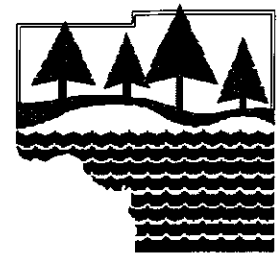


ITASCA COUNTY



REQUEST FOR BOARD ACTION

Date: _____

RBA No.: _____

Requested Board Date: 2/23/10	Originating Department: Environmental Services Department for WSN
Flexibility: No	Presenter: Brian Ross
Item: Environmental Assessment Worksheet (EAW) on the proposed Living Word Bible Camp project on Deer Lake, Sections 34/35, T57 N R26W, Ron/Judy Hunt	Estimated Time: 30 – 60 minutes

Board Action Requested:

Decision on need for an Environmental Impact Statement per Minn. Rule 4410.1700

Background:

- Comment period ended 1/27/10. RGU has 30 calendar days to make a decision on need for EIS (2/26/10).
- See attached Draft Findings of Fact and Conclusion completed by RGU's consultant, Brian Ross/ WSN.
- See attached 2/8/10 Memorandum from Assistant County Attorney Haig on the criteria and record of findings supporting decision.
- RGU's decision shall be distributed within five working days per Minn. Rule 4410.1700, Subp. 5.
- Minn. Rule 4410.2100 sets forth the EIS Scoping Process (attached).
- Per Guide to Minnesota Environmental Review Rules, any aggrieved party may appeal the decision in district court within 30 days of the date the RGU made the decision.

Alternate Action:

Administrative/TLM Division Recommendation:

- Consent Agenda NA
- Regular Agenda
- Refer to
- Table until
- Other

Supporting Documents:	<input checked="" type="checkbox"/> Attached	<input type="checkbox"/> None
-----------------------	--	-------------------------------

Signature/Date: 2/17/10 <i>Don Dewey for Brian Ross</i>	Distribution/Date: 2/17/10 Attorney/s Haig/Muhar; Coordinator Koski; Ron/Judy Hunt-LWBC; Holly Newton-Petitioner Representative; and Brian Ross, WSN	Recommended for Consent Agenda: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---	--

Clerk of Board Comments:

Signature/Date:

Board Action:	Distribution / Filing Instructions:
Approved as Requested: _____	LWBC – lwbcmn@gmail.com
Denied: _____	Holly Newton - hknewton@hotmail.com
Tabled: _____	Brian Ross – brian.ross@wsn.us.com
Other: _____	

STATE OF MINNESOTA
ITASCA COUNTY
BOARD OF COMMISSIONERS

DRAFT FINDINGS OF FACT AND CONCLUSION

**Resolution No. xxxx
Resolution Establishing Findings Of Fact and
Issuing a _____ Declaration for an Environmental Impact Statement
On the Development Known as the Living Word Bible Camp**

WHEREAS, Itasca County, as a political subdivision, organized and existing under the laws of the state of Minnesota; and;

WHEREAS, The Itasca County Board of Commissioners (County Board) has adopted zoning and subdivision regulations, Ordinance for the Management of Shoreland Areas, Subdivision Platting Ordinance for Itasca County, the Comprehensive Land Use Plan for Itasca County, including subsequent amendments, to promote the orderly, economic and safe development and utilization of land within the county; and;

WHEREAS, Living Word Bible Camp (LWBC), made a proposal to construct a bible camp/retreat center for children and adults located on 253 acres. The development will be located on property along the east shore of Deer Lake. Proposed facilities include a lodge with chapel, office, five cabins (dormitories), activity building, storage buildings, recreational facilities, ballfield, campfire area, and a trail system, and;

WHEREAS, The County Board has followed the process outlined in Minnesota rules and detailed in the Minnesota Environmental Quality Board (EQB) document titled EAW Guidelines – Preparing Environmental Assessment Worksheets to complete an Environmental Assessment Worksheet (EAW) for the proposed development by LWBC, and;

FINDINGS OF FACT

WHEREAS, the Itasca County Board of Commissioners has reviewed the EAW and all public comments, and have made the following findings of fact:

1. On April 12, 2006, Ron and Judy Hunt applied for a planned unit development and conditional use permit (PUD/CUP) for the youth bible camp/retreat and learning center on behalf of the Living Word Bible Camp.

