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DATE: April 18, 2023

TO: INTERESTED PARTIES

RE: Shakopee Mdewakanton Sioux Community Organics Recycling Facility

The Minnesota Pollution Control Agency (MPCA) has approved the Findings of Fact, Conclusions of Law, and Order for a Negative Declaration (FOF) on the need for an Environmental Impact Statement on the Shakopee Mdewakanton Sioux Community Organics Recycling Facility. The FOF document concludes that this project does not have the potential for significant environmental effects. The decision for a Negative Declaration completes the state environmental review process under Environmental Quality Board rules, Minn. R. ch. 4410. Final governmental decisions on permits or approvals for the project may now be made.

The MPCA appreciates comments submitted on the Environmental Assessment Worksheet (EAW). The comments were considered by MPCA staff during the environmental review process and responses to these comments are provided in the FOF.

Interested parties can review the FOF and the EAW documents at the following locations: the MPCA offices in St. Paul; the Hennepin County Library at 300 Nicollet Mall, Minneapolis. Interested parties can also view the documents on MPCA's website at <https://www.pca.state.mn.us/business-with-us/recently-completed-mpca-reviews>. Please contact the MPCA's St. Paul office at 651-757-2098 for copies of these documents.

**STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY**

**IN THE MATTER OF THE DECISION  
ON THE NEED FOR AN ENVIRONMENTAL  
IMPACT STATEMENT FOR THE PROPOSED  
SHAKOPEE MDEWAKANTON SIOUX COMMUNITY ORGANICS  
RECYCLING FACILITY  
LOUISVILLE TOWNSHIP  
SCOTT COUNTY, MINNESOTA**

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

**FINDINGS OF FACT**

Pursuant to Minn. R. ch. 4410, the Minnesota Pollution Control Agency (MPCA) staff prepared and distributed an Environmental Assessment Worksheet (EAW) for the proposed Shakopee Mdewakanton Sioux Community Organics Recycling Facility (Project). Based on the MPCA staff technical review, the EAW, comments and information received during the comment period, and other information in the record of the MPCA, the MPCA hereby makes the following Findings of Fact, Conclusions of Law, and Order.

**Project Description**

1. The Shakopee Mdewakanton Sioux Community (SMSC) is proposing to develop a new organic recycling facility at 12386 Chestnut Boulevard, Shakopee, Minnesota (Project). The Project will process source separated organic material (SSOM) from residential and commercial yard and food waste into compost. The compost is either sold on its own or blended with inert materials for resale as gardening and landscape products.
2. In September 2022, SMSC submitted a permit application to the MPCA Solid Waste Program, facility permit SW-721.

**Procedural History**

3. An EAW is a brief document designed to provide the basic facts necessary for the Responsible Governmental Unit (RGU) to determine whether an Environmental Impact Statement (EIS) is required for a proposed project or to initiate the scoping process for an EIS (Minn. R. 4410.0200, subp. 24). The MPCA is the RGU for this Project.
4. Pursuant to Minn. R. 4410.1000, subp. 3(C), on February 5, 2021, SMSC submitted a discretionary (voluntary) draft EAW to the MPCA. Subsequently, an EAW on the Project was prepared by MPCA staff for publication. The MPCA provided public notice of the Project as follows:
  - A. The Environmental Quality Board (EQB) published the notice of availability of the EAW for public comment in the *EQB Monitor* on February 21, 2023, as required by Minn. R. 4410.1500.
  - B. The EAW was available for review on the MPCA website at:  
<https://mpca.commentinput.com/comment/search>.
  - C. The MPCA provided a news release to media in Scott and Carver County, Minnesota, and other state-wide interested parties, on February 21, 2023.
5. During the 30-day comment period on the EAW ending on March 23, 2023, the MPCA received comments from Scott County, Metropolitan Council, and the Minnesota Department of Natural Resources.

6. On March 28, 2023, the MPCA requested and was granted approval from the EQB for a 15-day extension of the decision-making process on the need for an EIS for the Project in accordance with Minn. R. 4410.1700, subp. 2(B).
7. The list of comments received during the 30-day public comment period are included as Appendix A to these Findings. The MPCA prepared written responses to the comments received during the 30-day public comment period. These responses are included as Appendix B to these Findings.

#### **Criteria for Determining the Potential for Significant Environmental Effects**

8. The MPCA shall base its decision on the need for an EIS on the information gathered during the EAW process and the comments received on the EAW (Minn. R. 4410.1700, subp. 3). The MPCA must order an EIS for projects that have the potential for significant environmental effects (Minn. R. 4410.1700, subp. 1). In deciding whether a project has the potential for significant environmental effects, the MPCA must compare the impacts that may be reasonably expected to occur from the Project with the criteria set forth in Minn. R. 4410.1700, subp. 7. These criteria are:
  - A. Type, extent, and reversibility of environmental effects.
  - B. Cumulative potential effects. The RGU 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 effect; 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 ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project.
  - 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.

