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October 28, 2014

Chair Barbara A. Wencel
Saint Paul Planning Commission
1400 City Hall Annex
25 Fourth Street West
Saint Paul, MN 55102

VIA E-MAIL

Re: Saint Paul Port Authority Comments on the DNR Draft Rules

Dear Chair Wencel:

Thank you for the opportunity to provide some comments at your Planning Commission meeting on October 31, 2014. Lorrie Louder of my staff will speak to the Commission on behalf of the Port Authority. Please refer to our recent submission to the DNR, as per the attachments.

We appreciate the opportunity to provide you with our analysis of this important matter.

Sincerely,

Louis F. Jambois
President

LJL/LFJ/lkw
Attachments

cc: Lorrie J. Louder, Senior Vice President, Business & Intergovernmental Affairs

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September 30, 2014

Commissioner Tom Landwehr
Department of Natural Resources
500 Lafayette Road
Saint Paul, MN 55155

RE: Saint Paul Port Authority Comments on the Mississippi River Corridor Critical Area

Dear Commissioner Landwehr:

The Saint Paul Port Authority appreciates the opportunity to provide both overall comments and specific recommended changes to the Minnesota Department of Natural Resources' Proposed Rules Relating to Mississippi River Corridor Critical Area (hereinafter referred to as "Draft Rules").

DNR staff have been very gracious with their time with my staff and our Saint Paul associates. We appreciate your staff's willingness to discuss this matter with us, such as the informative meeting held at the Port Authority on July 21, 2014 with the Saint Paul Chamber of Commerce and several of the Port's industrial business owners and River shipping operators. We thank you for your staff's openness and collaborative style.

We have also been collaborating with several other parties as part of our review process, and we all share significant concerns about the current Draft Rules. These groups include the Minnesota Chamber of Commerce, the Saint Paul Area Chamber of Commerce, the City of Saint Paul, Ramsey County, Builders Association of the Twin Cities, the Saint Paul Area Association of Realtors, Metro Cities, the League of Minnesota Cities, as well as Port Authority business customers with operations in Industrial-Commercial areas on the River in the Corridor Critical Area, and others.

The current collaborative work has already been productive in that it has helped the Port Authority, as well as DNR staff, to understand the practical purpose and effect of the Draft Rules. DNR staff, after various discussions with us, also encouraged the Port Authority to provide detailed language as rewritten Draft Rules for your consideration, which are enclosed with this letter.

Particularly, the Port Authority believes that (1) DNR Rules must reflect section 116G.15(2)'s listed balance of criteria and standards, (2) Executive Order 79-19 has been an Historical Model of River Corridor stewardship upon which the DNR should copy in its rule drafting, (3) Local Zoning Control must be respected, (4) Urban Core

District Designation (CA-UM) needs to reflect the urban setting, (5) Creation of Nonconforming Uses should be avoided, and (6) Saint Paul Downtown areas should be excepted from the Steep Slopes and Bluff Development Restrictions. The Port Authority's suggested changes, explained more fully below, are our first cut, hitting material aspects, after which we would like to continue to work with the DNR for the necessary follow up fine-tuning and more precise delineation of the Draft Rules.

OVERVIEW OF CONCERNS:

State Statute

In the Draft Rules, Part 6106.0020, entitled "PURPOSE", contains the former statutory language, not the language contained in the current law, Minnesota Statutes Section 116G.15, Subd. 2, as amended in 2013. A notable "minimum standards and criteria" was therefore omitted from the "Purpose" section: **". . . for the continuation, development, and redevelopment of urban uses, including industrial and commercial uses, and residential uses where appropriate within the Mississippi River Corridor"** (Minn. Stat. § 116G.15(2)(3)). As explained below, the Draft Rules do not work for much of Saint Paul, a highly-built urban city; stated otherwise, the current draft rules do not meet the purposes set forth in section 116G.15, Subd. 2(3).

History of Good Stewardship of the Critical Corridor:

Section 116G.15, Subd. 2, and by extension the DNR, refer to Executive Order 79-19 as a good reference for drafting of the Corridor Critical Area rules. Importantly Executive Order 79-19 underscores the need to balance all the uses of the River, see A. Purposes and responsibility, and B. General guidelines for preparing plans and regulations. And Executive Order 79-19 has successfully established a stewardship model for the Mississippi River Corridor Critical Area.

For more than 30 years multiple uses of the Corridor Critical Area have rightly been a high priority; in other words, the River is for all. Accordingly, citizens, businesses, and local units of government have worked together to build a balanced regulatory framework for the Corridor Critical Area. Scenic protections have been honored and implemented in a manner that also promotes economic growth and citizen engagement with the River. This relationship has provided a proper balance of the environmental and cultural characteristics of the Corridor Critical Area, while ensuring that appropriate economic uses are encouraged.

I have enclosed a letter from Public Works Commissioner Milton Rosen, dated May 22, 1939, along with a report attached entitled "Property of the Port Authority, City of St. Paul, Minnesota, 1938" testifying to the importance of the Working River to the City of Saint Paul and State of Minnesota. The Working River provides a vital link to the

industrial land-based Intermodal freight transportation system in our Harbor that has existed for decades in harmony with recreational and ecological uses on and near the River. Nearby commercial, industrial, and residential uses in their appropriately zoned areas within the Corridor Critical Area have similarly coexisted harmoniously with the nearby natural areas and myriad wildlife.

As a key example of the positive and pro-active stewardship of scenic and open space areas in Saint Paul since the creation in 1981 of the Mississippi River Corridor Critical Area, the Saint Paul Port Authority has transferred over 1,300 acres of property to the City to be used by the Saint Paul Department of Parks and Recreation for open space and recreational uses in perpetuity. And prior to the creation of this Critical Area, the Port Authority donated an additional 500 acres for the same purposes. In the City of Saint Paul there is approximately 350 acres of River Shipping industrial/commercial property, of which the Port Authority retains ownership of 202 acres of industrial/commercial River Terminal property. These properties serve an essential economic function for the State of Minnesota.