D R A F T

2. On May 5, 2006, a petition from the EQB to complete an EAW for the project was received by the County Environmental Services Department.
3. The County Board considered the petition on May 23, 2006 and determined an EAW was not required for the project.
4. On August 30, 2006, the Itasca County Planning Commission and Board of Adjustment approved the (PUD/CUP) with many conditions regarding allowed uses in the CUP.
5. Representatives for the petitioner challenged the County Board's EAW petition decision in District Court which determined the County Board erred and should have required that an EAW be completed.
6. The District Court's determination was appealed to the Minnesota Court of Appeals, who agreed with the District Court. The July 31, 2008 Judgment indicated the County Board should complete an EAW and that any decisions on the PUD/CUP be vacated.
7. The County Board hired Widseth Smith Nolting & Associates, Inc. (WSN) in January 2009 to complete the EAW.
8. LWBC provided a packet of information including a draft EAW to the County Environmental Services Department on October 13, 2009. A copy of the packet was forwarded to WSN on the same day.
9. On November 3, 2009, LWBC submitted their wetland delineation report prepared by their consultant, SEH, to WSN.
10. On December 17, 2009, the EAW completed by WSN and approved by the County Board was submitted to the Minnesota Environmental Quality Board (EQB) for publication in *The EQB Monitor* of December 28, 2009.
11. Copies of the EAW were distributed and made available to interested persons for comment.
12. A public meeting was held on January 14, 2010 to answer questions and allow comments.
13. Written public and agency comments were received until January 28, 2010.
14. Fifty-one separate comments and/or data submittals were received during the comment period.
15. The comments included a 12-page comment letter from the Minnesota DNR concluding "There is a need to further describe various environmental effects from the project and identify specific mitigation measures that could be included as requirements of project permitting to minimize negative environmental effects".
16. After receiving public and agency comments, the County Board reviewed the comments to decide whether the need for an Environmental Impact Statement (EIS) existed. The review resulted in a "_____ declaration" concerning the need to complete an EIS.

**FINDINGS WITH RESPECT TO THE CRITERIA
FOR DETERMINING THE POTENTIAL FOR
SIGNIFICANT ENVIRONMENTAL EFFECTS**

- A. Type, extent and reversibility of environmental effects**
- 1) Past Land Use
Several comments brought up the past use of the property as a mink and fox farm and were concerned about the environmental effects of the manure from this use. The EAW documents that the farm was present

over 50 years ago and provides a 1947 aerial photograph showing 12 to 14 pen areas mainly on the east side of the proposed development area. Information received during the comment period indicates the farm had a maximum of 30 fox or mink and 11 cattle at any one time and in later years of operation had no mink or fox, but 4 horses and 5 head of cattle. During the comment period, the proposer submitted analytical results that showed no nitrates in the onsite well and very limited amounts of organic matter in the soil. Animal manure breaks down over time and there has been ample time for the manure from past use as a fox farm to decompose. It is apparent that the extent of potential environmental effects from the past land use are not significant and not in need of any further study.

