applicable license requirements.

Recreation

17. The 2017 Order noted that several recreation facilities depicted in the licensee's recreation as-built drawings filed over time are not entirely located inside the project boundary, that such instances are minor in nature (e.g., small portions of extensive trail networks, overflow parking, or other parking facilities, etc.), and that the licensee should incorporate all recreation facilities required by the project license into the project boundary during the next major Exhibit G (project boundary) revision. As suggested by the 2017 Order, the proposed amendment includes these project boundary adjustments to incorporate all elements of the project recreation sites into the project boundary.

V. Conclusion

18. The Commission's regulations state that existing residential structures may be included within the boundary only to the extent that underlying lands are needed for project purposes. The Commission has made it a practice to exclude residential dwellings from within project boundaries when appropriate. Regarding the licensee's proposal to remove 191 acres of land from the project boundary, we agree that this acreage is not needed for any project purpose under the license. The subject lands are primarily used for private residential use and are not used for project operations, project recreation, or any other project purposes. Further, no unique or sensitive natural resources (e.g., sensitive species or historic properties) that would require protection are located on the subject lands and no land disturbance would occur due to the proposed project boundary change. Regarding the licensee's proposal to add 469 acres of project lands to the project boundary, we find that lands are appropriate to be included in the project boundary and will serve project purposes, including environmental protection and recreation. The net increase in project lands will benefit project purposes and none of the consulted agencies objected to the proposal. Thus, for the above reasons, the licensee's request should be approved.

19. In order to reflect changes to the approved land management plan (e.g., the amount and location of Natural Character Areas, the nature and amount of leased lots in the Lease Program, etc.) based on our approval of the proposed project boundary amendment, ordering paragraph (B) requires the licensee to file, within 6 months of this order, a revised land management plan for Commission approval.

20. In order to reflect the changes in the project boundary due to the removal of 191 acres of project lands and the addition of 469 acres of project lands, ordering paragraph (C) requires the licensee to file, within 3 months of this order, revised applicable Exhibit G drawings for Commission approval. The revised Exhibit G drawings must comply with sections 4.39 and 4.41 of the Commission's regulations.

The Director orders:

(A) Allete, Inc.'s application, filed on December 22, 2020, and supplemented on April 27, 2021, requesting Commission approval to amend the project boundary for the St. Louis River Hydroelectric Project No. 2360, is approved.

(B) Within 6 months of this order, the licensee must file for Commission approval a revised land management plan that, at a minimum, updates Section II (Recreation Lease Lot Program) and Section III (Natural Character Areas) of the plan to reflect the lands added and removed as approved in ordering paragraph (A) of this order. The revised plan should be prepared in consultation with the U.S. Department of the Interior, Minnesota Department of Natural Resources, Fond du Lac Band of Lake Superior Chippewa, St. Louis and Carlton counties, and agencies having land management or planning/zoning authority in the area.

(C) Within 3 months of this order, the licensee must file for Commission approval revised Exhibit G drawings depicting the project boundary revisions necessary to reflect the lands added and removed as approved in ordering paragraph (A) of this order. The Exhibit G drawing(s) must comply with sections 4.39 and 4.41(h) of the Commission's regulations.

(D) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2018), and the Commission's regulations at 18 C.F.R. § 385.713 (2020). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Robert J. Fletcher
Land Resources Branch
Division of Hydropower Administration
and Compliance

Federal Energy Regulatory Commission

Communication Memorandum

DATE: June 17, 2021

FROM: Mark Carter
OEP, DHAC

TO: Commission Files for St. Louis River Hydroelectric Project
P-2360-272

SUBJECT: Tribal Consultation Summary

The attached summarizes the Tribal consultation in the above referenced proceeding.

TRIBAL CONSULTATION SUMMARY

Project No. 2360-272

Project Name: St. Louis River Hydroelectric Project

Proceeding: Project Boundary Amendment

Initial Letter Sent: May 4, 2021

Follow up:

Date	Form	Name/Title of Tribal Contact	FERC Staff	Resolution (tribes added to mailing list, tribe expressed no interest, meeting set up)
6/9/21	Email	Edith Leoso, THPO Bad River Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Michael Wiggins, Chairman Bad River Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Melinda Young, THPO Lac du Flambeau Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Joseph Wildcat, Sr., President Lac du Flambeau Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Daisy McGeshick, THPO Lac Vieux Desert Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Andrew Werk, President Fort Belknap Indian Community	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Michael Blackwolf, THPO Fort Belknap Indian Community	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Marvin DeFoe, THPO Red Cliff Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Rick Peterson, Chairperson Red Cliff Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Bobby Komardley, Chairman Apache Tribe of Oklahoma	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Jill Hoppe, THPO Fond du Lac Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.