The following is a brief summary of the environmental and economic benefits of the Saint Paul Harbor within the Mississippi River Corridor Critical Area:

- The Saint Paul Harbor is a key part of America's inland river barge system, which moves freight more safely and more efficiently than rail or truck. It is an important component of the transportation network, which is essential to our country's economic strength.
- The Port Authority's Red Rock Shipping Terminal is located immediately east of several fleeting areas, which are located essentially in the middle of the River. Our Harbor Operator has reported for the past 20-plus years that the heron habitat/rookery has thrived on these island areas immediately adjacent to his company's commercial barge fleeting. It has been described as a quiet, safe haven for the herons.
- The Saint Paul Harbor Year 2013 Tonnage was 5.3 million tons going into and out of the Harbor. Products shipped include aggregate, fertilizer, salt, cement, slag, steel, and coal (3.4 million tons Inbound to this Harbor); and grains, scrap iron, asphalt, potash, petroleum coke, petroleum, and distiller's grain were among the 1.9 million tons Outbound, a substantial amount of which was shipped to global markets.
- The four River shipping terminals in the Saint Paul Harbor contain 33 companies, which provide over 1,000 jobs.

- There are many significant environmental benefits to shipment of goods by commercial barge on the River. These include:
 - Fuel efficiency: One ton moved per gallon of fuel by Barge is 576 miles; by Rail is 413 miles; and by Truck is 155 miles.
 - Commercial barges on the River produce less carbon dioxide while moving freight. The tons of CO₂ per million ton-miles is: Barge, 19.3 tons; Rail, 26.2 tons; and Truck, 71.6 tons.
 - One 15-Barge Tow equals: 216 Railcars & 1,050 Trucks.
 - The product value of Mississippi River shipping in Saint Paul is **\$1.14 Billion Dollars!**

All River shipping uses on water and adjacent industrial land should be encouraged. Therefore, all River shipping uses must be exempted from vegetation requirements and other restrictions that would impede and impair any and all Intermodal activity in the Saint Paul Harbor. The Rules must also reflect other appropriate exemptions regarding setbacks and other regulations regarding River dependent industries.

It should be noted that there are several land-based industrial companies that are within the Corridor Critical Area (most of which are within Saint Paul Port Authority Business Centers) that must also be recognized and protected. These facilities have been constructed according to local land development regulations. They constitute another example of industry fitting very appropriately and well with nearby forested and scenic areas. They provide a fundamentally critical economic benefit to the city, region and state relative to property taxes paid that enhances the City's fiscal integrity; jobs at good wages; and other benefits, such as spin-off investments, in the wider economy.

As noted earlier, Executive Order 79-19 has improved the Mississippi River for all. To further this positive progress, there is every reason to inculcate the Executive Order 79-19 into a Minnesota rule. Conversely, the DNR should avoid substantial departures from the Executive Order 79-19 template, unless substantial evidence and experience dictates otherwise. Executive Order 79-19 ensures that modern industry and its valuable economic benefits co-exist very well in appropriate locally-zoned industrial areas within the Corridor Critical Area. For example, the Port Authority's Crosby-Lake Business Center is a vibrant 30-acre business center situated on top of the bluff at the northeast quadrant of Interstate 35E and Shepard Road. The development of the Crosby-Lake industrial/commercial business center provides many benefits for the City and State, such as:

- This site was formerly owned by the Texaco Corporation, which used the entire area as a petroleum tank farm; significant environmental degradation occurred over the years due to tank leakage. The Port Authority purchased the entire site and collaborated with the Minnesota Pollution Control Agency (PCA), which provided the technical and legal oversight to ensure that Texaco cleaned up this significantly contaminated site to all appropriate standards.
- After the Port Authority installed the necessary roadway and infrastructure improvements, it sold six parcels to expanding companies. These buyers were Summit Brewing, National Checking, EMC Corporation, Harris Companies, Twin City Tile, and Davanni's Manufacturing. Each of these companies developed new facilities on this formerly brownfields site.
- Total private sector real estate investment by these companies was \$20.9 million dollars.
- Total private sector equipment investment was \$6.9 million dollars.
- The total size of new facilities constructed was 381,800 sq. ft.
- The transformation of this site containing about one dozen oil tanks (which were demolished by Texaco) allowed these growing companies in their newly constructed facilities to bring to Crosby-Lake 295 then-existing employees.
- Over the years, business operations growth has resulted in 845 total jobs as of December 31, 2013.
- The average hourly production wage paid by these companies in the aggregate is \$22.57.
- Annual property taxes, which were significantly lower than today, because of the minimal use by Texaco and the vacant site upon Port Authority acquisition, has yielded a total payable 2013 real estate tax of \$846,304.

We therefore urge you and your staff, Commissioner Landwehr, to promulgate Rules that reflect the multi-purpose essence of the River and the land together within the Critical Area. To restate, Executive Order 79-19 serves as a foundational template of proven success that DNR can incorporate for these Mississippi River Corridor Critical Area rules. Accordingly, as the DNR undertakes further efforts on the Draft Rules, an analysis should also be made to ensure that the Draft Rules reflect the dictates of its authorizing legislation, an understanding of its many impacts, and a maintenance and respect of local control.

Local Zoning Control:

Respect for local residents and the governmental representatives they elected is essential. Yet, as currently written, the DNR Draft Rules subverts long-standing local control principles regarding regulatory management of land uses. For instance, the Draft Rules call for State control over variances in some instances in the River Corridor area. We do not find any analysis to compel this, or the other dramatic shifts contained in the Draft Rules, to State oversight of local land development matters in cities. The Draft Rules should be rewritten to conform with Minnesota laws regarding local unit of government control over these important and complex local regulatory and development matters. It is essential that the DNR Rules allow for local zoning control. The DNR should not usurp that function from the local governments.

It should be noted that the League of Minnesota Cities has a Growth Management Policy that states:

The League of Minnesota Cities believes the existing framework for guiding growth and development primarily through local plans and controls adopted by local governments should form the basis of a statewide planning policy

Metro Cities, which represents the joint interests of metropolitan area communities at the Executive Branch, State Legislature, and the Metropolitan Council, also has the following applicable Policy 2-A Mandates, Zoning, & Local Authority:

Metro Cities opposes statutory changes that erode local control and authority or create additional mandated tasks requiring new or added local costs without a corresponding state appropriation or funding mechanism. Metro Cities believes that zoning decisions should be made at the local level. Metro Cities supports legislation that gives local officials greater authority and discretion to approve variances in order to remain flexible in response to the unique land use needs of their own community.

