METROPOLITAN AIRPORTS COMMISSION

In re MSP 2020 Improvements Final Environmental Assessment/Environmental Assessment Worksheet, Adequacy Determination, and Negative Declaration on the Need for an Environmental Impact Statement

FINDINGS OF FACT, CONCLUSIONS, AND ORDER

The above-titled matter came before the Metropolitan Airports Commission (MAC), the responsible governmental unit (RGU) for the proposed 2020 Improvements project at Minneapolis-St. Paul International Airport (MSP), upon completion of a joint Environmental Assessment/Environmental Assessment Worksheet (EA/EAW) for the proposed project. Based on the MAC's files and records related to this matter, the MAC hereby finds, concludes, and orders as follows:

FINDINGS OF FACT

I. INTRODUCTION

1. The proposed MSP 2020 Improvements project requires preparation of environmental review documents under both the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370h, and the Minnesota Environmental Policy Act (MEPA), Minn. Stat. ch. 116D. The proposed development will require federal actions and approvals by the Federal Aviation Administration (FAA) and the Federal Highway Administration (FHWA), as well as local approvals by the MAC. On March 5, 2013, the FAA issued a Finding of No Significant Impact/Record of Decision (FONSI/ROD) determining that the EA/EAW for the proposed MSP 2020 Improvements project is adequate under NEPA and that there are no significant impacts associated with the proposed project.

2. Under MEPA and the rules implementing the statute promulgated by the Minnesota Environmental Quality Board (MEQB) and codified at Minn. R. ch. 4410, the MAC is the RGU for the proposed 2020 MSP Improvements project. The MAC has prepared an EAW for the proposed project because it has determined that the project may have the potential for significant environmental effects under MEPA. MEPA, Minn. Stat. § 116D.04, subd. 2a(b); Minn. R. 4410.1000, subp. 3.

3. MEPA provides that a federal Environmental Assessment (EA) document may be circulated in place of an EAW form if the EA addresses each of the environmental effects identified in the EAW form. The EA/EAW for the proposed MSP 2020 Improvements project addresses each of the environmental effects identified in the EAW form, and the MAC circulated the EA/EAW in place of an EAW form.

4. The MAC must determine whether the EA/EAW document is "adequate"—that is, whether it satisfies MEPA's legal requirements for presenting the information necessary to make a reasoned decision about the potential for or significance of the proposed MSP 2020 Improvements project's environmental impacts. In addition, the MAC must determine whether the proposed MSP 2020 Improvements project has the "potential for significant environmental effects" and requires preparation of an environmental impact statement (EIS) under MEPA. MEPA, Minn. Stat. § 116D.04, subd. 2a(b); Minn. R. 4410.1700. The criteria for making a determination on the need for an EIS require a consideration of the type, extent, and reversibility of the project's environmental effects; the cumulative potential effects of related or anticipated future projects; the extent to which the environmental effects are subject to mitigation; and the

extent to which the environmental effects may be anticipated or controlled as a result of other available environmental studies. Minn. R. 4410.1700, subp. 7.

5. The MAC's decision must be in the form of either a negative declaration or a positive declaration. The MAC must base its decision regarding the need for an EIS on the information gathered during the EAW process and on the comments received on the EAW. Minn. R. 4410.1799, subp. 3.

II. PROJECT BACKGROUND

6. Minneapolis-St. Paul International Airport (MSP) is a large commercial-service airport located on 3,400 acres approximately seven miles south of downtown Minneapolis and seven miles southwest of downtown St. Paul. The airfield consists of four runways, numerous taxiways and service roads, and two terminals (Terminal 1-Lindbergh and Terminal 2-Humphrey) with 127 combined aircraft gate positions. Landside facilities include terminal curb roadways, ground transportation centers, parking facilities, rental car facilities, and access roads.

7. MSP's terminal and landside facilities do not meet current demand with an acceptable level of service, and the level of service at the facilities is expected to continue to deteriorate as future demand for airport services grows. MSP is experiencing unacceptable levels of service within Terminal 1-Lindbergh at both landside and terminal facilities. In addition, demand for aircraft gates at Terminal 2-Humphrey currently exceeds capacity during the winter months, a situation the MAC expects to become worse in the future. In sum, landside facilities, regional roadways, and Terminal 1-Lindbergh and Terminal 2-Humphrey are currently experiencing congestion. As passenger activity grows, conditions are expected to deteriorate further.

8. The purpose of the proposed MSP 2020 Improvements project is to accommodate the expected demand such that the level of service is acceptable throughout MSP's facilities under both existing and 2020 conditions, and that regional roadways provide an acceptable level of service under both existing and 2030 conditions.

9. The proposed project involves those improvements to MSP necessary through 2020 if the non-SkyTeam airlines (that is, those airlines other than Delta Air Lines and its SkyTeam partners) currently located in Terminal 1-Lindbergh are relocated to Terminal 2-Humphrey.[1] The MAC developed the proposal during its Long-Term Comprehensive Plan Update when it determined that it could use MSP's two-terminal system more efficiently.