#### **The MPCA Findings with Respect to Each of These Criteria Are Set Forth Below**

##### **Type, Extent, and Reversibility of Environmental Effects**

9. The first criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is the “type, extent, and reversibility of environmental effects” Minn. R. 4410.1700, subp. 7(A). The MPCA findings with respect to this criterion are set forth below.

The types of impacts that may reasonably be expected to occur from the Project include the following:

- Surface water quality impacts related to stormwater runoff
- Groundwater impacts related to groundwater appropriation
- Air quality impacts
- Greenhouse gas (GHG) emissions

10. With respect to the extent and reversibility of impacts that are reasonably expected to occur from the Project, the MPCA makes the following findings.

**Surface water quality impacts related to stormwater runoff**

- 11. SMSC will obtain an MPCA National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) General Construction Stormwater Permit (CSW Permit) prior to construction of the Project.
- 12. The CSW Permit will require SMSC to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) to prevent erosion and control sediment using best management practices (BMPs) to mitigate stormwater impacts. The CSW Permit will require additional BMPs to protect downstream impaired waters. This includes requirements to manage the operation of the Project to contain all precipitation up to the volume from 100-year flood design (the required design per MN Statute is a 25-year, 24-hour event).

13. The following impaired waters are within one mile of the Project:

Impaired Water	Impairments	Impaired Use	Location
Minnesota River Carver Creek to RM 22	Mercury in fish tissue, Mercury in Water Column, Turbidity, Nutrients, PCB in fish tissue	Aquatic Life, Aquatic Consumption	1 mile downgradient, west of Project
Chaska Creek	Fecal Coliform	Aquatic Recreation	1 mile northwest

- 14. The majority of the Project area will operate under a NPDES/SDS Industrial Stormwater permit (ISW Permit) issued by the MPCA and in accordance with the SWPPP. The Project will include construction and operation of one contact water reclamation building and two stormwater basins. The stormwater basins will serve as permanent stormwater management BMPs that provide stormwater quality and quantity control to mitigate the increased stormwater volume created by the Project.
- 15. The MPCA does not reasonably expect significant adverse impacts to surface water quality. However, if they were to occur, SMSC must modify operations and management of the Project according to its ISW Permit. Therefore, the MPCA finds impacts to surface water quality to be reversible.
- 16. The MPCA finds that information presented in the EAW and other information in the environmental review record are adequate to assess potential impacts to the quality of surface water related to stormwater runoff that are reasonably expected to occur from the Project.
- 17. The MPCA finds the Project, as proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts to surface water quality related to stormwater runoff, which are reasonably expected to occur.

**Groundwater impacts related to groundwater appropriation**

18. SMSC will install one new well estimated to use approximately 4 to 87 million gallons (MG) per year for a total consumption of 217 to 4,334 MG over 50 years. The Project requires a Water Appropriation Permit from the Department of Natural Resources (DNR).

19. The DNR is the permitting authority for appropriating waters of the state in Minnesota. The DNR Water Appropriation Permit allows for a reasonable use of water if the use does not negatively impact surrounding wells or other water resources.
20. The purpose of the Water Appropriation Permit is to ensure water resources are managed so that adequate supply is available for long-range seasonal requirements for domestic, agricultural, fish and wildlife, recreational, power, navigational, and water quality.
21. The DNR conducted a preliminary well construction assessment (PWCA) for a proposed test well at the Project site in the Jordan aquifer and identified several instances of well interference in the area (see Attachment D to the EAW).
22. On May 27, 2022, SMSC drilled a 320-foot test well on the Project site. The actual location of the test well was moved from the location originally assessed in the PWCA to that shown on Figure 5A of the EAW and the test well extended to the Wonewoc (Tunnel City) aquifer. SMSC subsequently conducted a specific capacity test to determine the capacity of the aquifer to meet the groundwater pumping rate needed for the Project. This test well was subsequently sealed on May 31, 2022.
23. SMSC will install a new production well on the Project site with oversight from the DNR through the Water Appropriation Permit process.
24. To date, SMSC has not submitted a Water Appropriation Permit application to the DNR for the proposed new well.
25. The DNR has yet to determine if an aquifer test is needed for this Project to determine aquifer sustainability.
26. The DNR Water Appropriation Permit balances competing management objectives, including both the development and protection of water resources. Minn. Stat. § 103G.261 establishes domestic water use as the highest priority of the State's water when supplies are limited. If a well interference arises, the DNR has a standard procedure for investigating the matter (Minn. R. 6115.0720). Where adverse well interference impacts on the domestic well are substantiated, the DNR will notify the permit holder of the facts and findings of the complaint evaluation. The permit holder then has 30 days from communication of the substantiation to choose from one of the following three options:
  - 1) Request restrictions to their permit to no longer adversely affect the domestic wells.
  - 2) Negotiate a reasonable agreement with the affected well owner.
  - 3) Request a public hearing.No pumping may commence until a settlement, negotiation, or hearing is satisfied, and the permittee shall be responsible for all costs necessary to provide an adequate supply with the same quality and quantity as prior to the interference.
27. The MPCA considered the DNR's PWCA for the Project and included the assessment of the water resources available for appropriation in the SMSC EAW as Attachment D and made it available for the public to review. The DNR water appropriation permit, if issued, will require SMSC to address and mitigate any potential groundwater impacts. All potentially significant environmental effects, if any, confirmed through an aquifer test, will be addressed, and mitigated by DNR's ongoing regulatory authority through its Water Appropriation Permit process.
28. The DNR will determine whether the aquifer can sustainably provide the requested appropriation of 4 to 87 MG of water per year. DNR will review the analysis and evaluate potential pumping impacts to nearby domestic and municipal wells, existing high-capacity users, surface water features, and aquifer safe yield that will be documented in a report for DNR Permitting staff. The DNR Water