There are many reasons that local control makes sense and is vitally important to maintain. These include:

- A. The exercising of the so-called "police powers" of zoning by local government is a fundamentally important part of local governance; this should not be usurped by any other level of government.
- B. The longstanding and in-depth understanding of various development and regulatory issues by local units of government provide the appropriate level of professional acumen to analyze thoroughly the many factors involved and reach an appropriate decision.

- C. The DNR, or any other State entity, does not possess the technical knowledge or the detailed local experience to manage adequately local zoning and regulatory matters.
- D. The cost burden, we believe, to both the local units regarding enforcement and other administrative requirements, and the State in taking over this critically important local function, would be extraordinary and totally unnecessary.

The Port Authority urges the DNR to develop final Rules that respect the expertise, insights and knowledge of local units of government that have developed and utilized over the decades an effective regulatory framework for property within the Corridor Critical Area.

DNR Urban Core District Designation (CA-UM):

Similarly, the CA-UM Urban Core District rule must take into account municipal plans and policies, and existing ordinances and conditions --- consistent with existing development and in consideration of potential new commercial, industrial, and residential development. As an example, the Urban Core District should be amended to that portion of the Saint Paul Urban Core on both sides of the River north of Plato Boulevard and Water Street between Lafayette Road/Highway 52 and the Smith Avenue High Bridge (except for the area that the proposed new district maps show as CA-SR in the Irvine Park area west of Chestnut Street and north of the railroad tracks).

This defined district is more consistent with how the Urban Diversified District has historically been used, and is also more consistent with how the CA-UM District is proposed to be used for a much larger portion of the Minneapolis Urban Core on both sides of the River along a 3.5 mile stretch of the River from the Lowry Avenue Bridge 1.5 miles north of Downtown Minneapolis, to the south edge of the University of Minnesota east bank campus.

Non-Conforming Uses:

The Draft Rules also create unknown and unaccounted for nonconforming structures, lots, and uses. Nonconforming status is a big shout out to property owners that their buildings and their uses are not wanted. Such strong declarations, if intended, should be fully known, and the consequences fully appreciated. The final Rules must not be a one size fits all. Rather, the Rules must recognize the unique characteristics of the varied and rich nature of the River (one reason among many that local governance is important).

As a fully-built city with a highly diverse business and resident population, the City of Saint Paul itself is a special place along the Mississippi River Corridor. The Saint Paul Port Authority, cities, businesses, and other organizations are concerned that additional restrictions proposed by the DNR will undermine important investments that have already been made and will also inhibit future investment and reinvestment in the Corridor Critical Area. Additional regulations stigmatize industrial, commercial, and residential properties, and discourage --- and even prohibit --- property owners from making necessary improvements or building expansions.

The result will be reduced investment in properties, lower property values, and reduce revenues that allow cities to pay for essential services.

In addition, the Port Authority, cities, businesses, and other organizations know that additional requirements imposed by more restrictive Rules will work counter to the purpose of the Corridor Critical Area with respect to the development of roads and park facilities. These important infrastructure investments, which provide for the public use and enjoyment of the scenic and recreational resources of the Corridor Critical Area, will be unnecessarily restricted.

Under the Draft Rules, there are in Saint Paul an untenable number of properties that would be placed into non-conforming use status. We have been told by the DNR staff that it did not undertake an analysis of the impact of the language on local properties. This analysis should be undertaken. On this issue particularly, we concur with the analysis and the comments provided to you by some of our partner organizations. We urge you to implement the changes to the Draft Rules recommended by these bodies.

We respectfully disagree with the public assertion by one of your staff in the press in July of 2014 that "some of the fears of riverfront properties being classified as nonconforming are overblown and based on a misperception of what the new Rules will mean".

The Municipal Planning Act, Chapter 462, provides a compelling summary of the negative consequences that are imposed onto property owners when their properties are placed into non-conforming status. The practical realities are nonconforming status eliminates any and all expansion and substantially frustrates the ability (sometimes resulting in the inability) to finance, mortgage, insure, or sell the business or property, and often reduces property values, thus lowering real estate taxes.

Steep Slopes and Bluffs Development Restrictions:

The DNR Draft Rules on new construction on and near bluffs and slopes do not work in Saint Paul. DNR staff noted that they did not understand the negative impact that a "one size fits all" approach would have on redevelopment activities, incorrectly viewing Saint Paul the same as the other smaller cities that lie within this Corridor Critical Area.

Within the Critical Corridor Area, an estimated 2,000 buildings and 3,000 land parcels would be subject to these Rules as currently drafted. There would be a significant negative economic impact of the current Draft Rules if implemented in their present form.

One example pertains to a significant part of Saint Paul's Downtown --- that real estate along the Mississippi River comprised of dramatic bluff areas that are developed and in significant places need redevelopment --- has been likened to Quebec City, which has a very vibrant Downtown. This depiction resulted from a multi-year analysis of the Downtown riverfront. The City of Saint Paul a decade or more ago retained a renowned Canadian city planner, Ken Greenberg, who developed a vision for rejuvenation, with one of the core principles being that the bluffs along the River are a key asset that, when redeveloped, could generate a significantly more vibrant economy in the Downtown area.¹ The Draft Rules should give credence to this redevelopment vision, as has been stated to the DNR in the comments provided by Ramsey County.

An unintended result therefore was the failure to appreciate that need for renewal and new construction in bluff areas of downtown Saint Paul. The Draft Rules arguably prevent any such renewal or construction in **Downtown Saint Paul** and at the **Ford Redevelopment Site**.

Downtown Saint Paul: Several major buildings, as well as Kellogg Park and 2nd Street are constructed in, on, or across the face of the Downtown bluff. The DNR Draft Rules specifically prohibit expansion of non-conforming uses where it would result in further encroachment into required setbacks. It appears that this would prohibit the creation of the *river balcony* --- a feature proposed in the Saint Paul City Council-adopted Great River Passage Master Plan, which proposes to improve the connection between Downtown Saint Paul and the River --- and would impact the proposed redevelopment of key Downtown sites, such as the Ramsey County Government Center West and the former Ramsey County jail. These redevelopment projects are top priorities for both Ramsey County and the City of Saint Paul.

The need and reasonableness of Rules that would prohibit development along the Downtown bluff has not been demonstrated by the DNR.

