

Mississippi Whitewater Park



Management and Operational Responsibilities

A report to the Minnesota Legislature

Pursuant to the Laws of Minnesota 2005, 1st Special Session

Chapter 1-S.F.No.69

Article 2, Sec. 3. Subd. 6



Minnesota Department of Natural Resources

February 15, 2006

Mississippi Whitewater Park

Management and Operational Responsibilities

Pursuant to the Laws of Minnesota 2005, 1st Special
Session
Chapter 1

Minnesota Department of Natural Resources
February 15, 2006

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Cover graphic is from the Feasibility Study for Mississippi Whitewater Park, Minneapolis, Minnesota, dated June 30, 1999. Prepared by McLaughlin Water Engineers and a consultant team. Site planning and illustrations by Damon Farber Associates, Inc.

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Chapter 1: Legislative Authorization, Definitions, and Executive Summary

Legislative Authorization

**Minnesota Session Laws 2005, 1st Special Session
Chapter 1-S.F. No. 69
Article 2, Section 3
Subdivision 6**

"By February 15, 2006, the commissioner shall report to the senate Environment, Agriculture and Economic Development Budget Division and the house Environment, Natural Resources, and Agriculture Finance Committees on the management and operational responsibilities for the Mississippi Whitewater Park authorized by Minnesota Statutes, section 85.0156. The report shall identify who the potential operators, owners, and managers of the park will be as well as related issues."

Definitions of operators, owners, and managers. *

The terms operators, owners, and managers are used frequently throughout this report. For the purposes of this report, following are the definitions of these terms.

Operators are responsible for major repairs and maintenance.

Owners have control of the real estate and capital improvements.

(The term "owner" is equivalent to "Non-Federal Sponsor." The US Army Corps of Engineers requires the Non-Federal Sponsor to have fee title (ownership) of the property. See pages 8-9.)

Managers are responsible for the day-to-day control and management of the site.

It should be noted that one entity could be responsible for all of these activities, one could be responsible for any two of these activities, or each activity could be handled by a separate entity.

* These definitions were developed at a September 29, 2005, meeting with the Design Coordination Team that included representatives from the Mississippi Whitewater Park Development Corporation, Xcel Energy, the University of Minnesota, the City of Minneapolis, the Minneapolis Park and Recreation Board, the National Park Service, Congressman Sabo's office, the Minnesota Department of Natural Resources, and the US Army Corps of Engineers.

Executive Summary

Where and What Is the Proposed Mississippi Whitewater Park?

The proposed location for the Mississippi Whitewater Park is on and adjacent to the Mississippi River in the vicinity of the lower St. Anthony Falls area of Minneapolis. The Park would provide a whitewater course for rafting, canoeing, and kayaking opportunities in the heart of the metropolitan area. The length of the whitewater course would be determined by the final design. The Feasibility Study outlined four alternatives between 1,650 feet and 2,580 feet in length. The Park would also provide amenities such as improved public access to the river, developed shore fishing sites, restoration of riparian vegetation, native plantings, riverfront walking trails connecting to existing trails, walking and biking paths, picnic areas, viewing areas, interpretive exhibits, and facilities to accommodate site operations and guest services.

History of the Project

- In 1998 the Minnesota Legislature allocated \$100,000 for a Feasibility Study, and authorized the creation of an urban whitewater trail along the Mississippi River in the lower St. Anthony Falls area of Minneapolis. The Study was completed in 1999 and determined that "A white water course is technically and economically feasible on the east bank of the Mississippi River in downtown Minneapolis."
- In 2000 the Federal Water Resources Development Act directed the US Army Corps of Engineers to design and construct the project "substantially in accordance with the plans described in the report entitled 'Feasibility Study for Mississippi Whitewater Park, Minneapolis, Minnesota' (106th Congress, Federal Public Law 106-541, section 527, page 2657)."
- In 2002 a Design Agreement was completed and signed between the Department of the Army and the State of Minnesota for the design of the Mississippi Whitewater Park. The Agreement defines obligations and establishes a Design Coordination Team.
- In 2003 a Draft Environmental Assessment was completed. During the Minnesota Department of Natural Resources (DNR) review of the Draft Environmental Assessment significant concerns were raised that the project design was not permissible according to Minnesota Rules 6115.0190. These Rules say, in part, that placement of fill in public waters is prohibited for the creation of uplands, and that projects must be designed to limit the placement of fill into public waters.

Current Status of the Project

In a June 29, 2005 letter from the Minnesota Department of Natural Resources to the US Army Corps of Engineers, the DNR stated its intentions to move forward with a project redesign to address the permissibility issue, and laid out other parameters and design elements the agency has for the project (see Appendix C, pages 20-21).

The Mississippi Whitewater Park is currently undergoing a project redesign to address some of the concerns raised in the original design.

The Department of Natural Resources has initiated discussions with the Minneapolis Park and Recreation Board, the University of Minnesota, and Three Rivers Park District to explore their interest in operating, owning, managing, and/or partnering in the Park.

Items that need to be Addressed

- A Non-Federal Sponsor needs to be identified, as well as operators and managers.
- Concerns exist regarding the potential costs of operating and managing the whitewater course. While the Feasibility Study indicated that after the first year of operation the course would generate revenue in excess of operating expenses, a new cost analysis should be completed following the project redesign to reexamine projected revenues and expenses.
- The project must be designed so it is in compliance with Minnesota Rules 6115.0190 FILLING INTO PUBLIC WATERS.
- The redesign needs to be in compliance with environmental rules and regulations.
- The US Army Corps of Engineers has a dredge spoils storage yard in the vicinity of the project area, on property owned by the City of Minneapolis, under the I35W bridge. The storage yard is part of an agreement the City has with the US Army Corps of Engineers in order for the US Army Corps of Engineers to provide for navigation within that section of the River. If the site were developed for a whitewater park, the dredged material would need to be appropriately accommodated.
- As the US Army Corps of Engineers requires the Non-Federal Sponsor to have fee title of the property, the land for the Whitewater Park needs to be consolidated under one entity.
- While options for access and parking are identified in the Feasibility Study, these need to be reviewed to make sure they are adequate.

Identifying Potential Operators, Owners and Managers

The Army Corps of Engineers requires that the Non-Federal Sponsor have fee title of the property. The requirement and its implications for identifying a Non-Federal Sponsor are discussed on pages 8 to 10.

Initial discussions with local units of government indicate there is interest in operating, managing, and/or partnering in the operations and management of the Park. Non-profit groups and local whitewater clubs may also have a role in partnering with the overall operations and management of the Park. It is not the intent of the Minnesota Department of Natural Resources to operate or manage the Park.