Appropriation Permit allows for a reasonable use of water if the use does not negatively impact surrounding wells or other water resources.

29. SMSC must receive the required DNR Water Appropriation Permit before using the proposed new production well at the Project site.
30. The DNR exercises ongoing regulatory authority and oversight of the permitting of water appropriation for the Project which the MPCA considered in its EIS-Needs decision per Minn. Rules 4410.17400, subp. 17(C). If the DNR determines there is well interference based on concerns or well interference claims, they will be mitigated by DNR, through its water appropriation permit process. The MPCA finds that any groundwater impacts related to groundwater appropriation that may occur from the Project are reversible.
31. The MPCA finds that information presented in the EAW and other information in the environmental review record is adequate to address the concerns regarding groundwater impacts related to water appropriation. The impacts on groundwater related to groundwater appropriation that are reasonably expected to occur from the proposed Project have been considered during the review process and methods to prevent significant adverse impacts have been developed.
32. The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of groundwater impacts related to water appropriation that are reasonably expected to occur from the Project.

#### **Air quality impacts**

33. The operation of the Project will generate air emissions from composting, material unloading/loading, grinding, screening, roadway emissions, and fuel combustion by various types of equipment.
34. SMSC has applied for an MPCA Air Emissions Permit (Air Permit) that will contain enforceable permit limits and requirements to ensure the Project will comply with state and federal applicable requirements.
35. SMSC conducted refined air dispersion modeling using American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) to estimate criteria air pollutant concentrations from the Project.
36. SMSC also conducted an Air Emissions Risk Analysis (AERA), which predicted the hazardous air toxic pollutant emissions from the Project.
37. The results of the refined air dispersion modeling and AERA concluded the Project will not adversely impact air quality. The air emissions from the Project would meet the National Ambient Air Quality Standards (NAAQS) and would not pose any acute inhalation health hazards or any sub-chronic or chronic multi-pathway health hazards to the public. Furthermore, the proposed Project would not pose significant excess lifetime cancer risks to the public. The results presented in the AERA show that the health risks and hazards for the Project meet the thresholds set by the Minnesota Department of Health.
38. With respect to the reversibility of air quality impacts that are reasonably expected to occur from the Project, air emissions will continue while the Project remains in operation and would cease only if the Project were to temporarily or permanently close. While in operation, the Project is expected to meet applicable air quality standards and criteria. If excessive air emissions or violations of the ambient air standards were to occur, air quality impacts are likely to be temporary in nature and because of ongoing regulatory oversight, corrective measures would be implemented. Such

measures could include requiring the Project owner or operator to make physical or operational changes to ensure compliance with all applicable requirements.

39. The MPCA finds that information presented in the EAW and other information in the environmental review record is adequate to address the concerns related to air emissions. The impacts related to air emissions that are reasonably expected to occur from the proposed Project have been considered during the review process and methods to prevent significant adverse impacts have been developed.
40. The MPCA finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to air emissions that are reasonably expected to occur from the Project.

### **Greenhouse Gas Emissions**

41. The MPCA considered GHG emission sources that are within the scope of the Project.
42. The Project will directly release GHG emissions, which can widely disperse within the atmosphere, and which vary both in terms of their global warming potential and their persistence in the atmosphere.
43. To provide a common unit of measure, the MPCA uses the individual global warming potential of methane and nitrous oxide to convert to carbon dioxide equivalency (CO<sub>2</sub>e).
44. Using EPA emission factors, the Project will release 397.4 tons per year of CO<sub>2</sub>e, including mobile sources (see EAW Errata sheet).
45. There are no Minnesota or National Ambient Air Quality Standards for GHGs.
46. Currently, there are no federal or Minnesota thresholds of GHG significance for determining impacts of GHG emissions from an individual project on global climate change.
47. In the absence of a threshold of GHG significance, the MPCA looks to existing regulation. Minn. R. 4410.4300, subp. 15(B), establishes a mandatory category requiring preparation of an EAW for stationary source facilities generating 100,000 tons per year (TPY) of GHGs. The purpose of an EAW is to assess environmental effects associated with a proposed project to aid in the determination of whether an EIS is needed. On the premise of GHG emissions, environmental review regulations establish 100,000 TPY as a “trigger” to prepare an EAW to aid in determining potential significant environmental effects. A reasonable conclusion is that the Project’s GHG emissions below 100,000 TPY are not considered significant.
48. The MPCA finds that information presented in the EAW and other information in the environmental review record are adequate to assess potential GHG impacts that are reasonably expected to occur from the Project.
49. The MPCA finds the Project, as proposed, does not have the potential for significant environmental effects based on the type, extent and reversibility of impacts related to emissions of greenhouse gasses, which are reasonably expected to occur.