Additionally, several years ago, a task force that included DNR staff was convened for the purposes of updating the City's river corridor ordinance. The task force recommended excepting "the area of Downtown Saint Paul along the River's left descending bank from Chestnut Street to the Lafayette/Highway 52 bridge" from location requirements in the regulations. The same or similar exception for downtown Saint Paul should be included in the DNR final Rules.

¹ The example further underscores the need to honor legitimate local land use regulation.

Ford Redevelopment Site: This is a redevelopment site of critical importance for which the City is doing careful site-specific planning to create a new urban village that has the density necessary to be walkable and sustainable and also has significant public spaces that would provide strong physical and visual connections to the River. It has not been demonstrated that the height restrictions that would apply to the Ford site under the proposed DNR Rules are needed to protect critical views of and from the River, and they may unreasonably inhibit appropriate redevelopment of the site. The CA-SR Separated from River District, which is used directly across the River from the Ford site, is a less-restrictive option that would be a better fit for appropriate redevelopment of the Ford site, especially for the portion further east.

In short, the Slopes and Bluffs Development Restrictions do not work for much of Saint Paul.

Summary

The Saint Paul Port Authority urges the DNR to make significant changes to these Draft Rules, based upon the Port Authority's concerns and recommendations as set forth (1) in this letter, (2) the specific language recommendations in the second attachment, and (3) the historical overview regarding the Working River in the third attachment, with this three-fold focus in mind:

1. Working River and Land-Based Industrial Businesses: Both of these type uses in the Corridor Critical Area have been co-existing appropriately for decades. The Draft Rules need to reflect this, as well as reflect the statutory language regarding commercial-industrial-residential development approved in 2013.
2. Existing Uses and Redevelopment: Elements of the Draft Rules are broadly inconsistent with existing development, and would create many non-conforming buildings, lots, roads, etc. Therefore these Draft Rules are inconsistent with Corridor Critical Area guidelines to provide for the continuation, development, and redevelopment of a variety of urban uses.
3. Local Planning Versus Corridor-Wide Regulations: Broad-brush regulations in the Draft Rules would supersede the thoughtful, finer grained area and site-specific planning that the local unit of government has accomplished for the Corridor Critical Area; this includes the Great River Passage Master Plan.

Commissioner Tom Landwehr
September 30, 2014
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Commissioner Landwehr, we urge the DNR to respect the long-standing multiple purposes of the River in its Draft Rules. Saint Paul, as you may know, comprises a large portion of the Mississippi River Corridor Critical Area. We ask that you protect the existing property in the critical area and also provide Draft Rules that recognize the need for continuance of mixed uses in this area, as well as significant redevelopment in the years ahead.

Other partner organizations of the Port Authority have provided some detailed input on this matter, and we understand more will be forthcoming by your deadline date. We support this input. Working on full communications and input, we have forwarded a copy of this letter to the partner organizations referenced on the first page of this letter.

Thank you very much for your consideration of our recommendations. I and my staff are available to you as you may wish.

Sincerely,



Louis F. Jambois
President

LJL/lkw
Attachments

cc: Lorrie J. Louder, Senior Vice President
Business & Intergovernmental Affairs
Eric D. Larson, General Counsel
Kathryn L. Sarnecki, Vice President
Redevelopment & Harbor Management
Jenny Shillcox, Supervisor, Land Use Programs Unit, DNR
Daniel Petrik, Land Use Specialist, DNR
Suzanne Rhees, Land Use Planner, DNR

CITY OF SAINT PAUL
Capital of Minnesota
DEPARTMENT OF PUBLIC WORKS

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May 22, 1939

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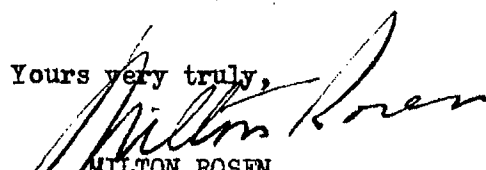
Librarian
Law Library
18th Floor, Court House
St. Paul, Minn.

Dear Sir:

Under a WPA project sponsored by the City of St. Paul, a study has been made of the Port Authority property, the findings of which have been presented in a report entitled "Property of the Port Authority, City of St. Paul, Minnesota, 1938". This report contains a short introduction including the development of traffic on the Mississippi River and the establishment of the Port Authority Commission. The body of the report consists of an analysis of the separate tracts of land in the levee district together with a sketch of each tract. A map showing all property in the Port District is also included.

The district and state WPA. officials agree with me that this report may be of value to you and they have recommended its distribution on a limited scale. I am sending you a copy which I trust you may find of interest and value.

Yours very truly,


MILTON ROSEN
Commissioner of Public Works

PART I

HISTORICAL BACKGROUND OF THE DEVELOPMENT OF TRAFFIC UPON THE UPPER MISSISSIPPI RIVER 1/

Early Development of Upper River Traffic

While history records the fact that the discovery of the Mississippi by the white man inaugurated a series of extended expeditions and explorations, the earliest adventurers embarked only upon the waters of the lower Mississippi.

The earliest explorations of the Upper Mississippi probably occurred in 1673, when Father Marquette and Joliet set forth upon a journey down the river from the mouth of the Wisconsin. LaSalle, preparing in 1678 to journey down the Mississippi from the mouth of the Illinois in order to establish a French Empire in the heart of America, dispatched three men, of whom one was Father Louis Hennepin, to explore the Mississippi above the point where the Illinois entered it. The earliest account of this northern territory is the following written by Father Hennepin:

" . . . then we came to Rock River or Des Moines. Sixty miles up we reach the Puntos, fifty leagues above we reach the Lake of Tears (Lake Pepin), so named by us because we were taken prisoner by a band of Indians and one wept a whole night pleading with the others to slay us; . . . forty leagues above is the river St. Croix, by which striking northwest you can reach Superior. Continuing to ascend the Mississippi twelve leagues more, navigation is interrupted by a fall, which we name the Falls of St. Anthony of Padua; eight leagues above to the right we found the river Itasca, which we can ascend to the north for about seventy leagues to where the lake rises. On April 11, 1680, we were captured by 220 Indians and taken prisoner . . ." 2/

After Hennepin came others, laying claim to different parts of the Upper Mississippi territory. Nicholas

1/
From Canoe to Steel Barge on the Upper Mississippi River.
Mildred Hartsough, University of Minn. Press, 1934.