Date	Form	Name/Title of Tribal Contact	FERC Staff	Resolution (tribes added to mailing list, tribe expressed no interest, meeting set up)
6/9/21	Email	Kevin Dupuis, Chairperson Fond du Lac Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Beth Drost, Chairwoman Grand Portage Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Maryann Gagnon, THPO Grand Portage Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Natalie Weyaus, THPO Mille Lacs Band of Ojibwe	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Melanie Benjamin, Chief Executive Mille Lacs Band of Ojibwe	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Catherine Chavers, President Minnesota Chippewa Tribe	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	James Williams, Chairman Lac Vieux Desert Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Garland McGeshick, Chairperson Sokaogon Chippewa Community	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Jaime Arsenault, THPO White Earth Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Terrence Tibbetts, Chairperson White Earth Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Kevin Jensvold, Chairperson Upper Sioux Community	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Samantha Odegard, THPO Upper Sioux Community	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Reggie Wassana, Governor Cheyenne and Arapaho Tribes	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Max Bear, THPO Cheyenne and Arapaho Tribes	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Amy Burnette, THPO Leech Lake Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.

Date	Form	Name/Title of Tribal Contact	FERC Staff	Resolution (tribes added to mailing list, tribe expressed no interest, meeting set up)
6/9/21	Email	Faron Jackson, Chairman Leech Lake Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Alden Connor, THPO Keweenaw Bay Indian Community	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Warren Swartz, President Keweenaw Bay Indian Community	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Joan Delebreau, Chairwoman Menominee Indian Tribe	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	David Grignon, THPO Menominee Indian Tribe	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Jaylen Strong, THPO Bois Forte Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.
6/9/21	Email	Catherine Chavers, Chairman Bois Forte Band – Chippewa	Mark Carter	Mr. Carter emailed Tribal contact, no response received.



Fond du Lac Band of Lake Superior Chippewa

TRIBAL HISTORIC PRESERVATION OFFICE

1720 Big Lake Road, Cloquet, MN 55720
Phone 218-878-7129 E-Mail jillhoppe@fdlrez.com

7/22/21

Mr. Greg Prom
Senior Environmental Compliance Specialist
Minnesota Power
30 W Superior Street
Duluth, MN 55802

RE: Consultation with Tribes for the St. Louis River Hydroelectric Project No. 2360 Project Boundary Amendment (Project)

Dear Mr. Prom,

Thank-you for continuing consultation regarding the above-referenced Project. Our office has reviewed the information provided pursuant to the responsibilities given the Fond du Lac Tribal Historic Preservation Officer by Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing federal regulations at 36 CFR Part 800. The submittal included a letter to Tribes dated 5/4/2021. A subsequent submittal included the report titled *A Report for the Archaeological Assessment and Evaluative Testing of 33 Sites, St. Louis Hydroelectric Project FERC #2360* (dated February 26, 2021), prepared by Westwood Professional Services, Inc. (Westwood) for Minnesota Power (MP). Previous Consultation Records and map and shapefiles of Project Area and the Cultural Resource Management Plan (CRMP) were also included. Additionally, a follow-up letter was provided summarizing Project boundary adjustment dated 6/23/2021.

Based on the information provided to our office, MP filed an application with the Federal Energy Regulatory Commission (FERC) to amend the Project boundary at Island Lake Reservoir, Fish Lake Reservoir, and Whiteface Reservoir to more accurately reflect the lands needed for Project purposes. The purpose of adjusting the Project boundary is to remove approximately 191 acres of land around the reservoirs that are currently leased for private and residential use, while preserving an upland buffer area around the reservoirs—these lands represent lands not needed for operations, maintenance, or other Project purposes. Additionally, the licensee would add 469 acres of lands around the three reservoirs to be managed as Natural Character Areas for scenic and environmental protection uses and/or for Project operational, maintenance and other purposes. Lands with sites eligible for the National Register of Historic Places (NRHP) will remain within the Project boundary. With the boundary adjustment, MP is evaluating the sale of MP owned lease lots to existing leaseholders and proceeds from the sale will be returned to MP's electric utility customers. MP is currently in the approval process for the sale of these lease lots within the Minnesota Public Utilities Commission in Docket No. E015/PA-20-675.

Of the 469 undeveloped acres proposed to add to the Project boundary, 261 acres are located downstream of the dams to ensure there is not future development in areas subject to potential flooding—these are classified as lands needed for the operation and/or maintenance. Once added to the Project boundary, these lands would remain undeveloped and any sale, transfer or significant alteration of land would require FERC approval. Approximately 208 acres of land located at Fish Lake Reservoir, Whiteface Reservoir and Island Lake Reservoir are being added for other Project purposes (recreation, shoreline control or protection of environmental resources); these lands would be classified as Natural Character Areas. These lands will have additional protections to ensure continued recreational, shoreline control, and environmental value. MP will not

develop or alter the lands to be added to the Project boundary. This includes the need for FERC approval prior to the sale, transfer, or alteration of the lands.