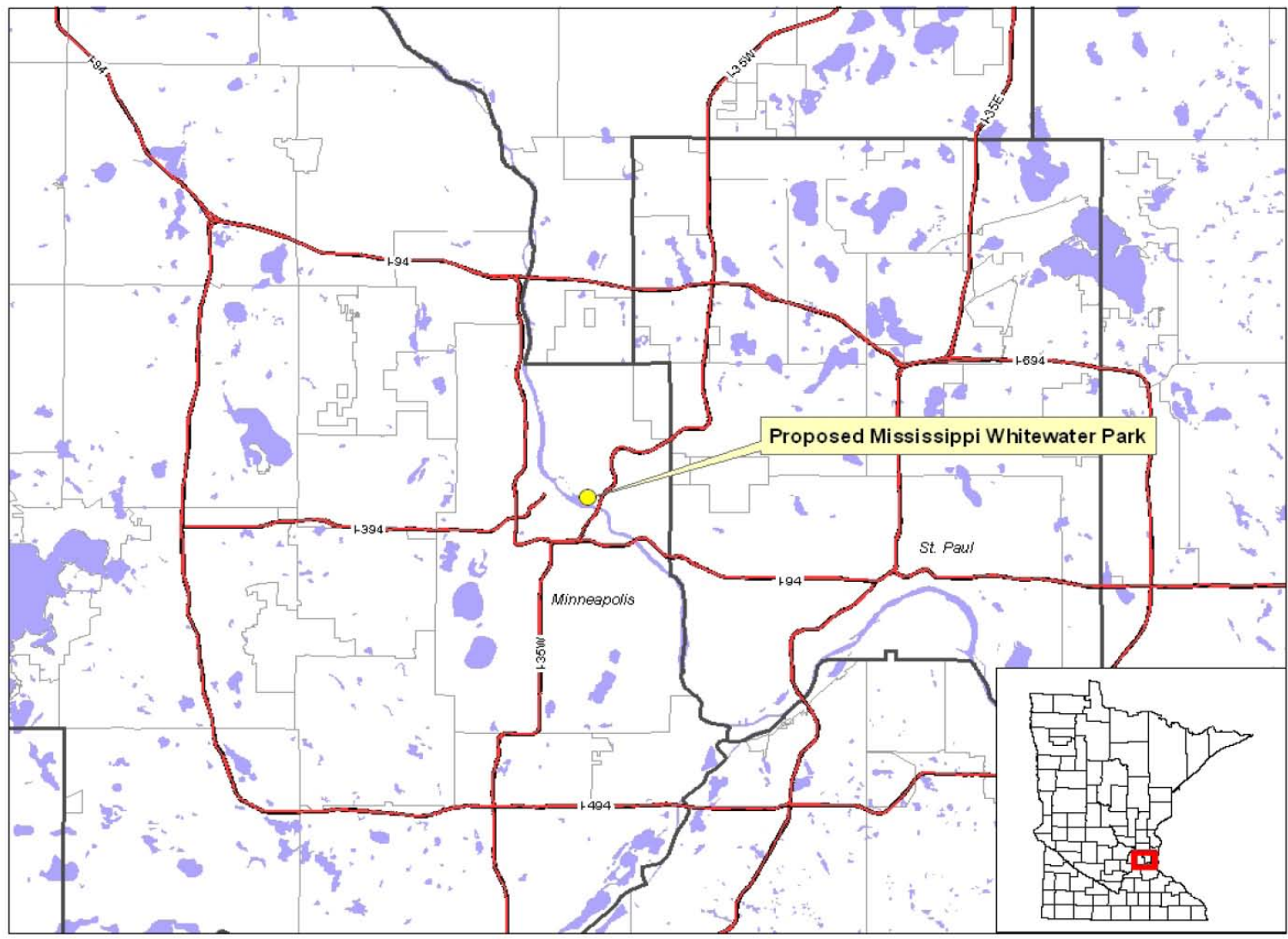
Conclusions and Recommendations

The site has the potential to provide significant multi-seasonal recreation opportunities. However, significant issues need to be addressed before a decision is made to proceed with the development of the Whitewater Park and its associated amenities. They include:

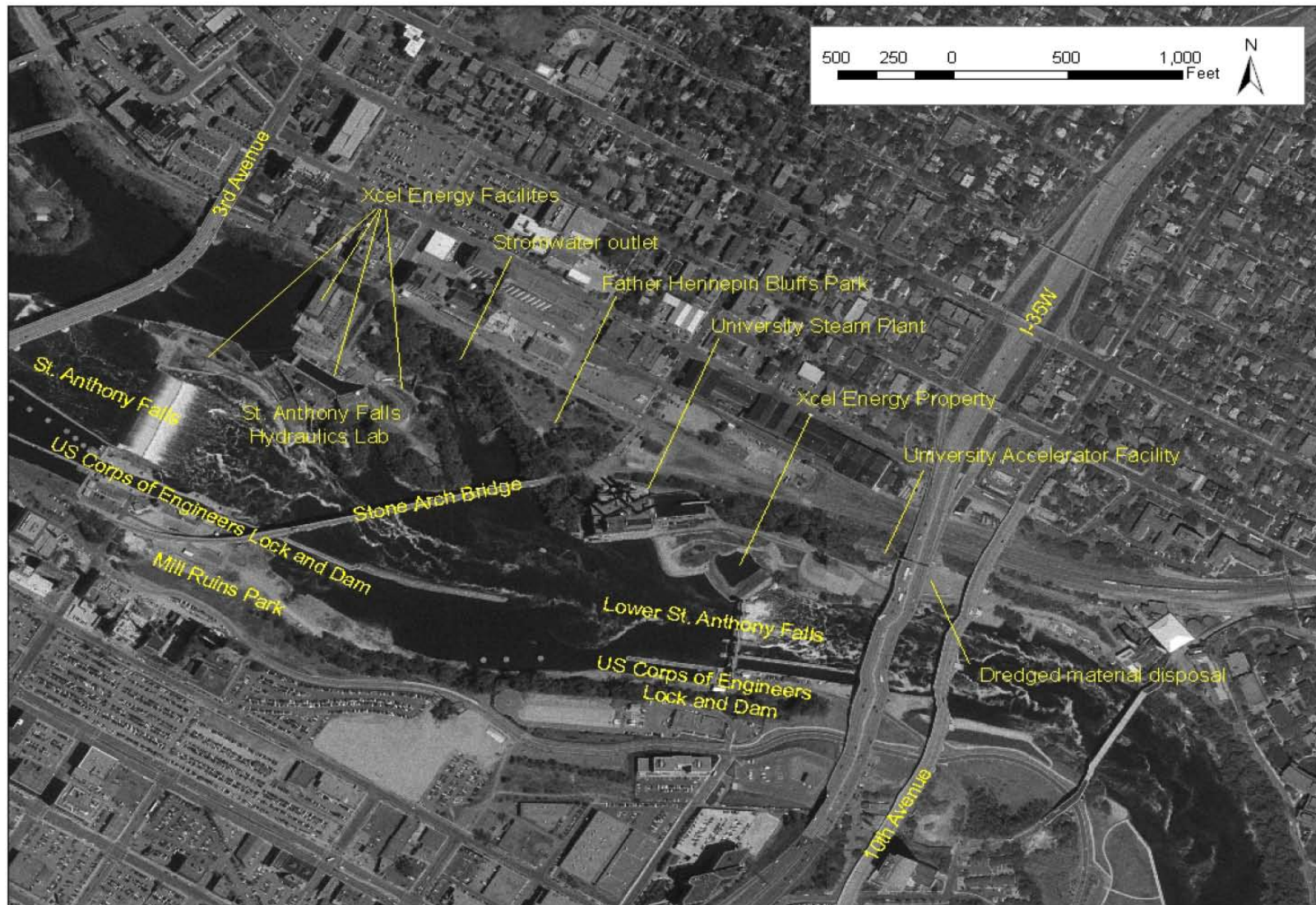
- Identification of a Non-Federal Sponsor,
- Completion of a project redesign that complies with existing rules and regulations,
- An evaluation of potential operating and management costs of the whitewater course based on the project redesign, and
- Identification of, and agreements with, operators and managers of the Park.