2/
From Hennepin's account quoted by E. W. Gould in Fifty Years on the Mississippi, 1889.

Perrot built a log structure at the foot of Lake Pepin and then went on to take possession of the St. Croix and the St. Pierre (Minnesota) rivers in the name of France. At the turn of the century LeSueur established a fur-trading post on the Minnesota River and was the first to mention the Galena lead mines, located in northwestern Illinois. In 1766 Jonathan Carver made a tour of the Upper River, traveling via the Green Bay-Fox-Wisconsin route, and reached the Falls of St. Anthony. He wrote of the beauties of this territory and concluded that because of the rapid growth of the towns of St. Anthony and Minneapolis, which were then making good use of the water power furnished by the Falls, "the great natural beauty of the place is utterly spoiled." 1/

The fur trade was the first business interest of the Northwest and the first commercial use of the Mississippi was to carry the skin-laden skiff. Fur traders and their agents covered the whole Upper Mississippi country, running their boats up all the main tributaries - the Minnesota, the Des Moines, the Missouri, and the Red River. The Northwestern Fur Company of England, with headquarters at Montreal, established its posts at Green Bay, Michilimackinac, the Sault, Grand Portage, and Prairie du Chien, and held them until 1794, when the Jay Treaty required England to relinquish her claims to this territory. However, these strategic points continued to be used as trade centers.

After the outbreak of the American Revolution, immigration west of the Alleghenies increased more rapidly. By 1789 there were approximately 250,000 Americans in the Mississippi Valley. After the War of 1812, the United States established four military posts on the Mississippi above St. Louis: Fort Edwards at the Des Moines Rapids; Fort Armstrong on Rock Island at the foot of the upper rapids; Fort Crawford at Prairie du Chien; and Fort Snelling at the mouth of the Minnesota. Around these forts grew up little colonies of French-Indians and Americans - fur traders, sutlers, hangers-on, and a few farmers.

For a long while the growing numbers of people and the necessary supplies were shipped by the birch-bark canoe. Later the keel boat was evolved and widely used on the Upper Mississippi. Before the time of steam, this type of barge afforded the principal means of transportation and methods of managing it were primitive, slow and dangerous. Moreover, these early boats not only faced the

1/

The town of St. Anthony was located on the east side of the Mississippi River, and the town of Minneapolis on the west side. In 1872, common interests led the two towns to consolidate as the city of Minneapolis.

hazards of the current, snags, and rocks, but also the danger of hostile Indians, who sometimes attacked the boats, and of white brigands who frequently committed robbery and murder.

The navigation of the Upper Mississippi was not really begun until a number of years after the steamboat had definitely asserted itself. In 1823 the sternwheeler Virginia, weighing over 100 tons, left St. Louis for points north carrying a number of passengers and some government stores for the soldiers at Fort Snelling. It was feared that the steamboat would be unable to pass over the two natural obstructions to upper river traffic - the lower Des Moines Rapids and the Upper Rock Island Rapids. However, the trip was made safely and in good time. From this time on, keel boats gradually declined, while the number of steamboats travelling along the Upper Mississippi greatly increased.

White settlers slowly began to move into the land west of the Mississippi. After 1830 when treaties with the Indian tribes were made, this land was opened for settlement. This saw the start of many towns - Burlington, Muscatine, Davenport, Rock Island, Dubuque, and St. Paul. Squatter farmers settled the land, their preemptive rights being transferred into legal title. However, population was so scanty that until 1840 the only boats going up the river past St. Louis to the head of navigation at the Falls of St. Anthony were chartered either by the government to transport military supplies, or by the American Fur Company to handle its goods.

Shortly after 1840, however, there were upwards of forty arrivals at St. Paul every season. Few steamboats braved the difficult channel between St. Paul and St. Anthony Falls, and therefore most of the freight left the boats at St. Paul and reached its destination by stage and in later years by railroad.

The Period of Flourishing River Traffic, 1840-1865

In the twenty years after the Virginia reached Fort Snelling, steamboating became well established on the Upper Mississippi from St. Anthony and St. Paul to St. Louis. During the next twenty years (from about 1840 to 1860) it expanded and reached its height. At the beginning of this period the Upper Mississippi country still belonged to the frontier; at the end, it was exporting a considerable agricultural surplus as well as large quantities of lumber.

In 1840 the population of what was to become Minnesota was probably little more than 700; in 1850, it had increased to 6,077 and in 1860 to 172,023. During this

time, which has often been called the immigration period, passenger receipts on the steamboats exceeded those from freight and remained greater until the building of a railroad parallel to the river.

The railroads, which were later to be such deadly competitors, were as yet chiefly feeders to the river. People and freight came on them to the river and then, since the railroads went no further, helped to fill up the boats that went on into the north and west. Galena, Illinois, was the most important wholesale point above St. Louis. Many boats ran between Galena and St. Paul, and the trade between them was so heavy that a highway was built between the two points and a stage line put into operation, which afforded communication throughout the year.

Commercial steamboating on the Minnesota River also began in 1850. In 1855 there were 109 steamboat arrivals at St. Paul from the Minnesota River, and by 1858 this number had increased to 394. St. Paul in 1859 was called the "northwestern emporium" and is listed as a town of some 12,000 to 15,000 inhabitants.

The following figures of steamboat arrivals at St. Paul show the growth of Upper Mississippi River traffic:

<u>Year</u>	<u>No. of Arrivals</u>	<u>Year</u>	<u>No. of Arrivals</u>
1844.....	41	1854.....	256
1845.....	48	1855.....	560
1846.....	24	1856.....	837
1847.....	47	1857.....	1026
1848.....	63	1858.....	1090
1849.....	95	1859.....	802
1850.....	104	1860.....	776
1851.....	119	1861.....	772
1852.....	171	1862.....	846
1853.....	200		

In spite of the great increase of boats during the fifties, they were scarcely able to keep up with the rush of business. In 1856 it was said that although two boats a day often left St. Paul, they were unable to handle the traffic as fast as it accumulated. Boats not only carried furs, lead, and military supplies, but also agricultural produce.