2) Fish and Wildlife Resources

The existence of a substantial wildlife management area and approximately 180 acres of shallow lake areas near the development are unique to this project. Specifically, the shallow lake areas are known to be spawning areas for a native population of muskies and resting/feeding areas for waterfowl and other birds. There is a potential for the development and the lake use by campers attending LWBC to have effects on the fish and wildlife use of this area. The extent of these effects needs further study because the effects are not reversible if continued use occurs. There are many other similar camps in Minnesota including church camps and outdoor learning centers such as Deep Portage Learning Center in Cass County and Long Lake Conservation Center in Aitkin County. Additional study can include observing how these camps affect fish and wildlife resources and evaluating potential mitigation measures that could be implemented to limit these effects. The additional study can include how the residential area immediately north of Kocemba Bay affects the shallow water areas and how the effects could be cumulative with the LWBC proposed development. The study can try to answer the question on how many visits by student tour groups would have an impact on use by fish and wildlife and what damage would occur to vegetation and fish and wildlife habitat by canoes and kayaks. Further study can also include working with the DNR to identify measures that the agency would agree would limit effects of the development.

3) Boat Traffic

Concerns have been expressed by some commenters that boat traffic will affect the shallow water areas north of the development. This issue can be addressed in further study by looking at the potential effects of student tour groups on the fish and wildlife resources. The study, however, can also examine what specific conditions should be included to mitigate surface water use conflicts with other boaters.

4) Surface Water Runoff

Many of the comments received were concerned about surface water runoff to the lake and the affect on water quality of the lake. Some of the comments suggest the stormwater plan was not a detailed engineering design and further design work needed to be completed to address

surface water runoff. The Hydrological Summary included in the EAW as Appendix E was prepared by an engineer using standard hydrological engineering methods and software (HydroCAD®) and provides detailed layouts of infiltration areas and wet detention ponds. The Summary is an engineering report that contains detailed delineation of drainage (subcatchment) areas within the development and calculations on the volume and depth of runoff for 2-year, 10-year, and 100-year runoff events. It provides a discussion on the affects of the proposed development on each of the areas. The report documents a post development reduction in the amount of direct runoff to the lake and equal amounts of runoff to the wetland east of the development. The project design includes leaving vegetated buffers along the lakeshore and treating runoff in basins and ponds. As is standard engineering practice, some of these treatment features are designed to overflow to the wetlands, where the runoff will be further treated. These features will effectively prevent any significant effect on the water quality of Deer Lake. A respected Minnesota limnologist, Carolyn Dindorf, has agreed the lake is sensitive to nutrient inputs, but indicates "the phosphorus input to the lake from site runoff is expected to (be) minimal to none". The Itasca County Soil and Water Conservation District (SWCD) in their EAW review comment letter indicated the development has sound land use management practices that would reduce nutrient loads to Deer Lake. Even so, further study can look at alternatives that locate the development area farther from the lake, where no direct runoff to the lake can occur.

5) Water Quality Wastewaters

Several of the comments received were concerned about the capability of the soils to handle wastewater disposal on the site. The EAW pointed out that a groundwater mounding assessment needs to be completed to assess the design of the system and that MPCA be contacted to determine if a phosphorus assessment needs to be completed. These items can be completed as part of a study and alternative site developments can be explored and compared to the proposed development. Alternative locations for the subsurface sewage treatment system can also be assessed during further study.

6) Visual Impacts

There is a potential for some long term visual impacts due to the lodge and activity building being 30 feet and over in height in a natural setting. Further study can look at options that might reduce this impact.

7) Traffic

Some of the commenters were concerned about the potential traffic on Baker Road. Further study can assess the effects the different alternatives may have on traffic on Baker Road. Additionally, further study can also provide more information on traffic volumes and patterns by looking at other similar camps and outdoor learning centers.