The Minnesota Department of Natural Resources is committed to working with the US Army Corps of Engineers and key project partners on a project redesign. If the project is technically feasible and permissible, it is recommended that a new cost analysis be undertaken. The Minnesota Department of Natural Resources is also committed to continuing to explore options for potential site operators, owners, and managers as the project redesign moves forward.

Management and Operational Responsibilities
Mississippi Whitewater Park
Minneapolis, Minnesota
Locater Map

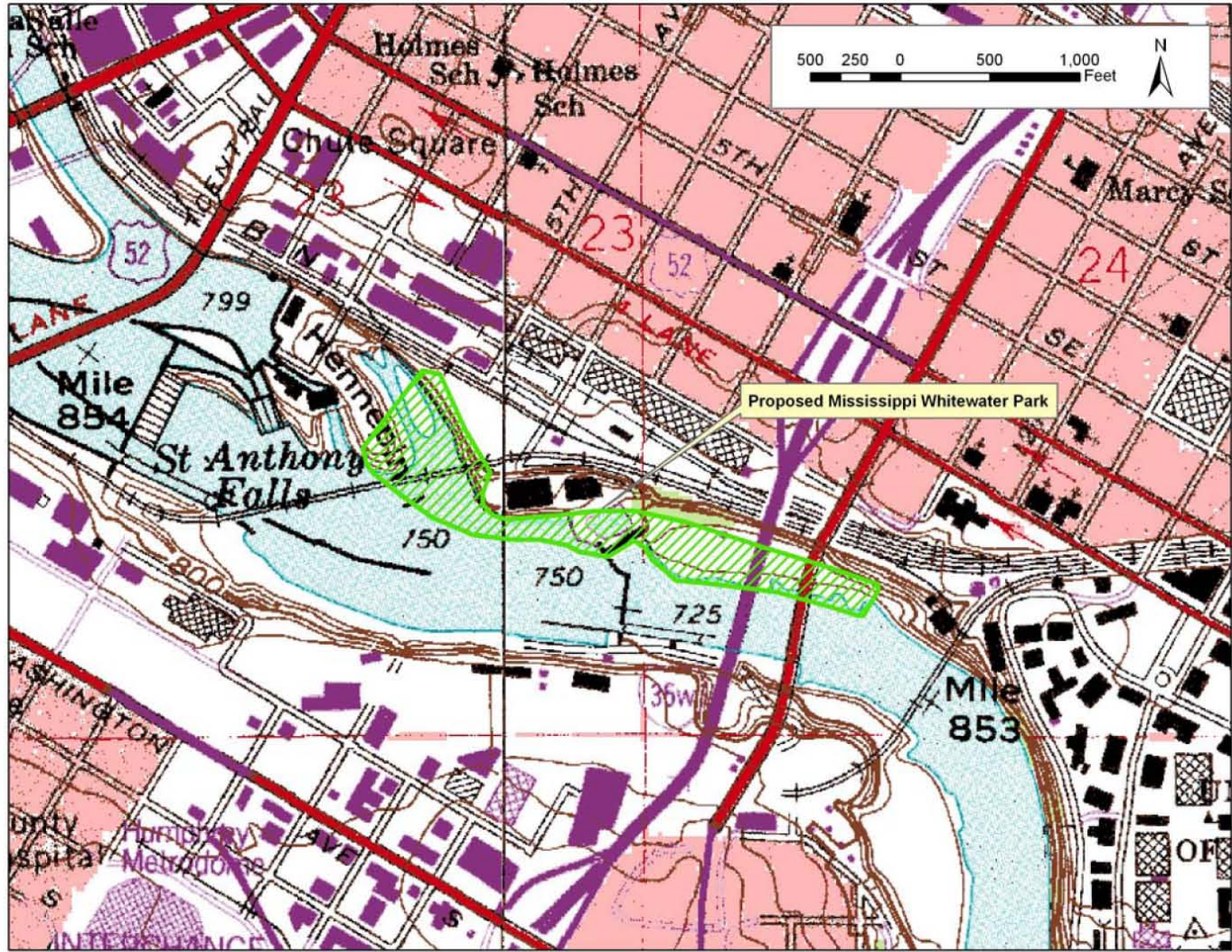


Management and Operational Responsibilities
Mississippi Whitewater Park
Minneapolis, Minnesota
Overview of Area



Mississippi Whitewater Park

Management and Operational Responsibilities
Minneapolis, Minnesota
General Site Location



Chapter 2: Overview of Project

Current Status

- The project is currently undergoing a redesign.
- The Department of Natural Resources has initiated discussions with the Minneapolis Park and Recreation Board, the University of Minnesota, and Three Rivers Park District to explore their interest in operating, owning, managing, and/or partnering in the Park.

Next Steps and Time Frame for Project Redesign

By the end of 2006

- Identify the Non-Federal Sponsor (equivalent to "owner").
- The identified Non-Federal Sponsor will need to continue to identify and have discussions with potential operators, managers, and partners.
- Complete the project redesign within the parameters the Department of Natural Resources defined for the project. As part of the redesign, involve key project partners in evaluating options before a direction is decided.
- Evaluate the redesign for feasibility of construction. This includes:
 - completion of updates to the Engineering Documentation Report, and
 - revisions and completion of the draft Environmental Assessment/Environmental Assessment Worksheet.

End of 2006, beginning of 2007

- Undertake a new cost analysis, based on the redesigned project, to project revenues and expenses for the operation of the whitewater course.
- Determine if the State of Minnesota wants to proceed with the project (build/no build decision). If so the US Army Corps of Engineers and the Non-Federal Sponsor would enter into a Project Cooperation Agreement (PCA).
- Formalize agreements with operators, managers, and partners.

January 2007 through 2008

- Obtain Federal and State funding for detailed design and construction. The State currently has \$525,000 available to provide a match to Federal funding for construction design development. As the project would be designed and constructed in phases this amount may be sufficient to begin the initial phases.
- Detailed project design.

2009

- Construction and completion. As mentioned above, a construction plan would be developed with the construction in phases. This process would run concurrent with the detailed project design.