### **Cumulative Potential Effects**

50. The second criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is the “cumulative potential effects.” In making this determination, the MPCA must consider “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.” Minn. R. 4410.1700 subp.7(B). The MPCA findings with respect to this criterion are set forth below.

51. The EAW, public comments, and MPCA follow-up evaluation did not disclose any related or anticipated future projects that may interact with this Project in such a way as to result in significant cumulative potential environmental effects.
52. The EAW addressed the following areas for cumulative potential effects for the proposed Project:
  - Air quality
  - Groundwater quantity
  - Odor
  - Traffic

### **Air Quality**

53. Cumulative potential effects related to air quality were discussed in Part 17 and Part 21.c of the EAW. Findings 31 through 35 are incorporated herein as part of MPCA’s cumulative potential effects evaluation for human health impacts to air quality, in that the air assessment through refined air dispersion modeling and AERA incorporated ambient background concentrations and nearby contributing emission sources in the same geographic region.
54. The MPCA finds the information presented in the EAW and other information in the environmental review record does not demonstrate that the Project has the potential for significant environmental effects to air quality based on significant cumulative potential effects because: the Project will obtain and comply with an MPCA air emissions permit, will meet the NAAQS, will not pose any acute inhalation health hazards or any sub-chronic or chronic multi-pathway health hazards to the public.

### **Groundwater Appropriation**

55. Cumulative potential effects related to groundwater appropriation were discussed in Part 12.a.iii and Part 21.c of the EAW. Findings 18 through 28 are incorporated herein as part of MPCA’s cumulative potential effects evaluation for impacts to groundwater appropriation, in that the DNR Water Appropriation Permit process evaluates proposed water usage for this Project and nearby ground water usages in the same geographic region.
56. The MPCA finds the information presented in the EAW and other information in the environmental review record does not demonstrate that the Project has the potential for significant environmental effects to groundwater appropriation based on significant cumulative potential effects because: the Project will obtain and comply with a DNR water appropriation permit.

### **Odor**

57. Cumulative potential effects related to odor were discussed and reviewed by MPCA in Part 17.c and 21.c of the EAW.
58. SMSC will prohibit acceptance of materials with high odor potential.
59. The Covered Aerated Static Pile (CASP) composting process is designed to minimize, capture, and treat odors. SMSC will implement additional odor suppression technology including the installation



of portable odor mitigation fogging units, and the contact water and stormwater pond will have an aeration system to further minimize odors. These are expected to mitigate odors from the Project.

60. Therefore, the MPCA finds that the Project is not expected to contribute significantly to adverse cumulative potential effects on odors.

**Traffic**

61. Cumulative potential effects related to traffic were discussed and reviewed by the MPCA in Part 20 and 21.c of the EAW.

62. The Project is estimated to generate 184 additional trips on the transportation system. The peak trips generated from the Project are estimated to occur off peak of the adjacent roadway system.

63. A traffic review was completed to estimate future traffic levels on the private roadway generated by the Project, possible future development on two lots adjacent to the Project, the Minnesota Renaissance Festival, and possible future mining operations at the Merriam Junction Sands (MJS) facility.

64. SMSC proposes to make intersection improvements, including construction of turn and by-pass lanes prior to completion of the Project to provide storage capacity for vehicles accessing the Project area and mitigate delay on the regional transportation system.

65. Therefore, the MPCA finds that the Project is not expected to contribute significantly to adverse cumulative potential effects on traffic.

**Cumulative Effects – Summary**

66. Based on information on the Project obtained from information provided in the EAW, and consideration of potential effects due to related or anticipated future projects, the MPCA does not expect significant cumulative effects from this Project.

67. The MPCA finds the Project, as proposed, does not have the potential for significant environmental effects related to cumulative potential effects that are reasonably expected to occur.

**The Extent to Which the Environmental Effects Are Subject to Mitigation by Ongoing Public Regulatory Authority**

68. The third criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is "the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project." Minn. R. 4410.1700, subp. 7(C). The MPCA findings with respect to this criterion are set forth below.