- B. Cumulative potential effects of related or anticipated future projects**
The surrounding area and the shoreline of Deer Lake have limited areas where additional lakeshore development or other future projects could be constructed. The residential and farm residential zoning and the numerous wetlands, lakes, and current development will limit development to scattered residential construction that will have little cumulative effects on the environment of the area. There are no known related or anticipated projects and this area of the County is not likely to have any significant development projects because of its distance from major highways and urban areas.
- C. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority**
The County Board through the CUP process can mitigate some of the environmental effects the project could have by putting conditions in the CUP that limit use or development area. Further study can assess the effectiveness of different conditions of the CUP. Additional study can also assess how other permits, such as the NPDES Construction Stormwater Permit, can be used to provide mitigation to specific environmental effects and assess what alternative may be the easiest to permit.
- D. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EIS's previously prepared on similar projects.**
The Itasca County SWCD has recently received a grant to look at nutrient loading in Deer Lake. This study may be of use during any further studies for LWBC. An EIS completed for the Blue Heron Bay development on Dead Lake in Ottertail County has a study on boat use and mitigation options for a proposed development near a shallow natural environment portion of Dead Lake that could be used to augment the information and conditions in any CUP for LWBC.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Itasca County, Minnesota, as follows:

1. The County Board has jurisdiction in determining the need for an EIS on this project.
2. Areas where the potential for significant environmental effects exists have been identified through the EAW process.
3. Based on the criteria established in Minn. R. 4410.1700, the LWBC project has the potential for environmental effects.
4. Additional study of certain environmental issues in these Findings of Fact should be considered.

This resolution was adopted by the Itasca County Board of Commissioners.


Lori Dowling, Chair
Itasca County Board

ATTEST:

ITASCA COUNTY ATTORNEY'S OFFICE
Itasca County Courthouse
123 NE 4th Street
Grand Rapids MN 55744
phone: 218-327-2867
fax: 218-327-0605

MEMORANDUM

TO: Lori Dowling, Chairperson, Itasca County Board of Commissioners
Catherine McLynn, Commissioner
Mark Mandich, Commissioner
Rusty Eichorn, Commissioner
Karen Burthwick, Commissioner

FROM: Michael J. Haig, Assistant County Attorney 

RE: LWBC: Decision on need for EIS
Zoning/Living Word Bible Camp/EAW

DATE: February 8, 2010

It is the responsibility of the County Board to abide with the criteria provided for under law when making its decision in this matter. The purpose of this Memorandum is to set forth that criteria.

1. *Standard for Decision on Need for EIS.* An EIS shall be ordered for projects that have the potential for significant environmental effects.¹
2. *Criteria.* In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:
 - A. Type, extent, and reversibility of environmental effects;
 - B. Cumulative potential effects. The County Board shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effects; and the efforts of the proposer to minimize the contributions from the project;
 - C. The extent to which the environmental effects are subject to mitigation by on-going public regulatory authority. The County Board may rely only on mitigation

¹ Minn. Rule 4410.1700, subpart 1.

measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

- D. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.²

3. *Form and Basis for Decision.* The County Board's decision shall be either a negative declaration or a positive declaration. The County Board shall base its decision regarding the need for an EIS on the information gathered during the EAW process and the comments received on the EAW.³

4. *Insufficient Information.* If the County Board determines that information necessary to a reasoned decision about the potential for, or significance of, one or more possible environmental impacts is lacking, but could be reasonably obtained, the County Board shall either:

- A. Make a positive declaration and include within the scope of the EIS appropriate studies to obtain the lacking information; or
- B. Postpone the decision on the need for an EIS, for not more than 30 days or such other period of time as agreed upon by the County Board and proposer, in order to obtain the lacking information. If the County Board postpones the decision, it shall provide written notice of its action, including a brief description of the lacking information, within 5 days to the project proposer, the EQB staff, and any person who submitted substantive comments on the EAW.⁴

5. *Record of Findings Supporting Decision.* The County Board shall maintain a record, including specific findings of fact, supporting its decision. The record must include specific responses to all substantive and timely comments on the EAW. This record shall either be a separate prepared document or contained within the records of the government unit.⁵

6. *Distribution of Decision.* The County Board's decision shall be provided, within 5 days, to all persons on the EAW distribution list pursuant to part 4410.1500, to all persons that commented in writing during the 30 day review period, and to any person upon written request. All persons who submitted timely and substantive comments on the EAW shall be sent a copy of the RGU's response to those comments prepared under subpart 4. Upon notification, the EQB staff shall publish the County Board's decision in the EQB Monitor.⁶

cc: John J. Muhar, Itasca County Attorney
Irene Koski, Itasca County Coordinator
Donald Dewey, Environmental Services Director

2/10/10 - Scanned by Brian Ross

² Id at subpart 7.