Chapter 3: Management and Operational Responsibilities

Related Issues

Land Ownership Implications

The U.S. Army Corps of Engineers requires the Non-Federal Sponsor to have fee title of the project property. Below is the applicable text from the US Army Corps of Engineers, Real Estate Handbook, Engineer Regulation ER-405-1-12, November 1985 (with revisions), Chapter 12, Section 2:

"12-9. Determining the Appropriate Interest to Acquire.

a. General. It is the policy of USACE to acquire, or to require a non-Federal sponsor to provide, the minimum interest in real property necessary to support a project. The interests described in the following paragraphs have been determined to represent the minimum interest generally required to support the described purposes or features and must be utilized unless otherwise approved as described in subparagraph e of this paragraph. Greater or lesser interests may be appropriate depending upon the purposes of a project or other circumstances relating to project requirements or a particular acquisition.

b. Fee Title. Generally, fee title is required for the following:

- (1) dam sites;**
- (2) lock and dam sites;**
- (3) disposal and borrow areas required for future maintenance work;**
- (4) public access areas;**
- (5) recreation; and**
- (6) fish and wildlife mitigation lands, ecosystem restoration, and other environmental purposes. However, a lesser, or easement estate, may be appropriate based on the extent of interest required for the operation or requirements of a project.**
- (7) disposal areas located on fast land that are required for commercial navigation projects for a harbor or inland harbor.**

c. Permanent Easements. Generally, permanent easements are required for the following:

- (1) levees, floodwalls and other permanent structures;**
- (2) flowage areas;**
- (3) ponding areas for dry dams;**
- (4) channel rectification works and adequate access thereto;**
- (5) areas impacted by induced flooding where the impact rises to the level of a taking;**
- (6) roads;**
- (7) waterway improvements and the right to permanently flood areas needed for navigation pools;**
- (8) the construction and maintenance of aids to navigation (the location and extent of land required for aids to navigation shall be coordinated by the District Commander with the local Coast Guard District Commander at the time the land is being obtained).**

d. Temporary Easements. Generally, temporary easements are required

for the following:

(1) adequate access and work areas required during construction of the project;

(2) disposal areas for all projects other than commercial navigation projects for a harbor or inland harbor if needed only to support construction; and

(3) Borrow Areas. While a temporary easement is generally required to support borrowing of materials, it is noted that small amounts of borrow materials, or disposal capacity, may sometimes be supplied by the construction contractor through use of a readily available commercial site. If so determined by an analysis conducted by PM, Engineering, Real Estate and other District and non-Federal sponsor offices, and if no other constraints exist, the construction contract solicitation documents should clearly request bids therefor and provision of such materials or capacity by the construction contractor would be in the nature of a construction item not LERRD (lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas). In no instance, however, should a contractor be required to provide lands, easements or rights-of-way (LER) for the project in support of borrow or disposal.

e. Approval Authority. Unless approved as part of a Real Estate Plan (REP) contained in an approved decision document for the project, requests to deviate from application of the interests required by subparagraphs b., c., or d. of this paragraph, together with adequate justification, must be forwarded in writing through Division to HQUSACE (ATTN: CERE-AP) for coordination, review and approval."

Potential Operators, Owners, and Managers of the Park

Owners

The Non-Federal Sponsor needs to be identified.

As per the requirement noted above, the US Army Corps of Engineers requires the Non-Federal Sponsor to have fee title of the project property. A Non-Federal Sponsor needs to be able, willing, and capable of assuming ownership of the project real estate and capital improvements.

The University of Minnesota owns the majority of property proposed for the project and that property currently includes University facilities. Other property owners include Xcel Energy and the City of Minneapolis.

The University of Minnesota has discussed granting a perpetual easement for this project, at fair market value, to the Non-Federal Sponsor (see Appendix D, page 22).

Xcel Energy's property is vacant and they have indicated a willingness to donate the property to a governmental entity for the project.

Mississippi Whitewater Park

Management and Operational Responsibilities

The City's property is used to store dredged materials due to channel maintenance in this pool of the Mississippi River. Previous discussions with the City have indicated the City is supportive of the project and willing to work with the US Army Corps of Engineers and the Non-Federal Sponsor to explore design solutions to appropriately accommodate the dredged materials. The assumption is if the dredged material site were relocated for the development of the Whitewater Park, the City's property would be acquired or donated to the Non-Federal Sponsor. Options for designing around the dredged material area, or relocating the dredged materials within or near the project area are also being considered.

For the purpose of this project, the US Army Corps of Engineers has determined that University of Minnesota lands are equivalent to State owned lands. The implications of the U.S. Army Corps of Engineers requirement that the Non-Federal Sponsor have fee title of the project property are, unless a deviation is requested and approved by the US Army Corps of Engineers, the State of Minnesota, as the key property owner, needs to be the Non-Federal Sponsor of the project.

In addition to the Minnesota Department of Natural Resources, other potential State entities that might serve as the Non-Federal Sponsor are the Department of Administration, the Minnesota Amateur Sports Commission, and the University of Minnesota.

To-date there has not been discussion with the Department of Administration regarding their interest in such a role. The Executive Director of the Minnesota Amateur Sports Commission indicated he did not think the legislature would be supportive of the Sports Commission assuming a role in the project. There has not been any indication, to-date, that the University of Minnesota is interested in serving as the Non-Federal Sponsor.

Operators, Managers and/or Partners

Criteria for the selection of operators include identifying an entity that would be responsible for major repairs and maintenance. Additionally they should have a willingness, capability, insurability, and experience with major repairs and maintenance.

Criteria for the selection of managers include identifying entities that would be responsible for the day-to-day control of the site. Additionally they should have the willingness, capability, insurability, experience with day-to-day management of a large-scale natural resource recreation facility, and experience managing a multiple use year-round facility.

Partners would be entities that have a long-term interest in providing a supportive role in the overall management of the Whitewater Park. This may be in seeking out corporate or foundation sponsors for funding youth programs or to expand the base amount of funding available to operate and manage the Park, to develop and provide instructional, educational, or collegiate programs, or other efforts that support and enhance the overall management of the Whitewater Park.

Discussions are underway with potential operators, managers, and/or partners of the Mississippi Whitewater Park. To-date initial discussions have been held with representatives of the Minneapolis Park and Recreation Board, the University of Minnesota, and Three Rivers Park District. Summaries of those discussions are below.

Mississippi Whitewater Park

Management and Operational Responsibilities

Minneapolis Park and Recreation Board

In a meeting between the Minnesota Department of Natural Resources and the Superintendent of the Minneapolis Park and Recreation Board, the Superintendent was very receptive to the Minneapolis Parks and Recreation Board having a role in operating and/or managing the Park. He stated he was "Genuinely interested in using this opportunity of the development of a Whitewater Park and associated recreational amenities to serve some neighborhood needs."

The Superintendent would like to see good pathways, picnic shelters and a passive recreation environment included in the project. He also mentioned that ample parking is needed. He is interested in exploring ways the Minneapolis Park and Recreation Board and the Non Federal Sponsor could mutually benefit from the project. The Department of Natural Resources will continue to dialogue with staff and representatives of the Minneapolis Park and Recreation Board to explore opportunities and options for operations, management, and/or partnerships.

University of Minnesota

The Mississippi Whitewater Park project, as currently proposed, utilizes the University of Minnesota's property. The University's written response regarding the potential role of the University in owning, managing and/or operating the Mississippi Whitewater Park can be found in the Appendix D on pages 22-23.

As the project redesign moves forward, the Minnesota Department of Natural Resources will continue to dialogue with the University to explore opportunities for collaboration.