69. The following permits or approvals are required for the Project:

Unit of Government	Permit or Approval Required
MPCA	Solid Waste Permit
MPCA	Air Emissions Permit
MPCA	Construction Stormwater Permit
MPCA	Industrial Stormwater Permit
MPCA	Above Ground Storage Tank Registration
DNR	Water Appropriation Permit

Scott County	Conditional Use Permit
Scott County	Building Permit (Erosion & Sediment Control Plan)
Scott County	Solid Waste License
MnDOT	Right of Way Permit
Lower Minnesota River Watershed District	Individual Project Permit "No Rise Certification"

70. **Source Separated Organic Material Compost Facility Permit.** This permit applies to Source Separated Organic Material (SSOM). SMSC is responsible for submitting engineering plans and for managing the Project in accordance to the final permit requirements that would regulate, among other things, construction, operations, contact water management, and monitoring.
71. **Air Emission Permit.** The Air Emission Permit for the Project would contain operational and emission limits, including requirements for use of control equipment, that would help prevent or minimize the potential for significant environmental effects.
72. **Construction Stormwater Permit.** The NPDES/SDS Construction Stormwater Permit (CSW permit) is required when a project disturbs one acre or more of soil. The CSW permit requires the use of best management practices to prevent erosion and to keep eroded sediment from leaving the construction site and requires projects that create one acre or more of new impervious surface to provide permanent treatment of stormwater runoff. The project proposer must have a stormwater pollution prevention plan that provides details of the specific measures to be implemented.
73. **Industrial Stormwater Permit and Spill Response Plan.** The NPDES/SDS Industrial Stormwater Permit requires that specific conditions be adhered to for construction and operation of the Project, and for overall compliance with water quality requirements. SMSC will need to prepare a Spill Response Plan and/or revise its Stormwater Pollution Prevention Plan.
74. **Above Ground Storage Tank Registration Over 110 Gallons.** The Above Ground Storage Tank Registration General Permit requirements include notification, labeling and secondary containment to prevent or minimize the potential for environmental impacts.
75. **DNR Water Appropriation Permit.** The Water Appropriation Permit is required for all users withdrawing more than 10,000 gallons of water per day or one million gallons per year. The purpose of the permit program is to ensure water resources are managed so that adequate supply is provided to long-range seasonal requirements for domestic, agricultural, fish and wildlife, recreational, power, navigational, and quality control.
76. **County Conditional Use Permit.** SMSC is required to obtain all required building and conditional use permits required by local units of government to ensure compliance with local ordinances. The conditional use permit will address local zoning, environmental, regulatory, and other requirements that are needed to avoid adverse effects on adjacent land uses.
77. **Building Permits.** The Scott County Building Inspections Department is responsible for administering the Minnesota State Building Code.
78. **Annual Solid Waste License.** It is unlawful for any person to establish, operate or maintain a solid waste disposal facility without first being licensed to do so by the County Board. The County Board may, at its discretion, issue a license for the operation of a solid waste disposal facility.

79. **Utility Permit to work in State Right of Way.** The Right of Way Permit ensures that the work is accomplished in a manner that will not be detrimental to the Right of Way and that will safeguard the public, and that the right of way on trunk highways is restored to its original condition.
80. **Lower Minnesota River Watershed District Permit.** The “No Rise Certification” process, administered by the Lower Minnesota River Watershed District, regulates alterations within the floodplain and drainageways within the watershed.
81. The above-listed permits include general and specific requirements for mitigation of environmental effects of the Project. The MPCA finds that the environmental effects of the Project are subject to mitigation, as explained in these Findings and the EAW, by ongoing public regulatory authority.

**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**

82. The fourth criterion that the MPCA must consider is “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,” Minn. R. 4410.1700, subp. 7(D). The MPCA Findings with respect to this criterion are set forth below.
83. Although not exhaustive, the MPCA reviewed the following documents as part of the environmental impact analysis for the proposed Project:
- Data presented in the EAW
  - Air Dispersion Modeling Report
  - U.S. Government’s U.S. Greenhouse Gas Emissions and Sinks: 1990-2016 (2018)
  - MPCA’s legislative report *Greenhouse Gas Emissions in Minnesota: 1990-2016* (2019)
  - MPCA’s report *Greenhouse gas reduction potential of agricultural best management practices* (2019)
  - The Center for Climate Strategies in Collaboration with Minnesota State Agencies’ report
  - Minnesota Climate Strategies and Economic Opportunities (2016)
  - Permits and environmental review of similar projects
84. The MPCA also relies on information provided by SMSC, persons commenting on the EAW, staff experience, and other available information obtained by staff.
85. The environmental effects of the Project have been addressed by the design and permit development processes, and by ensuring conformance with regional and local plans. No elements of the Project pose the potential for significant environmental effects that are not addressed or mitigated by the requirements of the permits listed above or in the EAW.
86. Based on the environmental review, previous environmental studies by public agencies or the project proposer, and staff expertise and experience on similar projects, the MPCA finds that the environmental effects of the Project that are reasonably expected to occur can be anticipated and controlled.
87. The MPCA adopts the rationale stated in the attached Response to Comments (Appendix B) as the basis for response to any issues not specifically addressed in these Findings.