³ Id at subpart 3.

⁴ Id at subdivision 2a.

⁵ Id at subpart 4.

⁶ Id at subpart 5.

Minnesota Administrative Rules

4410.2100 EIS SCOPING PROCESS.

Subpart 1. **Purpose.** The scoping process shall be used before the preparation of an EIS to reduce the scope and bulk of an EIS, identify only those potentially significant issues relevant to the proposed project, define the form, level of detail, content, alternatives, time table for preparation, and preparers of the EIS, and to determine the permits for which information will be developed concurrently with the EIS.

Subp. 2. **EAW as scoping document.** All projects requiring an EIS must have an EAW filed with the RGU. The EAW shall be the basis for the scoping process.

For projects which fall within a mandatory EIS category or if a voluntary EIS is planned, the EAW will be used solely as a scoping document. For such projects, the RGU shall prepare and circulate with the EAW a draft scoping decision document that addresses the contents specified by subpart 6 to the extent that information is already available. The purpose of the draft scoping decision document is to facilitate the delineation of issues and analyses to be contained in the EIS. The information in a draft scoping decision document shall be considered as preliminary and subject to revision based on the entire record of the scoping process.

If the need for an EIS has not been determined the EAW will have two functions:

- A. to identify the need for preparing an EIS pursuant to part 4410.1700; and
- B. to initiate discussion concerning the scope of the EIS if an EIS is ordered pursuant to part 4410.1700.

Subp. 3. **Scoping period.** If the EIS is being prepared pursuant to part 4410.2000, subpart 2 or 3, item B, the following schedule applies:

A. The 30-day scoping period will begin when the notice of the availability of the EAW is published in accord with part 4410.1500, items A and B. This notice and press release shall include the time, place, and date of the scoping meeting.

B. The RGU shall provide the opportunity for at least one scoping meeting during the scoping period. This meeting shall be held not less than 15 days after publication of the notice of availability of the EAW. All meetings shall be open to the public.

C. A final scoping decision shall be issued within 15 days after the close of the 30-day scoping period.

Subp. 4. **Scoping period for some discretionary EIS's.** If the EIS is being prepared pursuant to part 4410.2000, subpart 3, item A, the following schedule applies:

A. At least ten days but not more than 20 days after notice is published in the EQB Monitor, a public meeting shall be held to review the scope of the EIS. Notice of the time, date, and place of the scoping meeting shall be published in the EQB Monitor within 15 days of receipt of the proposer's scoping cost payment pursuant to part 4410.6500, subpart 1, item A, and a press release shall be provided to a newspaper of general circulation in the area where the project is proposed. All meetings shall be open to the public.

B. Within 15 days of the public scoping meeting, the RGU shall issue its final decision

regarding the scope of the EIS. If the decision of the RGU must be made by a board, council, or other similar body which meets only on a periodic basis, the decision may be made at the next regularly scheduled meeting of the body following the scoping meeting but not more than 45 days after the positive declaration is published in the EQB Monitor.

Subp. 5. **Procedure for scoping.** Written comments suggesting issues for scoping or commenting on the EAW must be filed with the RGU during the scoping period. Interested persons may attend the scoping meeting to exercise their right to comment.

Governmental units and other persons shall be responsible for participating in the scoping process within the time limits and in the manner prescribed in parts 4410.0200 to 4410.6500.