Three Rivers Park District

In a meeting between the Department of Natural Resources and Three Rivers Park District Superintendent, Doug Bryant, and Operations staff, Bryant said if someone wanted to contract with them to run the Whitewater Park, that might be an option, particularly if the Park were operated as a regional facility. He acknowledged that jurisdiction is an issue and would defer first to the Minneapolis Park and Recreation Board. If the Minneapolis Park and Recreation Board is not interested, then Three Rivers Park District may be depending upon a variety of factors, including funding. On January 19, 2006 the Three Rivers Park Board established the following position:

Commissioners concurred that Three Rivers Park District would be willing to continue dialogue on this initiative with other interested agencies which could be included in the legislative report, but made it clear that the Park District does not wish to be the lead agency on this matter since the project is not within its jurisdiction. Commissioners directed staff to monitor the progress of this proposal and to keep them informed of its status, if it progressed.

Other Potential Contributors

Local Park advocacy groups and supporters, such as the Mississippi Whitewater Park Development Corporation, or other whitewater rafting or community supporters can play an on-going role in the promotion and advocacy of the Park. Typical roles of clubs and local organizing committees are:

- Instructional programs, including whitewater rescue training,
- Collegiate programs,
- Slalom training, and
- Attracting competitive events.

Chapter 4: Conclusions and Recommendations

Conclusions

Prior to proceeding with development of the Mississippi Whitewater Park, a Non-Federal Sponsor needs to be identified.

Initial discussions with the Superintendent of the Minneapolis Park and Recreation Board, the University of Minnesota, and the Superintendent and Operations staff of the Three Rivers Park District, and the Three Rivers Park District Board, indicate there is interest in participating in the operations and/or management of the Park, or to partner in the operations and/or management of the Park.

Recommendations

The Minnesota Department of Natural Resources should continue to seek out and dialogue with potential owners, operators, and managers for the Mississippi Whitewater Park.

The Minnesota Department of Natural Resources will involve and work with key project partners in the project redesign, and in discussions about potential owners, operators, managers, and partnerships to the extent possible.

If a Non-Federal Sponsor is identified and the Whitewater Park is developed, the Non-Federal Sponsor will need to enter into formal agreements with site operators, managers, and partners.

Appendices

Appendix A: Existing Federal and State Legislation

(Excerpted relevant language as of January 13, 2006)

Minnesota Session Laws 1998

Chapter 401-S.F.No. 3353

Sec. 4. NATURAL RESOURCES

\$100,000 in fiscal year 1998 is for engineering and hydraulic studies in conjunction with the proposed development of an urban whitewater trail along the Mississippi river in the lower St. Anthony Falls area below the stone arch bridge in Minneapolis and to examine the economic impact, market use potential, public safety concerns, environmental considerations, and land and water use impacts of the proposed Mississippi Whitewater trail. The commissioner must coordinate and work with affected local, state, and federal governments and interested citizen groups, including, but not limited to, the National Park Service, the United States Army Corps of Engineers, the University of Minnesota, the Minnesota historical society, the metropolitan parks and open space commission, the Minneapolis park board, and the Mississippi Whitewater Park Development Corporation. The commissioner must report to the senate environment and agriculture budget division and the house environment, natural resources, and agriculture finance committee by November 1, 1999, on the findings from the studies required under this item. This appropriation is available until June 30, 1999.

Minnesota Session Laws 1998

CHAPTER 401-S.F.No. 3533

Sec. 26. [85.0156] MISSISSIPPI WHITEWATER TRAIL.

Subdivision 1. [CREATION.] An urban whitewater trail is created along the Mississippi river in the lower St. Anthony falls area below the stone arch bridge in Minneapolis. The trail must be primarily developed for whitewater rafters, canoers, and kayakers.

Subd. 2. [COMMISSIONER'S DUTIES.] (a) The commissioner of natural resources must coordinate the creation of the whitewater trail by placing designation signs near and along the river and must publicize the designation.

(b) In designating the Mississippi whitewater trail, the commissioner must work with other federal, state, and local agencies and private businesses and organizations interested in the trail.

Subd. 3. [GIFTS; DONATIONS.] The commissioner of natural resources is authorized to accept, on behalf of a nonprofit corporation, donations of land or easements in land for the whitewater trail and may seek and accept money for the trail from other public and private sources.

Federal Law

**106th Congress; Federal Public Law 106-541
Water Resources Development Act of 2000
Section 527, page 2657**

(a) IN GENERAL-The Secretary, in cooperation with the State of Minnesota, shall design and construct the project for environmental restoration and recreation, Minneapolis, Minnesota, substantially in accordance with the plans described in the report entitled 'Feasibility Study for Mississippi Whitewater Park, Minneapolis, Minnesota', prepared for the State of Minnesota Department of Natural Resources, dated June 30, 1999.

(b) COST SHARING –

(1) IN GENERAL-The non-Federal share of the cost of the project shall be 35 percent.

(2) LANDS, EASEMENTS, AND RIGHTS-OF-WAY- The non-Federal interest shall provide all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction of the project and shall receive credit for the cost of providing such lands, easements, rights-of-way, relocations, and dredged material disposal areas toward the non-Federal share of the cost of the project.

(3) OPERATION, MAINTENANCE, REPAIR, REHABILITATION, AND REPLACEMENT- The operation, maintenance, repair, rehabilitation, and replacement of the project shall be a non-Federal responsibility.

(4) CREDIT FOR NON-FEDERAL WORK- The non-Federal interest shall receive credit toward the non-Federal share of the cost of the project for work performed by the non-Federal interest before the date of execution of the project cooperation agreement if the Secretary determines that the work is integral to the project.

(c) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated \$10,000,000 to carry out this section.

Federal Law

**106th Congress; Federal Public Law 106-377
VA/HUD Appropriation Act, 2001
General Investigations
See Conference Report 106-988, page 222**

\$400,000 appropriated for Lower St. Anthony Falls rapids restoration.

**Federal Law
106th Congress; Federal Public Law 106-554
Consolidated Appropriation Act, 2001
General Investigations
Appendix D, Chapter 5, page 189**

" and \$600,000 shall be available for a cost-shared feasibility study of the restoration of the lower St. Anthony Falls natural rapids in Minnesota."

**Minnesota Session Laws 2001, 1st Special Session
Chapter 2-S.F.No. 10
Section 5
Subdivision 6**

\$300,000 the first year and \$300,000 the second year are from the water recreation account in the natural resources fund for preconstruction, acquisition, and staffing needs for the Mississippi Whitewater trail authorized by Minnesota Statutes, section 85.0156. This is a one-time appropriation.

**Federal Law
107th Congress; Federal Public Law 107-66
Energy & Water Development Act, 2002
General Investigations, page 2**

". . . Provided further, That Appendix D, Chapter 5 of Public Law 106-554 is amended in the last sentence under the subheading titled "General Investigations" by striking "a cost shared feasibility study of" and inserting "planning, engineering and design activities for".

**Federal Law
107th Congress; Federal Public Law 107-66
Energy & Water Development Act, 2002
Construction General
See Report 107-258, page 69**

Appropriation for Lower St. Anthony Falls, MN for \$600k.

**Federal Law
108th Congress; Federal Public Law 108-7
Consolidated Appropriation Resolution, 2003
Construction General
See Report 108-10, page 848**

Appropriation for Lower St. Anthony Falls, MN. for \$1,000k.