### CONCLUSIONS OF LAW

88. The MPCA has jurisdiction in determining the need for an EIS for this Project. The EAW, the permit development process, and the evidence in the record are adequate to support a reasoned decision regarding the potential significant environmental effects that are reasonably expected to occur from this Project.
89. The MPCA identified areas for potential significant environmental effects. The Project design and permits ensure SMSC will take appropriate mitigation measures to address significant effects. The MPCA expects the Project to comply with all environmental rules, regulations, and standards.
90. Based on a comparison of the impacts that are reasonably expected to occur from the Project with the criteria established in Minn. R. 4410.1700 subp. 7, the Project does not have the potential for significant environmental effects.
91. An EIS is not required for the proposed Shakopee Mdewakanton Sioux Community Organics Recycling Facility.
92. Any Findings that might properly be termed conclusions and any conclusions that might properly be termed Findings are hereby adopted as such.

### ORDER

93. The Minnesota Pollution Control Agency determines that there are no potential significant environmental effects reasonably expected to occur from the Shakopee Mdewakanton Sioux Community Organics Recycling Facility project and that there is no need for an Environmental Impact Statement.

*Katrina Kessler*

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Katrina Kessler, Commissioner  
Minnesota Pollution Control Agency

April 18, 2023

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Date

**Minnesota Pollution Control Agency**

**Shakopee Mdewakanton Sioux Community Organics Recycling Facility  
Environmental Assessment Worksheet (EAW)**

**LIST OF COMMENT LETTERS RECEIVED**

1. Kate Sedlacek, Scott County. Letter received March 23, 2023.
2. Angela R. Torres, Metropolitan Council. Letter received March 23, 2023.
3. Melissa Collins, Minnesota Department of Natural Resources. Letter received March 23, 2023.



## SCOTT COUNTY ENVIRONMENTAL SERVICES

GOVERNMENT CENTER 114 • 200 FOURTH AVENUE WEST • SHAKOPEE, MN 55379-1220  
(952)496-8653 • Fax (952)496-8496 • Web [scottcountymn.gov](http://scottcountymn.gov)

March 23, 2023

Karen Kromar  
Resource Management and Assistance Division  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, MN 55155

Dear Ms. Kromar:

Thank you for the opportunity to comment on the Shakopee Mdewakanton Sioux Community Organic Recycling Facility EAW. Please see our comments listed below:

### Section 12.a

1. Section should include additional discussion about the shoreland overlay and the requirements of Chapter 70 in the Zoning Ordinance. Please indicate if all required setbacks and steep slope requirements are being met.

### Section 12.b.ii

1. Scott County is the floodplain administrator for this area. Floodplain impacts will need to be reviewed and approved by the County in addition to any permitting requirements of the LWMRWD.
2. Scott County stormwater management requirements will also need to be met. Please refer to Chapter 6 of the Zoning Ordinance for requirements. Rate control to pre-settlement conditions will be required along with infiltration of the greater of 1" over the new impervious or the difference between and existing and proposed 2-yr storm event whichever volume is greater.
3. Please provide additional details on whether the proposed basin will be infiltration or filtration. It appears that it is being constructed as a filtration basin with draitile. However, if the intent is to cap the draitile additional details should be included to indicate that. Please provide a discussion on any proposed soil borings in the basin location and suitability of infiltration in this proposed location.
4. Existing flows and volumes should be provided within the stormwater section to compare to proposed conditions.

### Figures

1. Figure 5A is missing some text.

If you have any further questions, please feel free to contact me at [ksedlacek@co.scott.mn.us](mailto:ksedlacek@co.scott.mn.us) or 952-496-8351.

Sincerely,

Kate Sedlacek  
Scott County Environmental Services



March 23, 2023

Karen Kromar, Project Manager  
 Minnesota Pollution Control Agency  
 520 Lafayette Road North  
 St. Paul, MN 55155

**RE: Minnesota Pollution Control Agency (MPCA) – Environmental Assessment Worksheet (EAW) – SMSC Organics Recycling Facility**  
 Metropolitan Council Review No. 22849-1  
 Metropolitan Council District No. 4

Dear Karen Kromar:

The Metropolitan Council received an EAW for the SMSC Organics Recycling Facility project in Louisville Township on February 21, 2023. The proposed project is located at 12386 Chestnut Boulevard, east of Minnesota River and west of Highway 169. The project proposes to develop a new organics recycling facility that will process source-separated organic material from residential and commercial yards and food waste into compost. The facility site is approximately 125.35 acres.

The staff review finds that the EAW is complete and accurate with respect to regional concerns and raises no major issues of consistency with Council policies. An EIS is not necessary for regional purposes.