Based on information in the subsequent submittal, MP owns land on 32 lease lots that potentially intersect with 33 archaeological sites located along or near the shores of Island Lake Reservoir, Whiteface Reservoir, Fish Lake Reservoir, and Wild Rice Lake Reservoir. Minnesota Power currently maintains Project boundaries of 25 horizontal feet landward from the ordinary high water mark at the lease lot locations and MP intends to reduce the Project boundary to three feet horizontal landward from the ordinary high water mark.

The management and protection of the 33 archaeological sites are outlined in the CRMP. Westwood assessed these sites for compliance and to relocate and evaluate the archaeological sites on or adjacent to MP owned lease lots with the Project. As a result, Westwood offered the NRHP recommendations and CRMP status as follows.

Westwood recommended the following 17 sites are *not eligible* for listing in the National Register of Historic Places (NRHP) and the lease lot Project area no longer needs to be managed under the CRMP, and no further work is necessary. Westwood recommended a finding of *no historic properties affected*.

21SL261 - Prehistoric lithic scatter located on Fish Lake Reservoir near the eastern shore of a west projecting peninsula (site is inundated)	21SL463 - Prehistoric lithic scatter located on an island in northern extent of Island Lake Reservoir (disturbed context of stone bank revetment and developed yard)	21SL273 - Prehistoric lithic scatter located on south edge of a peninsula projecting west into Whiteface Reservoir (data for site has been exhausted)
21SL264 – Prehistoric lithic scatter (site forms indicate a natural artifact and no site is present)	21SL474 - Prehistoric lithic scatter located on an island in northeastern extent of Island Lake Reservoir (too small to contain significant information)	21SL1014 - Prehistoric lithic scatter located on south extent of a peninsula that continues west into Whiteface Reservoir (data for site has been exhausted)
21SL988 – Historic dug out structure located in a wooded area adjacent to a steep west-facing slope at the northeastern extent of a lake cabin property (site has little or no potential for subsurface remains)	21SL1242 - Prehistoric lithic scatter located on beach of on south side of peninsula of Whiteface Reservoir (data potential exhausted)	21SL421 - Prehistoric lithic scatter located on the western shore of Wild Rice Lake Reservoir (GPS centroid is 5 m from shoreline and heavily impacted by yard/cabin development)
21SL307 - Prehistoric lithic scatter located north of the dam on the Cloquet River in the southwest portion of Island Lake Reservoir along shore of a large peninsula (data potential has been exhausted)	21SL266 - Prehistoric lithic scatter located on an island in northeastern extent of Island Lake Reservoir (currently below current reservoir pool level)	21SL422 - Prehistoric lithic scatter located on the western edge Wild Rice Lake Reservoir (GPS centroid is 8 m west of current shoreline)
21SL347 - Prehistoric lithic scatter located on an island in Island Lake Reservoir (GPS centroid at entry of the dock to water/destroyed depositional context)	21SL267 - Prehistoric lithic scatter located on south-projecting, narrow spit of land extending into Whiteface Reservoir (data potential for site has been exhausted)	21SL424 - Prehistoric lithic scatter located on the western edge Wild Rice Lake Reservoir (GPS centroid is 7 m west from current shoreline, heavy disturbance)
21SL440 - Prehistoric lithic scatter located on an island in Island Lake Reservoir (located on gravel beach/sand bar, destroyed depositional context)	21SL270 - Prehistoric lithic scatter located on southwest edge of peninsula projecting west into Whiteface Reservoir (data potential for site has been exhausted)	

Westwood recommended the following 2 sites are *eligible* for listing in the NRHP and the lease lot Project area continues to be avoided and monitored per the CRMP.

21SL262 – Prehistoric lithic scatter. The GPS centroid places the site on a north projecting spit of land along the northeastern shore of a west-projecting peninsula in Fish Lake Reservoir (based on previous investigations, site continues to be monitored and monitored per CRMP)
21SL420 - Prehistoric lithic scatter located on a peninsula on the northwestern shore of Wild Rice Lake Reservoir.

Westwood recommends the following 14 sites have not been relocated and are therefore *unevaluated* for listing in the NRHP; therefore, the lease lot Project area no longer needs to be managed under the CRMP, and no further work is necessary. Westwood recommended a finding of *no historic properties affected*.