In 1854 a St. Paul newspaper in an editorial stated the following:

"We predicted during the winter that there would be a great increase in the business of this city as well as an unprecedented immigration to the Territory, at the opening of naviga-

tion this spring, but we will candidly admit that we did not expect so perfect a rush as has set in upon us. Every boat comes crowded with freight and passengers, and the present tonnage on the river is by no means sufficient to do one-half the business of the trade . . . Our merchants complain, and with reason, that their freight forwarded early in March from New York has not yet reached this city, and we understand that the warehouses at Rock Island are literally crowded with packages for the Upper Mississippi . . . Storage on the levee is double what it was at this time last year, and new warehouses are building."

The same paper in 1855 noted that the number of boats arriving in St. Paul was large and that a number of them brought barges filled with merchandise. "There are not stores or warehouses enough in St. Paul to hold the half of what has arrived." During this period the river was almost the only transportation agency, and communication with the eastern markets and sources of supply was thought of chiefly in terms of steamboat transportation. The levee was the business center of the town.

On the Minnesota River, traffic reached a high point in 1862, when there were over 400 boat arrivals at St. Paul. St. Paul was the chief source of supplies for the Canadian settlements along the Red River of the North, and was the chief market for the furs of the district; for a number of years the Hudson's Bay Company brought goods in bond through St. Paul to Fort Garry, located in the Red River Valley not far south of the present site of Winnipeg. A great part of St. Paul's river traffic was made up of barges towing logs and lumber to St. Louis.^{1/}

In 1865, the Mississippi River Improvement and Manufacturing Company appealed to the United States Congress to pass an act enabling them to perfect the navigation of the Mississippi River to the Falls of St. Anthony.^{2/} They asked that in exchange for building a lock and dam at or near the foot of the rapids, which would thus extend the

^{1/}

In 1890, at the height of the lumber industry, there were 90 steamboats towing lumber and logs between St. Paul and St. Louis.

^{2/}

(Governor) Ramsey Pamphlets of the Minnesota Historical Society, Vol. 21, No. 3 $\frac{1}{2}$, "Memorial presented to Congress by the Mississippi River Improvement and Manufacturing Company, 1865."

navigation of the Mississippi "full 16 miles, to its natural limit and proper terminus", they be given a grant of public lands. In their memorial to Congress, setting forth their plans, they say:

"On account of these delays and public disasters, and the distance of the foot of the rapids (to which boats could regularly come) from the two cities at the Falls, navigation hitherto has been suspended, or rather has reached some 16 miles to St. Paul, where all the freight destined to these cities (Minneapolis and St. Anthony) and the vast regions North and West, dependent on them for their goods and groceries, must break bulk and be carried on cars or wagons to their destination, making an unnecessary expense of trans-shipping, draying, and re-handling all this freight."^{1/}

Decline of Upper River Traffic

During the sixties and seventies river traffic was on the decline; stage and express lines, plank roads, and above all railroads appeared as supplementary and sometimes alternative agencies; and the steamboat, at first gradually and later very rapidly, lost its relative importance. For the most part, steamboating on the tributaries of the Mississippi was at its height from about 1855 to 1865.

St. Paul had become the leading commercial center of the Northwest and her merchants traded not only with Chicago and St. Louis but with eastern cities as well. Therefore, railroads increased in St. Paul. Direct rail connection was established between St. Paul and Minneapolis on the one hand and Lake Michigan and Lake Superior on the other. By 1880 approximately seven-eighths of the surplus agricultural products of the country west of the Mississippi crossed that river on railways between St. Paul and St. Louis.

As the railroad nets around the Twin Cities and Chicago were constructed, and as the lines were extended into the grain-producing area, barge shipments of grain by

^{1/}

In response to this memorial, Congress passed an act in 1865 called "An Act to Improve Navigation of the Mississippi River to the Cities of St. Anthony and Minneapolis in the State of Minnesota."

river transportation likewise began to decline. Moreover, shipments of lumber, the most important item of freight traffic, declined steadily after 1890. There was no freight to take the place of these two bulky items in Upper Mississippi traffic. At the same time, passenger traffic was decreasing as people sought other more speedy ways of travel. These developments, under way by 1890, were substantially complete by 1915.

Revival of Upper River Traffic

Periodically, since the start of the decline, attempts were made to revive water transportation. A committee, appointed by the United States Senate in 1872 to investigate transportation routes to the seaboard, concluded that the commerce of the Mississippi Valley and the industrial interests of the whole country would be benefited by a revival of river transportation and recommended certain improvements. Between 1867 and 1882, the condition of the Upper Mississippi River was greatly improved by the excavation of a channel in the upper rapids at Rock Island and by the construction of a canal at the Des Moines Rapids by the Government. In 1908 the Inland Waterways Commission, established by Theodore Roosevelt, declared that railroads were unable to keep pace with the development of traffic and recommended that the Government formulate a comprehensive plan for regulating the competing forms of transport. A project for a six foot upper river channel was begun, but construction was slow and piecemeal and did not encourage any great revival of river traffic.

However, such improvements alone could not bring about a revival of river transportation. Up-to-date boats and the capital to build and operate them were lacking, there were no terminal facilities, and railways provided a more efficient means of transportation. In 1914 an article published in the Burlington Post declared that the chief obstacle to river traffic was that, except at New Orleans, there was not a port on the river where freight could be transferred directly from freight car to boat without a heavy transferral charge or substantial labor cost. Meanwhile, it was gradually being brought home to the North Central States that they have a special and very vital interest in cheap transportation and hence in the problem of inland water traffic.

The building of the Panama Canal ^{1/} by the United States Government had a drastic effect upon industry in the Upper Mississippi Valley, because the canal so reduced the

^{1/}

The canal was opened to commerce in August 1914, but was not officially and formally opened until July 1920.

distance by water between the east and west coasts of the United States that it was much less expensive to ship via this route than overland by rail. For example, it became considerably cheaper to ship alfalfa hay from the Sacramento Valley to the Gulf Coast via the Panama Canal than from Nebraska to the Gulf Region, and canned goods could be shipped from San Francisco to New York through the Canal for little more than one-half the cost of shipping the same goods from the Missouri River to New York. It thus became increasingly difficult for the Upper Mississippi Valley to meet the keen competition of east and west coast industries which could avail themselves of the benefits of the new water route.