This concludes the Council's review of the EAW. The Council will take no formal action on the EAW. If you have any questions or need further information, please contact Raya Esmaeili, Principal Reviewer, at 651-602-1616 or via email at [Raya.Esmaeili@metc.state.mn.us](mailto:Raya.Esmaeili@metc.state.mn.us).

Sincerely,

*Michael D. Larson for*

Angela R. Torres, AICP, Senior Manager  
 Local Planning Assistance

CC: Tod Sherman, Development Reviews Coordinator, MnDOT - Metro Division  
 Deb Barber, Metropolitan Council District No. 4  
 Raya Esmaeili, Sector Representative/Principal Reviewer  
 Reviews Coordinator

*N: \CommDev\LPVA\Agencies\MPCA\Letters\MPCA 2023 SMSC Organics Recycling Facility Ok no Comments 22849-1.docx*

**Kromar, Karen (MPCA)**

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**From:** Collins, Melissa (DNR)  
**Sent:** Thursday, March 23, 2023 3:46 PM  
**To:** Kromar, Karen (MPCA)  
**Cc:** stephen.albrecht@shakopeedakota.org  
**Subject:** Shakopee Mdewakanton Sioux Community Organics Recycling Facility EAW - DNR Comments

Hi Karen,

Thank you for the opportunity to review the Shakopee Mdewakanton Sioux Community Organics Recycling Facility EAW. DNR has reviewed the document and has no additional comments. All of our previous comments shared during early coordination have been addressed.

Thank you,

**Melissa Collins**

Regional Environmental Assessment Ecologist | Ecological and Water Resources

Pronouns: She/her/hers

**Minnesota Department of Natural Resources**

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[mndnr.gov](http://mndnr.gov)





Minnesota Pollution Control Agency

Shakopee Mdewakanton Sioux Community Organics Recycling Facility  
Environmental Assessment Worksheet (EAW)

RESPONSES TO COMMENTS ON THE EAW

1. Comments by Kate Sedlacek, Scott County. Letter received March 23, 2023.

**Comment 1-1:** Section 12.a. Section should include additional discussion about the shoreland overlay and the requirements of Chapter 70 in the Zoning Ordinance. Please indicate if all required setbacks and steep slope requirements are being met.

**Response:** SMSC has completed extensive review of the site location with consideration of its location in a shoreland overlay district including the state and local rules, regulations, and ordinances associated with this designation. Scott County ordinances include specific setbacks, structure height limitations, and many other shoreland protection requirements. The structure setbacks from a natural environment lake are met with the planned layout, bluff reviews have occurred to verify compliance, and structure height limitations are understood and will be addressed through proper processes during local permitting. SMSC has considered steep slope requirements to protect vegetation along the lake shore and in areas of steep slopes, and plans submitted in the County permitting process will display this planned effort to comply with these ordinance requirements. The Project will be properly permitted under the Scott County 'Conditional Use Permit' process. SMSC will be obtaining all applicable County permits for the site, with notable prior review of the ordinances governing the site occurring as the site layout was developed to assure compliance with permitting needs.

**Comment 1-2:** Section 12.b.ii. Scott County is the floodplain administrator for this area. Floodplain impacts will need to be reviewed and approved by the County in addition to any permitting requirements of the LWMRWD.

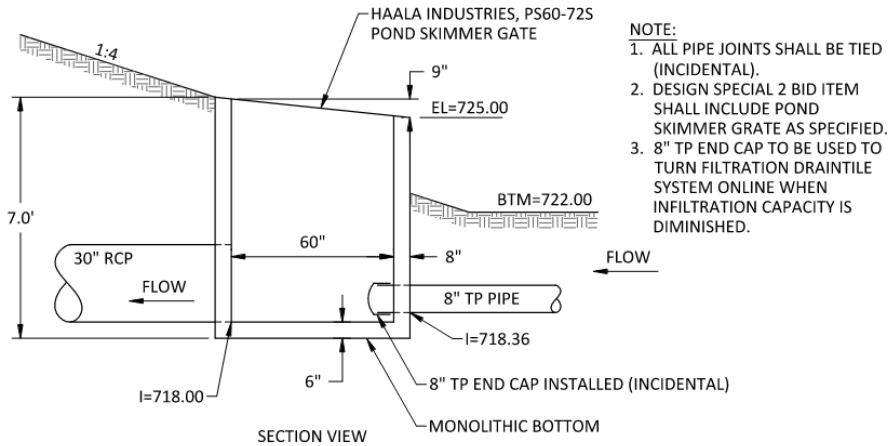
**Response:** SMSC has been in coordination with the Lower Minnesota River Watershed District (LMRWD). A final signed No-Rise report is complete and will be submitted during the Scott County permitting processes.

**Comment 1-3:** Section 12.b.ii. Scott County stormwater management requirements will also need to be met. Please refer to Chapter 6 of the Zoning Ordinance for requirements. Rate control to pre-settlement conditions will be required along with infiltration of the greater of 1" over the new impervious or the difference between and existing and proposed 2-yr storm event whichever volume is greater.