21SL394 – Prehistoric lithic scatter located in an undeveloped wooded area south of Fish Lake Dam (site submerged and below current pool level)	21SL312–Prehistoric lithic scatter located on an island in Island Lake Reservoir (currently below current reservoir pool level)	21SL431 - Prehistoric lithic scatter located at the end of an inlet at southwestern shore of Island Lake Reservoir (currently submerged)
21LS295 - Prehistoric lithic scatter located south end of a peninsula projecting west into Island Lake along the beach area (located below the current reservoir pool level)	21SL329 - Prehistoric lithic scatter located on an island within Island Lake Reservoir (currently inundated and below reservoir pool level)	21SL445 - Prehistoric lithic scatter located on north shore of Island Lake Reservoir (currently below current reservoir pool level)
21SL309 - Prehistoric lithic scatter located on the south shore of an island in Island Lake Reservoir (site location under the reservoir pool level)	21SL349 - Prehistoric lithic scatter located on a landform in Island Lake Reservoir (GPS centroid in the lake)	21SL447 - Prehistoric lithic scatter located on northern shore of Island Lake Reservoir (covered by marsh land and lake)
21SL310 - Prehistoric lithic scatter located in an undeveloped wooded area south of Fish Lake Dam (site submerged and below current pool level)	21SL358 - Prehistoric lithic scatter located on cove shoreline facing south towards Island Lake Reservoir (GPS centroid in wetland)	21SL423 - Prehistoric lithic scatter located near the western shoreline of Wild Rice Lake Reservoir (GPS centroid is 10 m west from the beach)
21SL311 - Prehistoric lithic scatter located on the southern shore of a peninsula on the north side of an island in the northeastern extent of Island Lake Reservoir. (below the current reservoir pool level)	21SL360 - Prehistoric lithic scatter located on north shore of Island Lake Reservoir (GPS centroid in lake)	

Westwood identified the following historic resources that are both considered *eligible* for the NRHP. The proposed undertaking will not adversely impact the dams. Westwood recommended a finding of *no historic properties affected*.

Fish Lake Reservoir Dam (SL-FRE-002)
Island Lake Reservoir Dam (SL-FRE-003)

Most all archaeological sites listed above are prehistoric sites that demonstrate an extended history of Tribal cultural use in the Project area. The Project falls proximal to the northern border of the Fond du Lac Reservation and the Band's resources. The Project is also within the 1854 Ceded Territory where the Ojibwe People retain treaty/usufructuary rights on off reservation ceded lands. Treaty guaranteed rights to hunt, fish, and gather have always been, and continue to be, of great social, economic, occupational and cultural importance to the Ojibwe and all Indigenous People who reside in this area. Court decisions affirmed that treaty guaranteed rights to hunt, fish, and gather in these Ceded Territories had never been relinquished. See *Minnesota v. Mille Lacs Band of Chippewa Indians* 526 U.S. 172 (1999). These decisions constitute an expression of respect for Tribal sovereignty, and the Federal Government has a trust responsibility to protect these off reservation resources. The State of Minnesota also has certain obligations to the Tribes, in addition to a government-to-government relationship, as reflected in memoranda of understanding.

Ancient and historic overland trails, interior waterways and portages between Lake Superior and locations inland were once ubiquitous throughout northeastern Minnesota connecting important places such as villages, campsites, ceremonial sites, hunting, gathering, and fishing grounds, seasonal locations, and trade centers. This extensive social and trade network was established by Indigenous People long before the first European explorers, fur traders, and missionaries travelled the same routes (*Hart, Irving H. The Old Savanna Portage, Minnesota History Magazine, vol. 8, no. 2, 1927, pp. 117-139. Minnesota Historical Society*). Some of these pathways were documented on the original General Land Office (GLO) survey maps and field notes created between 1863-1892. Additionally, in the 1960s J.W. Trygg compiled a series of composite maps covering Minnesota that were derived from original GLO maps and other sources. These maps depict numerous historic cultural features within or

proximal to the Project APE including trails, portages, homesteads, and villages in the early 1870s. A notable trail within and proximal to the Project APE includes the Vermillion Trail, which was part of the extensive interconnected network representing historic properties that comprise a larger cultural landscape that encompassed a multitude of culturally important locations.

Considering best lease lot management practices and archaeological site monitoring, we concur that the Project will have *no adverse effect* on the NRHP eligible archaeological sites identified. For the prehistoric sites that are currently below the reservoir pool level, based on the location coordinates, we recommend that these sites are reassessed during a future drawdown to determine whether they remain present in submerged locations. Additionally, we do not have concerns in regard to the Project boundary adjustments but would appreciate continued updates and consultation on this Project and other Projects that impact Tribal lands.

We appreciate your commitment to continued consultation. If you have any questions or comments, please contact me at jillhoppe@fdlrez.com or 218-878-7129.

Sincerely,

Jill Hoppe

Jill Hoppe
Fond du Lac Tribal Historic Preservation Officer

cc via email:

Wayne Dupuis, Environmental Program Manager, Fond du Lac Band of Lake Superior Chippewa