**Minnesota Session Laws 2003
Chapter 128
Section 5
Subdivision 6**

The appropriation in Laws 2001, First Special Session chapter 2, section 5, subdivision 6, from the water recreation account in the natural resources fund for preconstruction, acquisition, and staffing needs for the Mississippi Whitewater trail authorized by Minnesota Statutes, section 85.0156, is available until June 30, 2005.

**Minnesota Session Laws 2003
Chapter 128
Section 5
Subdivision 6**

\$700,000 the first year is from the water recreation account in the natural resources fund for a cooperative project with the U.S. Army Corps of Engineers to develop the Mississippi Whitewater Park. Of this amount, \$525,000 is available to provide a match for \$975,000 of federal funds, in a ratio of 65 percent federal to 35 percent state, for construction design development. \$175,000 is available for use by the department for project management, including costs for the project review team, real estate acquisition, staff coordination of the project, and legal services.

**Minnesota Session Laws 2003, 1st Special Session
Chapter 13-H.F. No. 13
Section 3**

Minnesota Statutes 2002, section 85.0156, subdivision 1, is amended to read: Subdivision 1. [CREATION.] An urban whitewater trail is created along the Mississippi river in the lower St. Anthony falls area ~~below the stone arch bridge~~ in Minneapolis. The trail must be primarily developed for whitewater rafters, canoers, and kayakers.

**Federal Law
108th Congress; Federal Public Law 108-137
Energy & Water Development Appropriation Act, 2004
Construction General
See Report 108-357, page 95**

Appropriation for Lower St. Anthony Falls Rapids Restoration, Minneapolis, for \$750k.

**Federal Law
House Report 4818
2005 Omnibus Bill
Construction General**

Appropriation for \$50k

The appropriation in Laws 2003, chapter 128, article 1, section 5, subdivision 6, from the water recreation account in the natural resources fund for a cooperative project with the United States Army Corps of Engineers to develop the Mississippi Whitewater Park is available until June 30, 2007. By February 15, 2006, the commissioner shall report to the senate Environment, Agriculture and Economic Development Budget Division and the house Environment, Natural Resources, and Agriculture Finance Committees on the management and operational responsibilities for the Mississippi Whitewater Park authorized by Minnesota Statutes, section 85.0156. The report shall identify who the potential operators, owners, and managers of the park will be as well as related issues.

Appendix B: Federal and State Funding Summary

(as of January 9, 2006)

Total estimated project costs: *	\$26,000,000	<u>Appropriated</u>	<u>Spent</u>
		\$4,800,000	\$1,575,750
Cost share Federal 65%	\$16,900,000	\$3,400,000	\$ 887,000
State 35%	\$ 9,100,000	\$1,400,000	\$ 688,750

*(Based on Corps of Engineers Engineering Documentation Report, 2003)

Federal

(Water Resource Development Act (WRDA) of 2000 authorized \$10,000,000.00. Proposed increase to \$25,000,000.00 in WRDA 2003.)

<u>Past appropriations:</u>	<u>Appropriated</u>	<u>Allocated</u>	<u>Spent</u>	<u>Available</u>
2001 General Investigations	\$1,000,000 ¹	\$ 823,000	\$ 823,000 ²	0
2002 Construction General	\$ 600,000 ³	\$ 600,000 ⁴		\$ 600,000
2003 Construction General	\$1,000,000 ³	\$ 815,000 ⁴		\$ 815,000
2004 Construction General	\$ 750,000 ⁵	\$ 640,000	\$ 47,000 ⁶	\$ 593,000
2005 Construction General	<u>\$ 50,000¹⁴</u>	<u>\$ 45,000</u>	<u>\$ 17,000¹⁷</u>	<u>\$ 28,000</u>
Total	\$3,400,000	\$2,923,000	\$ 887,000	\$2,036,000*

Future Federal appropriations needed: **\$13,500,000¹⁵****State****Past appropriations:**

1998 Feasibility Study	\$ 100,000 ⁷	\$ 100,000	\$ 100,000	0
2001 Preconstruction, acquisition and staffing.	\$ 600,000 ⁸	\$ 600,000		
State match to Fed. \$	\$333,000		\$ 273,400 ⁹	\$ 59,600
DNR project management	\$267,000 ¹⁰		\$ 267,000	0
2003 To develop the Miss. Whitewater Park	\$ 700,000 ¹¹	\$ 700,000		
State match to Fed. \$	\$525,000 ¹²			\$ 525,000
DNR project management	\$175,000 ¹³		<u>\$ 48,350</u>	<u>\$ 126,650</u>
Total	\$1,400,000	\$1,400,000	\$ 688,750	\$ 711,250

Future non-federal funding needed: = \$7,700,000
 - \$4,000,000 (Land Credits)¹⁶
 = **\$3,700,000 (Bonding)**

(*Approximately \$3,000 of the \$2,036,000 is currently available. \$2,033,000 has been reprogrammed by the COE to be paid back when needed.)

¹ 106th Congress; Federal Public Law 106-377 (\$400,000) and 106-554 (\$600,000).

² Spent between 2001 and September 2003, on the EDR and the Draft EA.

³ 107th Congress; Federal Public Law 107-66 (\$600,000) and 108th Congress; Federal Public Law 108-7 (\$1,000,000).

⁴ Total = \$1,415,000.

⁵ 108th Congress; Federal Public Law 108-37.

⁶ Approximately \$47,000 spent in FY04 for staffing, planning, etc.

⁷ Minnesota Session Laws 1998, Ch. 401, Sec. 4. General Fund dollars for the Feasibility Study.

⁸ Minnesota Session Laws 2001, 1st Special Session, Ch. 2, Sec. 5, Subd. 6. Water Recreation Account. Was extended until June 30, 2005.

⁹ The COE spent \$273,400 of the \$333,000 for the EDR and Draft EA. \$59,600 is remaining for future EDR work.

¹⁰ For preconstruction, acquisition, and staffing needs.

¹¹ Minnesota Session Laws 2003, Ch. 128, Article 1, Sec. 5, Subd. 6. Water Recreation Account. Expired June 30, 2005.

Was extended until June 30, 2007 (Minnesota Session Laws, 2005, 1st Special Session, Ch. 1, Article 2, Sec. 3, Subd. 6).

¹² To provide a match for \$975,000 in federal funds (2003) for construction design development.

¹³ For project management, including costs for project review team, real estate acquisition, staff coordination of the project, and legal services.

¹⁴ 108th Congress; Consolidated Appropriations Act, 2005. House Report 4818, Construction General.

¹⁵ \$16,900,000 (estimated Federal share) - \$3,400,000 (appropriated thus far) = \$13,500,000 still needed.

¹⁶ Estimated land value of U of M, Xcel Energy's, and MPRB property.

¹⁷ For planning and staffing needs.