**Response:** A drainage report and modeling will be submitted to both the LMRWD and Scott County in accordance with guided permitted processes that comply with Scott County stormwater management requirements as noted.

**Comment 1-4:** Section 12.b.ii. Please provide additional details on whether the proposed basin will be infiltration or filtration. It appears that it is being constructed as a filtration basin with draitile. However, if the intent is to cap the draitile additional details should be included to indicate that. Please provide a discussion on any proposed soil borings in the basin location and suitability of infiltration in this proposed location.

**Response:** The basin is foremost intended to function as an infiltration basin. SMSC is adding a drain tile system as an extra level of protection if the infiltration capacity of the basin does not perform as expected or diminishes substantially. The outlet control structure on sheet C1.04 of the plan set (shown below) shows the end cap installed. Attached is the nearest boring showing silty sand and poorly graded sand at this location, which is a suitable soil for infiltration.



**DESIGN SPECIAL 2**

**STR 21 - OUTLET CONTROL STRUCTURE - INFILTRATION/FILTRATION BASIN**

NOT TO SCALE

**Comment 1-5:** Section 12.b.ii. Existing flows and volumes should be provided within the stormwater section to compare to proposed conditions.

**Response:** Existing and proposed stormwater calculations are noted below and hereby amend or supplement the language in the published EAW.

Pre-settlement condition									
Watershed	Area (acres)	CN	Tc (min)	2-year (2.86") runoff		10-year (4.24") runoff		100-year (7.30") runoff	
				Peak (cfs)	Volume (ac-ft)	Peak (cfs)	Volume (ac-ft)	Peak (cfs)	Volume (ac-ft)
E-1	8.3	77	26	7.6	0.7	16.1	1.4	37.3	3.2
E-2	33.8	71	38	15.7	1.9	39.6	4.4	104.8	11.2
E-3	25.4	55	33	1.4	0.3	9.9	1.3	47.0	4.9
E-4	9.4	55	25	0.6	0.1	4.3	0.5	20.5	1.8
Total				25.3	3.1	69.9	7.6	209.6	21.1

Notes: Watersheds are depicted on EAW Figure 11.  
 CN = Runoff Curve Number  
 Tc = Time of Concentration

Proposed condition						
Outfall	2-year (2.86") runoff		10-year (4.24") runoff		100-year (7.30") runoff	
	Peak (cfs)	Volume (ac-ft)	Peak (cfs)	Volume (ac-ft)	Peak (cfs)	Volume (ac-ft)
Outfall #1	3.7	0.4	29.7	5.1	37.6	16.5
Outfall #2	6.5	1.1	19.2	2.7	54.1	7.6
Total	10.2	1.5	48.9	7.8	91.7	24.0

Notes: Outfall locations are shown on EAW Figure 12.

**Comment 1-6:** Figure 5A is missing some text.

**Response:** The correct Figure 5A is attached.

**2. Comments by Angela R. Torres, Metropolitan Council. Letter received March 23, 2023.**

**Comment 2-1:** The staff review finds that the EAW is complete and accurate with respect to regional concerns and raises no major issues of consistency with Council policies. An EIS is not necessary for regional purposes.

**Response:** Thank you for the comment.

**3. Comments by Melissa Collins, Minnesota Department of Natural Resources. Letter received March 23, 2023.**

**Comment 3-1:** Thank you for the opportunity to review the Shakopee Mdewakanton Sioux Community Organics Recycling Facility EAW. DNR has reviewed the document and has no additional comments. All our previous comments shared during early coordination have been addressed.

**Response:** Thank you for the comment.

## Minnesota Pollution Control Agency

Shakopee Mdewakanton Sioux Community Organics Recycling Facility  
Environmental Assessment Worksheet (EAW)

## ERRATA SHEET

1. Table 18-2 of the EAW did not clearly display the GHG Operational Emissions. The corrected table is provided below.

Table 18-2: Operational emissions

Scope	Type of emission	Emission sub-type	Proposed Project CO <sub>2</sub> e emissions (tons/year)	Project-related CO <sub>2</sub> e emissions* (tons/year)	Total CO <sub>2</sub> e emissions (tons/year)	Calculation method(s)
Scope 1	Non-combustion	Stationary Equipment (GHG reduction due to composting vs. landfilling)	Minus 1,684.4	0	Minus 1,684.4	EPA's WARM V15
Scope 1	Combustion	Mobile Equipment	1092.7	0	1092.7	IPCC
Scope 2	Off-site electricity	Grid-based	786.5	0	786.5	IPCC
Scope 3	Off-site waste management	Area	196.9	0	196.9	CCCL
Sub-total			391.7		391.7	
<b>Total project emissions</b>				<b>5.7*</b>	<b>397.4</b>	

\*From Construction Emission table 18-1 (annualized = construction emissions/50 years).  
For basis of the above calculations, please see Attachment M.