Subp. 6. **Scoping decision; contents.** The scoping decision at the least shall contain:

A. the issues to be addressed in the EIS;

B. time limits for preparation, if they are shorter than those allowed by parts 4410.0200 to 4410.6500;

C. identification of the permits for which information will be gathered concurrently with EIS preparation;

D. identification of the permits for which a record of decision will be required;

E. alternatives that will be addressed in the EIS;

F. identification of potential impact areas resulting from the project itself and from related actions which shall be addressed in the EIS; and

G. identification of necessary studies requiring compilation of existing information or the development of new data that can be generated within a reasonable amount of time and at a reasonable cost.

Subp. 7. **Change in form of EIS.** The form of an EIS may be changed during scoping if circumstances indicate the need or appropriateness of an alternative form.

Subp. 8. **Amendments to scoping decision.** After the scoping decision is made, the RGU shall not amend the decision without the agreement of the proposer unless substantial changes are made in the proposed project that affect the potential significant environmental effects of the project or substantial new information arises relating to the proposed project that significantly affects the potential environmental effects of the proposed project or the availability of prudent and feasible alternatives to the project. If the scoping decision is amended after publication of the EIS preparation notice, notice and a summary of the amendment shall be published in the EQB Monitor within 30 days of the amendment. The notice may be incorporated into the notice of the availability of the draft or final EIS.

Subp. 9. **EIS preparation notice.** An EIS preparation notice shall be published within 45 days after the RGU receives the proposer's cash payment pursuant to part 4410.6410, subpart 3, or 4410.6500, subpart 1, item B. The notice shall be published in the EQB Monitor, and a press release shall be provided to at least one newspaper of general circulation in each county where the project will occur. The notice shall contain a summary of the scoping decision.

Subp. 10. **Consultant selection.** The RGU shall be responsible for expediting the selection of consultants for the preparation of the EIS.

Subp. 11. **Modification of project; termination of EIS process.** After initiation of scoping for an

EIS, if the proposed project is modified so that an EIS is no longer mandatory, or the reasons for ordering an EIS no longer apply, the RGU may terminate the EIS process as described in items A and B.

A. If the modified project meets or exceeds any threshold for a mandatory EAW listed at part 4410.4300, an EAW must be prepared on the modified project in accordance with parts 4410.1400 to 4410.1700. The EAW shall be accompanied by a notice of termination of the former EIS explaining the changes made in the proposed project and the reasons for the termination of the EIS.

B. If the modified project does not meet or exceed any thresholds for a mandatory EAW listed at part 4410.4300 and is not exempted pursuant to part 4410.4600, the RGU shall send written notice of its intent to terminate the EIS to all persons who submitted comments on the EIS scope and to all persons on the EAW distribution list under part 4410.1500. The notice shall summarize the reasons for the intended termination of the EIS, identify a contact person to whom comments may be sent, and announce the end of the comment period. The EQB staff shall publish notice in the EQB Monitor, and a press release shall be supplied by the RGU to at least one newspaper of general circulation in the area of the project.

A period of not less than ten days from the date of publication of the notice in the EQB Monitor shall be provided for interested persons to comment on the need for an EIS on the modified project and to object to the termination of the EIS. If no written objections are received by the RGU within the comment period, the EIS process is automatically terminated upon the expiration of the comment period. If any written objections are received by the RGU within the comment period, the RGU shall consider the comments received and determine the need to continue the EIS on the modified project in accordance with part 4410.1700.

Subp. 12. Amendment of scope by order of EQB pursuant to resolution of a cost dispute. If in resolving an EIS cost disagreement pursuant to part 4410.6410, the EQB finds that the scope of the EIS is not in conformance with parts 4410.2100 to 4410.2500, the EQB may order the RGU to amend the scope of the EIS to the extent necessary to conform to the requirements of those parts, and the new scope of the EIS shall be considered in resolving the cost dispute.

Statutory Authority: *MS s 116D.04; 116D.045*

History: *13 SR 1437; 21 SR 1458; 31 SR 539*

Posted: *November 30, 2009*