(revised January 9, 2006 by CAW)

Appendix C: Letter to the Army Corps of Engineers from the Minnesota Department of Natural Resources

June 29, 2005

Colonel Michael F. Pfenning
US Army Engineer District, St. Paul, CEMVP
190 5th Street East
St. Paul, MN 55101-1638

RE: Mississippi Whitewater Park Project

Dear Colonel Pfenning:

The Minnesota Department of Natural Resources (DNR) is moving forward with a redesign of the Mississippi Whitewater Park. No decision has been made to move forward with development of the project nor were any new funds requested for bonding dollars for development. If the project is developed, the DNR will not operate the facility and will seek others for management of the facility.

Parameters the agency has for the project, include:

- a. The redesign must be permittable.
- b. The redesign will be within the parameters of the existing State and Federal legislation.
- c. There will be a variable flow structure (for safety, maintenance, ability to accommodate various skill levels, revenue generation).
- d. Dredge materials must be appropriately accommodated.
- e. The project should be developed so that a safe and secure site for recreationists, visitors, and property results.
- f. There will be an iterative redesign process between the DNR, the Corps of Engineers, and the key project partners.

Design elements the agency would like included in the project include:

- a. A recreational whitewater course for kayaking, canoeing, and rafting.
- b. Improved access to the river and formal shore fishing opportunities.
- c. Restoration of riparian vegetation.
- d. Native planting.
- e. Riverfront walking trails connected to existing trails.
- f. Improved fish habitat outside of the artificial whitewater channel.
- g. Whitewater channel design that allows for self rescue (for safety and to reduce management costs).
- h. Material used for the whitewater channel that will withstand 100-year floods (to reduce maintenance costs and loss of structure material).
- i. Creation of rapids in the whitewater channel.
- j. Walking and biking paths.
- k. Picnic areas.
- l. Viewing areas.

Mississippi Whitewater Park

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- m. Interpretive exhibits, information kiosk.
- n. Structure(s) to include accommodations for operations, guest services, rest rooms/showers, potable water, sales/rentals, food/concession operations, general purpose, support space, boat/equipment storage.
- o. Use of natural materials, such as rock, to visually tie into the surrounding landscape.
- p. The project should be accessible for citizens with disabilities.
- q. Integration with nearby parks and University property.
- r. Integration of Xcel's property (adjacent to Lower St. Anthony Falls) into the design.
- s. Water will be diverted from the main channel.
- t. Design should not preclude future restoration of the Mississippi River Gorge from Saint Anthony Falls to the confluence of the Minnesota River.
- u. Design should keep operability and maintainability in mind and yield economic benefits beyond costs.
- v. The project should be designed to link to other recreational opportunities.
- w. The project should be designed to discourage fish passage through the whitewater channel.
- x. Adequate flows should be maintained in the main channel to protect aquatic values.

We look forward to working with you during this process. Cynthia Wheeler is the DNR project manager for the redesign process. She can be reached at 651-296-0735, e-mail: cynthia.wheeler@dnr.state.mn.us.

Sincerely,

Courtland Nelson, Director
DIVISION OF PARKS AND RECREATION

- c: Commissioner Gene Merriam
Deputy Commissioner Mark Holsten
Assistant Commissioner Brad Moore
Mark LaBarbera
Kent Lokkesmoe
Laurie Martinson
Lee Pfanmuller
Tim Bremicker
John Guenther
Steve Hirsch
Pat Arndt

Appendix D: Letter from the University of Minnesota to the Minnesota Department of Natural Resources

UNIVERSITY OF MINNESOTA

Twin Cities Campus

*University Services
Office of the Vice President*

*317 Morrill Hall
100 Church Street S.E.
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January 27, 2006

Mr. Courtland Nelson, Director
Minnesota Department of Natural Resources
Division of Parks and Recreation
500 Lafayette Road
St. Paul, MN 55155-4039

Dear Mr. Nelson:

On behalf of University staff representing Capital Planning, Real Estate, and University Relations, I would like to express our appreciation to you and Cynthia Wheeler for meeting with us to provide a status report on the proposed Mississippi Whitewater Park project. The following is a response to your questions regarding the potential role of the University in owning, managing and/or operating the Mississippi Whitewater Park.

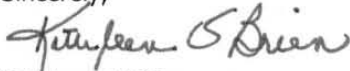
In the process of internally discussing the role of the University as a potential operator, manager, and/or owner of the proposed project, we reviewed the lists of issues we developed previously in response to the project. The attached lists (also previously provided) are, from the University's perspective, still relevant with regard to the Southeast Steam Plant, St. Anthony Falls Laboratory, and the Tandem Accelerator Facility. The University believes that these issues will affect the feasibility and cost of the proposed project, and therefore need to be explored and addressed prior to the project moving forward. To summarize the University's primary concerns are:

- 1) The safe, secure, and uninterrupted continuing operation of the Southeast Steam Plant and the connecting transmission links to the Minneapolis Campus (the University has invested approximately \$130 million in these facilities) are essential to the continuing successful operation of the University.
- 2) The St. Anthony Falls Laboratory is one of eight federally funded labs and the lead research center for Earth-Surface Dynamics in the country. The product of the research conducted therein and on site is of significant importance to the state (DNR, MNDOT), the region, and the country.
- 3) While activities at the Tandem Accelerator building can be relocated, it is assumed that relocation will be programmatically sensitive and an expensive proposition.

While the leadership at this institution generally supports potential projects like the proposed Mississippi Whitewater Park, it does not believe the project has been defined sufficiently for the University to take a position on the project. We do acknowledge that the proposed location of the Mississippi Whitewater Park is along the river bank owned by the University, and that the University has discussed granting a perpetual easement for this project based on appraised value. Also, the University, principally through outreach initiatives of its Recreational Sports Department, could potentially be interested in offering instructional programs, if the project were to be constructed.

The University is providing these comments to assist with your requirement to report to the Legislature this February. I believe the concept of identifying the owner, manager, and operator of the park prior to proceeding with the development is prudent. The University respectfully urges you to consider the issues critical to the operation of our institution. Thank you again for meeting with us.

Sincerely,



Kathleen O'Brien
Vice President, University Services

CC: Robert H. Bruininks, President
Jan Morlock, Director, External Relations
Richard Pfitzenreuter, CFO and Vice President of Finance
Harvey Turner, Associate to, Capital Planning and Project Management
Susan Carlson Weinberg, Director, Real Estate

Appendix E: Operating Models

A number of different models exist for the ownership, operations, and management of whitewater parks. Local units of government run some (such as Confluence Park in Denver, Colorado). Some are run by non-profit organizations (such as the Adventure Sports Center International in McHenry, Maryland). Some are owned by one governmental entity and operated by another. The for-profit sector is also becoming involved with the designing, building, and operating of whitewater parks.

Examples of Owner/Operator/Manager Models

Twenty-three of the whitewater courses in the United States are in the Rockies, the Midwest has 3, the Northeast has 2, the Mid-Atlantic Region has 2, the Southeast has 2, and the West has 1. The following chart provides examples of existing or under development owner/operator/manager models within the United States.