Since the traffic of the Middlewest, destined for either the eastern or western seaboard, had to bear the high cost of a long overland haul, many industrialists found it cheaper to carry on their business in more strategic localities. Thus, the need for a cheap water route via the Mississippi to the Gulf, which would enable the Upper Mississippi Valley to enjoy the transportation advantages of the Panama Canal and which would provide a way of exporting goods to South America, the Pacific Coast and the Far East, became increasingly evident. Moreover, the importance of such a cheap north-south transportation route was emphasized by the opening of new markets in the growing southeastern states, in South America and in the Orient. Therefore, it was felt more and more that if the Mississippi could be adapted to modern transportation, it would be of primary importance in furnishing the cheap transportation upon which the prosperity of the entire Upper Mississippi Valley depends.

The method of adapting the upper Mississippi to modern transportation is that of complete canalization as recommended by the United States Army Engineers and authorized by Congress in 1930. The canalization project, now rapidly nearing completion, prescribes a minimum channel depth of nine feet to be provided by 26 dams with navigation locks between the mouth of the Missouri River and Minneapolis. The pools formed by these dams extend upstream to the next dam and except during period of high water provide what practically may be called slack-water navigation. The lower Mississippi, previous to the beginning of the canalization project on the upper river, had already been improved to provide a minimum channel depth of nine feet. Thus the entire 1900 mile reach of this stream from the Twin Cities to the Gulf of Mexico will soon become a great dependable artery of commerce. Experience with transportation on similar (and even less favorable) waterways has demonstrated that freight can be handled on a nine-foot channel at much less cost and that long-haul traffic is decidedly increased by this improvement. Some authorities believe that the nine-foot channel,

having suitable width for the maneuvering of fleets of barges, will be able to handle freight at costs comparable to those in effect on the Great Lakes.

The building of the channel was authorized in 1930 and its construction was aided by allotments from the Federal Public Works Administration, the Emergency Relief Administration of Public Works, and the Emergency Relief Administration. While work on the channel in the St. Paul district (extending from Minneapolis-St. Paul to Prairie du Chien, Wisconsin) is practically completed, some of the works between that point and St. Louis cannot be finished until some time in 1939. The completion of this channel should see the Mississippi restored to an important place as a transportation highway for the Upper Valley.

Other developments of importance to commerce in the Mississippi Valley are the opening of the Lakes-to-the-Gulf waterway connecting the Great Lakes at Chicago with the Gulf of Mexico via the Illinois and Mississippi Rivers and New Orleans; the canalization of the Ohio River from Pittsburgh to its confluence with the Mississippi at Cairo, together with the improvement of the Ohio's many important tributaries; the early completion of a nine-foot minimum channel in the Missouri River from St. Louis to Sioux City, and the Intra-Coastal canals which provide protected channels for river boats and barges from Florida to Texas. The possibilities of traffic development between the upper Mississippi Valley and the vast areas reached by this comprehensive system of waterways are very great.

The possibility of restoring navigation upon the upper Mississippi River as a major source of economic activity so deeply interested the State of Minnesota that in 1931 the Legislature amended a prior act providing for an independent municipal commission to administer the affairs of the Port of Duluth so as to authorize the creation of similar bodies in St. Paul and Minneapolis. It was hoped that such an agency, created especially to promote the general welfare of the land and levees of the river port, would improve this property with adequate docks, railroad and terminal facilities and would develop and regulate the Port District so that the volume of commerce on the river would be increased and it would again become a major source of commercial welfare. Such especially established governmental agencies had for many years administered the affairs of large ports all over the world and had proven the desirability of this particular kind of a business organization to insure the continuity of programs of development and promotion of commerce. ^{1/}

^{1/} Municipal or state agencies administer such well-known ports as those of New York, Boston, New Orleans, Manchester, Liverpool, etc.

In the City of St. Paul, previous to the passage of the State Act authorizing the creation of a Port Authority, and previous to the active construction of the nine-foot channel, river traffic had for many years been so insignificant that no vital interest was taken in developing the river front. The city had maintained a warehouse at the foot of Sibley Street which was available for such freight as moved on river packet boats, but the traffic in general was so negligible that no other levee property or river frontage had been developed to accomodate or handle freight. The limited facilities maintained for the accomodation of river traffic were under the jurisdiction of the Department of Public Utilities.

However, around 1926 and 1927, the changing situation and the demand for a cheaper mode of transportation aroused great public interest in the potentialities of the river as a significant economic factor. The City therefore acquired the most adaptable river frontage and began to provide facilities for water transportation. In 1928, it constructed a Municipal River Grain Terminal and a modern Barge Terminal, which was designed and equipped for the handling of all kinds of package and bulk freight. In addition, the Ford Motor Company constructed river terminal facilities at its St. Paul plant. The Federal Barge Lines, which at that time operated only on the lower Mississippi River, was then induced to extend its services to the upper Mississippi and thus a regular common carrier service was established between New Orleans and the Twin Cities.

Since the function of developing the river was at that time performed by the Department of Public Works, which administered many other phases of city government besides, and since there was increasing activity on the river front, it was deemed advisable to create a new and independent department of the city government to administer these affairs. Thus, in accordance with the State act authorizing the Port Authority, the City Council in August, 1932, appointed a body of three commissioners, giving them the title "Port Authority of St. Paul". To this special agency were delegated all matters and properties pertaining to the river and its levees.

PART II

INTRODUCTION TO THE STUDY OF THE
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The Port Authority of St. Paul is a municipal commission composed of three commissioners who were appointed by the City Council in August 1932. This commission was incorporated by statute and operates independently of the City Council, holding title to all property transferred to it by the City or by any person or corporation.

The function of the Port Authority is to promote the commercial welfare of the City by improving the river front property for river transportation purposes and by finding ways and means of developing river traffic. It endeavors to increase the volume of commerce on the river, to promote the efficient, safe and economical handling of this commerce, and to provide adequate docks and terminal facilities which are open to the public upon reasonable and equal terms. The Port Authority may consider and adopt comprehensive plans for the regulation, future development and improvement of the Port District; it may confer with other similar bodies and agree upon and recommend to the proper departments of the United States Government, to the State, or to any other body, the carrying out of public improvements or of legislation necessary for the proper control of the Port; it may advise the passage of legislation to improve the conduct of navigation and commerce; and it may investigate the practices, rates and conduct of privately owned or operated dock, terminal, and port facilities, and in the interest of the public may take the necessary steps to remedy any abuses.

