



June 19, 2017

Gina Bonsignore, Hearing Officer
c/o Scientific and Natural Areas Program
Minnesota Department of Natural Resources
1200 Warner Road, St. Paul, MN 55106

VIA U.S. and E-MAIL
sna.dnr@state.mn.us

RE: Mississippi River Islands SNA – Proposal to Vacate Portion of SNA

Dear Ms. Bonsignore:

I represent the Minnesota Native Plant Society, incorporated in 1983 for the purposes, in part, of preserving native plants, native communities, and scientific and natural areas. I serve on its Board of Directors and as Chair of its Conservation Committee.

On behalf of the Minnesota Native Plant Society, I thank you for the opportunity to provide written comments to the Minnesota Department of Natural Resources' proposal to vacate and transfer administrative control of a portion Mississippi River Islands Scientific and Natural Area. Specifically, the proposal is to transfer 5.5 acres on the west end of 142-acre Dimmick Island to the DNR Parks and Trails Division, to be administered as a campsite on the Mississippi River state water trail.

These comments are intended to supplement and amend my oral comments provided during the public hearing in Elk River, MN on June 14, 2017.

1. Oppose land vacation, campsites and other incompatible uses. The Minnesota Native Plant Society opposes the vacation of any portion of this SNA. We also oppose any campsite, picnic area, hunting, trapping, domestic animal, and other incompatible uses on Dimmick Island. As Friends of Minnesota Scientific and Natural Areas, the Izaak Walton League, and I have testified at the June 14, 2017 hearing, camping is never a compatible use. The risk of fire, removal of wood (dead or alive), and trampling of sensitive plant species will increase. Part of Dimmick Island is likely to be flooded at various times. Human waste will contaminate ground water and/or the Mississippi River.

2. Administrative mistake should be corrected and not set adverse precedent. Based on information provided by DNR staff during the June 14th public hearing, the DNR made an administrative mistake. This SNA was designated via Commissioner's Order #8, signed on March 22, 1979. The campsite was built in 1980, contrary to Minnesota Rule 6136.0550, Subpart 1, which prohibits camping and picnicking on an SNA.

Allowing an administrative mistake to continue for 37 years does not justify its perpetuation. Retroactively approving the campsite would set an adverse precedent – i.e. if the mistake continues long enough, we look the other way.

A mistake that negatively impacts an SNA should be corrected, no matter how long the mistake has occurred. Otherwise, how can we improve our natural world?

In addition, the affected area should be restored to a condition consistent with the ecology of the Dimmick Island and the purposes of the SNA program.

3. Deed Condition is Irrelevant. According to the 1979 Commissioner's Order, "In accordance with the conditions of the Deed ... the ... Mississippi Scenic and Recreational River Islands Scientific and Natural Areas will be managed and the land administered ... in accordance with the provisions of the 'Minnesota Wild and Scenic Rivers Act' of 1973 and any amendments thereto which provide substantially the same protection to the lands as the Minnesota Wild and Scenic Rivers Act of 1973." [Note: the deeds are dated April 27, 1978.] However, this act, codified in Minnesota Statute 103F.301-.345 and Minnesota Rule 6105, does not require camping.

Furthermore, Minn. Stat. 103F.345 states, "CONFLICT WITH OTHER LAWS. A river in the wild and scenic rivers system is subject to the provisions of sections 103F.301 to 103F.345, except that in case of conflict with some other law of this state the **more protective provision shall apply.**" [Emphasis added.] In 1978, this language was codified as 104.40.

Therefore, because SNA laws prohibiting camping are more restrictive, any less restrictive requirement of the Minnesota Wild and Scenic Rivers Act does not apply. Also, by extension, a less restrictive requirement in the 1978 deed "condition" referencing the Minnesota Wild and Scenic Rivers Act does not apply. In other words, this SNA must not allow camping.

4. A campsite is contrary to the purpose of an SNA. The purpose of a Scientific and Natural Area ("SNA") is "... to protect and perpetuate in an undisturbed natural state those natural features ..." [Minn. Stat. 86A.05, Subd. 5(a). Emphasis added.]

Camping and the other proposed activities on westerly 5.5 acres of this SNA do not comply with the Minnesota Legislature's stated purpose.

5. A campsite is contrary to the statutory requirements to administer an SNA. "State scientific and natural areas shall be administered ... in a manner consistent with the purposes of this subdivision to preserve, perpetuate, and protect from unnatural influences the scientific and educational resources within them." [Minn. Stat. 86A.05, Subd. 5(c). Emphasis added.]

Certainly, a campsite – and other proposed activities on the westerly 5.5 acres of this SNA - are "unnatural influences" and, consequently, do not conform to the Minnesota Legislature's intent.

6. The requirements of the Minnesota Environmental Policy Act require that the campsite be moved to the mainland. During the June 14, 2017 hearing, the DNR acknowledged the existence of a 40-acre riparian parcel on the nearby mainland, managed by Parks and Trails, that is suitable for camping.

The Minnesota DNR is subject to the Minnesota Environmental Policy Act ("MEPA"). Minn. Stat. 116D.04, Subdivision 6 states:

"**No state action significantly affecting the quality of the environment shall be allowed**, nor shall any permit for natural resource management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state, **so long as there is a feasible and prudent alternative** consistent with the reasonable requirements of the public health, safety and welfare and the state's paramount concern for the **protection** of air, water, land, and other **natural resources** from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct." [Emphasis added.]

Minnesota DNR
June 19, 2017

Allowing a campsite and the other activities on Dimmick Island will significantly affect the quality of the SNA. An attempt to thwart the statutory protections of an SNA, by slicing off a portion for a campsite, has the same significant adverse effect on the SNA. The ecological integrity of Dimmick Island will be compromised.

Thus, the Minnesota Environmental Policy Act requires that, if the Minnesota DNR continues to desire a campsite, the 40-acre mainland site is a “feasible and prudent alternative” that must be used - instead of damaging a sensitive Scientific and Natural Area.

SUMMARY

The proposed vacation of a portion Dimmick Island to allow an overnight campsite and other activities:

1. Will cause significant adverse impacts to the remainder of the SNA and surrounding waters;
2. Sets an adverse precedent and perpetuates an administrative mistake made after the SNA was designated;
3. Is not required by a deed “condition”;
4. Is contrary to the purposes and administrative requirements outlined in Minn. Stat. 86A.05; and
5. Violates the requirements of the Minnesota Environmental Policy Act.

Minnesotans – and our native flora and fauna – deserve better. Please say “NO” to this proposal and protect Mississippi River Islands SNA.

Finally, please recommend that funds be devoted to restore the affected area consistent with the ecology of Dimmick Island and the SNA program.

On behalf of the Minnesota Native Plant Society, I **thank you** in advance for your kind attention and look forward to your reply.

Very truly yours,

Thomas E. Casey

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