Location/ Name of Facility	Owner	Operator	Manager
Adventure Sports Center International McHenry, Maryland	Adventure Sports Center, Inc. (a non-profit, 501 (c)(3))	Adventure Sports Center, Inc.	Adventure Sports Center, Inc.
Confluence Park South Platte River Denver, Colorado	City of Denver	City of Denver, Parks and Recreation Department	City of Denver, Parks and Recreation Department
East Race Waterway Course Off River Channel South Bend, Indiana	City of South Bend	City of South Bend, Parks and Recreation Department	City of South Bend, Parks and Recreation Department
Ocoee Whitewater Center Ocoee River Ducktown, Tennessee	U.S. Dept. of Agriculture, Forest Service	U.S. Dept. of Agriculture, Forest Service	U.S. Dept. of Agriculture, Forest Service
Truckee River Whitewater Park Reno, Nevada	City of Reno, Nevada	City of Reno, Nevada	City of Reno, Nevada Parks, Recreation & Community Services
Wausau Whitewater Park Wisconsin River Wausau, Wisconsin	Wausau Kayak & Canoe Corporation (a non-profit, 501 (c)(3))	Wausau Kayak & Canoe Corporation	Wausau Kayak & Canoe Corporation

Adventure Sports Center International

The Adventure Sports Center International (ASCI) is a 501(c)(3) non-profit group in Maryland that evolved from the 1989 World Canoe and Kayak Championships on the County's Savage River. It is a public/private partnership consisting of ASCI, state and local government, Garrett College, and the real estate developer/land owner. The real estate developer donated 550 acres of property for outdoor recreational use, pledged an annual cash contribution for 10 years, and donated another 15 acres for the whitewater course and other ASCI venues. While still in the development phases, the

Mississippi Whitewater Park

Center, upon completion, will include a whitewater course, an amphitheater, an indoor recreation area, a hall of fame/museum, and mountain biking and hiking trails. The whitewater course is built on top of a mountain, is 1600 feet in length and designed to resemble a natural waterway and recirculate the water. There will be a charge for use of the course comparable with other local vendors. Funding for the project has come from the partnership with the developer, and Federal, State, and County levels of government. The ASCI staff continues to explore partnerships and funding opportunities to include naming rights, corporate sponsorships, and equipment donations. A grand opening is scheduled for the spring of 2007.

Confluence Park

Confluence Park is located at the confluence of the South Platte River and Cherry Creek in a part of Denver that previously consisted mainly of railroad yards, manufacturing plants, and warehouses. The Park was originally designed in the 1970's as a greenway and man-made whitewater project. The development of the Park combined recreation, river front restoration, and flood control. The whitewater course is an in-river course and contains a drop-pool design and a computer controlled modulating entrance gate at the Chatfield Dam (14 miles up river). It is free of charge. The City of Denver Parks and Recreation Department maintains Confluence Park and the banks of river. The Urban Drainage and Flood Control District has control of the River for flood control and played a part in the development of the whitewater for flood control renovation and bank stabilization.

East Race Waterway

The East Race Waterway was built in 1984 in a man-made channel off of the St. Joseph's River. It was the first artificially built whitewater course in the United States and has hosted national and world whitewater slalom races. When it was developed the focus was on cleaning up a brown field area and spurring economic development in the area, as opposed to being self-supporting. In this regard it has been successful. It has generated \$58 million dollars worth of public and private investment in the area.

The course is open on weekends from June – August. When open it is staffed with 13 rescue staff along the course. Union staff that have Commercial Driver's Licenses (CDL's) are hired to transport the rafts from the end of the course back to the start. They are paid time and a half as they are working beyond their normal workweek and hence on overtime. There is a \$3.00 fee per trip that covers about half of the cost of operating the course. The remainder comes out of the City's budget. On a busy day the whitewater course hosts 500-600 people.

Ocoee Whitewater Center

The Ocoee Whitewater Center site was constructed for the purpose of holding the 1996 Olympic Canoe and Kayak Slalom competitions. The whitewater course was constructed in the middle of the Ocoee River. As part of the National Forest system, the Ocoee Whitewater Center, a four-acre recreation area, is owned and managed by the Forest Service as a multiple use recreational and educational complex. The Center offers water play, picnicking, hiking, biking, a nature-oriented gift shop, environmental education programs, and a 7,200 square foot visitor center. It sponsors year-round special events, and provides the playground for whitewater rafting and kayaking. Thirty miles of Forest Service trails, including mountain biking trails, exist on adjacent forest service property. The Tennessee Valley Authority owns and controls the water. The water levels on the Ocoee River are dam controlled so the River is not free flowing all of the time. There are scheduled releases of water. There are 24 commercial rafters who operate on the River under special permit by the Forest

Mississippi Whitewater Park

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Service. The site hosts approximately 300,000 visitors each year. There is a \$3 per day user fee per vehicle for access to the picnicking, hiking, and biking trails with a separate charge for special events.

Truckee River Whitewater Park

The Truckee River Whitewater Park was developed in the Truckee River adjacent to Reno's Wingfield Park (which is an island in the River). The Whitewater Park is composed of a north and a south channel, one on either side of the island. The channels are a total of 2,600 feet in length, with 11 drop pools, and provide a variety of whitewater activities for different skill levels. It was designed to accommodate low water flows and is operated as a "run of the river," meaning water levels for whitewater use are dependent on the general river water levels. It is free of charge. The City contracts out for major whitewater channel maintenance. The City's Park maintenance staff does routine park maintenance. The State of Nevada manages the River bottom and banks.

Wausau

The Wausau Whitewater Park is located on the Wisconsin River in downtown Wausau. The whitewater course is in a river channel (an overflow spillway from the power plant) that has been developed, modified, and improved for whitewater recreation. The whitewater course is owned, operated and managed by the Wausau Kayak & Canoe Corporation, a non-profit 501 (c)(3). The surrounding parkland is owned by the local power company but leased and maintained by the Wausau and Marathon County Parks, Recreation, and Forestry Department.

The Wausau Kayak & Canoe Corporation works with the local power company to schedule water releases (5 are scheduled for this year). They also have training camps and events. There is a \$10.00 fee per paddler to use the whitewater during a recreational release. Events may cost participants between \$25.00 and \$60.00. The Wausau Kayak & Canoe Corporation's is funded through grants from local foundations and corporate sponsors. It has received federal funding as well.

Reference List

Department of the Army and the State of Minnesota Department of Natural Resources. Design Agreement Between the Department of the Army and the State of Minnesota Department of Natural Resources for Design of the Mississippi Whitewater Park, Minneapolis, Minnesota. January-February 2002.

McLaughlin Water Engineers. Feasibility Study for Mississippi Whitewater Park, Minneapolis, Minnesota. Minnesota Department of Natural Resources. Denver, CO. June 1999.

Tetra Tech, Inc. Whitewater Park, Mississippi River, Minneapolis, Minnesota, Draft Environmental Assessment. U.S. Army Corps of Engineers, St. Paul District and Minnesota Department of Natural Resources. January 2003.

Tetra Tech, Inc. Engineering Documentation Report for Mississippi Whitewater Park, Minneapolis, Minnesota. Prepared for U.S. Army Corps of Engineers, St. Paul District and State of Minnesota, Department of Natural Resources. Citrus Heights, CA. March 2003.

This plan has been prepared in accordance with the Laws of Minnesota 2005, 1st Special Session, Chapter 1. Minnesota Statutes 3.197 requires that a report to the legislature contain the cost of preparing the report. The cost of preparing this report was \$9,500.00.