The investigation of levee ^{1/} property owned by the Port Authority was undertaken so that information pertaining to legal ownership, description, valuation, tax status and other pertinent factors might be readily available to the Port Authority, to prospective industries wishing to locate on the river front, and to others interested in these facts. A map showing all levee properties has also been included (as Part VI) to provide a ready index with which to locate the tracts of land discussed in detail in the study.

All property owned by the Port Authority on both banks of the Mississippi River in the City of Saint Paul

^{1/}

The term "levee" means any river front property used for street or other public purpose.

is subdivided into separate tracts, and each parcel of this land was closely studied and analyzed. For each separate piece of land the following facts were noted and the following sources investigated:

History of abstract of title with legal description - Abstracts of title in City Comptroller's office, offices of the Abstract Clerk, the Register of Deeds, the County Auditor, the County Assessor, the Public Works Department, the Law Library, the Probate Court, and the Clerk of the District Court.

Location of the land - Standard maps in the Public Works Department.

Type of zoning - Zoning map.

Tax Status - County Assessor's Office.

Valuation - Valuation of properties except those acquired by condemnation were obtained from the County Assessor's Office; in the case of condemned property, information on the value of improvements was obtained from the City Engineer's Office and information on the value of the land from the Finance Department.

The work was begun in November 1936, and was carried on by Mr. Arthur M. Daniels and Mr. Henry A. Loughran, both of whom are duly licensed attorneys-at-law in the State of Minnesota.

General History of the Port Authority Property

Although the history and abstract of title of each parcel of land now owned by the Port Authority is treated in detail in Part IV, the following brief discussion may serve to enable one to visualize the general historical process by which this land, originally the property of the Indians, was gradually acquired by the City of St. Paul.

By virtue of the Louisiana Purchase the United States Government, in 1803, owned all the land on the Mississippi River in the vicinity of St. Paul.^{1/} Before this land could legally be opened for public settlement, it was necessary to negotiate treaties with the Indians. These were not made until after 1830. As soon as the Indians surrendered possession, the land was opened to the settlers for homesteading. Under the homestead laws, an individual was allowed to settle on a tract of land and after a certain period of occupation (usually from fourteen months to five years), he could obtain a patent or deed to the land

^{1/}

The land east of the Mississippi River was ceded to the United States by Virginia in 1784 as part of the Northwest Territory; the land west of the Mississippi was acquired by the Louisiana Purchase of 1803.

from the government. However, even before this period of legal occupation, squatters settled on this property, later managing to transfer their pre-emptive rights into legal title. A great part of the land bordering on the Mississippi River in St. Paul had been taken by squatters and homesteaders by the time St. Paul became an important river port in the latter half of the nineteenth century.

During the early years of the development of the river as a major source of commercial activity in the City of St. Paul, it became necessary for the city to acquire levee and street rights to the land abutting the river in order that these river-front properties might be regulated and developed in the interests of the public. Only by carefully planned and organized improvements of the river and its abutting properties could the growth of navigation be assured and the commercial welfare of the city be promoted. Therefore, as early as 1858 the city began to acquire levee property. During the ensuing period, from that time until the present, the city has obtained title to practically all the land abutting the river within its territorial limits. The City of St. Paul has employed the methods of condemnation, dedication and deed to obtain title to these lands.

Whenever it was deemed necessary to acquire a certain tract of land for levee or street purposes, the City Council attempted to buy it outright by deed from the individual owners, or else commenced condemnation proceedings against the property in question and the owners of it.^{1/}

^{1/}

There are usually seven steps to be followed in a condemnation proceeding:

- 1) The public improvement or necessity for the property in question is explained either in a petition of three or more interested persons or in a written proposal by any one councilman.
- 2) The Council directs the Commissioner of Public Works to investigate the necessity of the improvement and the Finance Commissioner does the same; both investigations are reported to the City Council.
- 3) If the Council approves the improvement, an intermediary order to proceed with it is published and a date is set for a public hearing and notices are sent to the property owners affected.
- 4) At this hearing are heard all persons, recommendations and objections relative to the proposed improvement.
- 5) If the Council determines that the improvement is necessary it then fixes the exact amount of land to be condemned and the Finance Commissioner determines the amount of damages to be paid.
- 6) The Council then fixes another day for a public hearing; if at that time, it deems the award fair, it confirms that and the condemnation.
- 7) The Council then proceeds to take the land as per condemnation.

Such owners were paid a fair and reasonable award of damages as compensation. The authority to acquire land by this latter method is given to the city as a sovereign power having the right of eminent domain.^{1/}

A considerable part of the levee property was obtained by dedication.^{2/} In this case, the owner of a tract of land abutting the river, after surveying his property and plotting it into blocks and lots, dedicates and grants the streets and alleys therein to the public use. If the city should cease to use the streets for the purpose for which they were dedicated, the property would revert to the person who dedicated it or to his grantees.

The factors leading up to the creation of the Port Authority by the State Legislative Act of 1929 and the appointment of such a special agency by the City Council of St. Paul in 1932 have already been traced in the preceding story of river traffic on the upper Mississippi.

Still acting in accordance with the State statute authorizing the creation of the Port Authority and in accordance with its own ordinance establishing such an agency, the City Council of St. Paul on June 29, 1933, directed the proper city authorities to transfer to the Port Authority by proper deeds of conveyance all docks, waterfront and riparian properties and all terminal equipment and machinery owned by the City of St. Paul. Pursuant to this, on April 4, 1934, a Quit Claim Deed was properly executed and recorded in office of the Register of Deeds of Ramsey County, Minnesota. Thus the Port Authority of St. Paul acquired territorial jurisdiction and authority over all portions of the city's port and harbor. This territory was thenceforth called the Port District and is shown in the map accompanying this report.

^{1/}

The right of eminent domain is the highest power conferred upon the State or conferred by the State under the United States Constitution. It is the right to take private property for public use according to law.

^{2/}

A dedication is established by the filing of legal papers describing the plat of land dedicated. This plat indicates the streets and alleys dedicated, as well as the oath of the surveyor as to the date on which the survey was made.