10. Current facilities at Terminal 1-Lindbergh are already congested and, as passenger activity grows, conditions at Terminal 1-Lindbergh will further deteriorate. In addition, different types of airline operations require different passenger facilities. Delta Air Lines and its SkyTeam partners operate a major hub at MSP within Terminal 1-Lindbergh. Approximately 60 percent of Delta's passengers are connecting passengers that fly through MSP. These passengers typically do not use baggage claim facilities, ticketing facilities, roadways, or parking. Future expansion of terminal and landside facilities is more feasible at Terminal 2-Humphrey than at Terminal 1-Lindbergh, because there is more available land in the Terminal 2-Humphrey area and because the supporting landside parking facilities near Terminal 2-Humphrey have

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[1] The EA/EAW contains a discussion of alternatives, including a "no action" alternative, because NEPA requires that an EA discuss alternatives. NEPA, 42 U.S.C. § 4332(2)(E); 40 C.F.R. § 1508.9(b). In the EA/EAW, the proposed project is known as the "Airlines Relocate Alternative." MEPA does not require an evaluation of alternatives in an EAW. Minn. R. 4410.1200. In determining whether the proposed MSP 2020 Improvements project requires an EIS under MEPA, these findings and conclusions compare the "no action" alternative discussed in the EA/EAW with the proposed project that is referred to as the Airlines Relocate Alternative.

13. For airside improvements in the area of Terminal 2-Humphrey, the proposed project would involve expanding the existing terminal apron, building a remain overnight aircraft apron, relocating the run-up pad, demolishing and relocating the Delta Air Lines flight kitchen, and relocating the ground support equipment facility.

III. EAW PROCESS

14. The FAA and the MAC coordinated with interested agencies and the public throughout the preparation of the EA/EAW for the proposed MSP 2020 Improvements project. Coordination began in late 2010 with the MAC briefing the FAA and the community regarding the proposed project, followed by presentations and briefings at MSP Noise Oversight Committee meetings throughout 2011 and 2012. The MAC also held three open houses on the project (two in July 2011 and one in January 2012) before completing the draft EA/EAW.

15. The FAA and the MAC released the draft EA/EAW for public comment on August 30, 2012. The MAC held three open houses on the project during the public comment period to share information on the draft EA/EAW, and held a public hearing on the draft EA/EAW on October 1, 2012, at which it received public comments. The public comment period on the draft EA/EAW closed on October 11, 2012.

16. In developing the final EA/EAW, the MAC considered the oral and written public comments received during the public comment period on the draft EA/EAW. The MAC, in coordination with the FAA, also responded to all oral and written comments received on the draft EA/EAW during the public comment period. *See* Final EA/EAW, Appendix R, *Draft EA/EAW Comments and Responses*.

IV. THE PROPOSED MSP 2020 IMPROVEMENTS PROJECT AND PREPARATION OF THE EA/EAW

17. The MAC has determined that the proposed MSP 2020 Improvements project is not exempt from environmental review and "may have the potential for significant environmental effects." MEPA, Minn. Stat. § 116D.04, subd. 2a(b); Minn. R. 4410.1000, subp. 3. Therefore, the MAC prepared the EA/EAW for the project.

18. The EA/EAW addresses all of the impact categories discussed in the EAW form under MEPA, as well as all FAA and FHWA impact categories. Therefore, the MAC has circulated the EA/EAW document in place of the EAW form. Minn. R. 4410.1300.

V. CRITERIA FOR DETERMINING WHETHER THE PROPOSED MSP 2020 IMPROVEMENTS PROJECT HAS THE POTENTIAL FOR SIGNIFICANT ENVIRONMENTAL EFFECTS AND REQUIRES AN EIS UNDER MEPA

19. MEPA requires that the MAC prepare an EIS for the proposed MSP 2020 Improvements project if the project has the potential for significant environmental effects. Minn. Stat. § 116D0.04, subd. 2a(b); Minn. R. 4410.1000, subp. 3. The Minnesota Environmental Quality Board rules establish four criteria that a responsible governmental unit must use in considering whether a project has the potential for significant environmental effects. Those factors are:

A. type, extent, and reversibility of environmental effects;
B. cumulative potential effects of related or anticipated future projects;
C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and
D. the extent to which environmental effects can be anticipated and controlled as a result of other

> available environmental studies undertaken by public agencies or the project proposer, including other EISs.

Minn. R. 4410.1700, subp. 7.

A. The Type, Extent, and Reversibility of the MSP 2020 Improvement Project's Environmental Effects

(i) Air Quality

20. The FAA and the MAC conducted the air quality assessment in the EA/EAW that complies with United States Environmental Protection Agency (EPA) and FAA guidance. The air quality assessment included aircraft operations, ground support equipment, motor vehicles, and stationary sources associated with the airport. After reviewing the EA/EAW's air quality assessment, EPA Region 5 commended the EA/EAW for its air quality analysis.

21. The two principle components of the air quality assessment are: (1) an emissions inventory designed to evaluate the impacts of the proposed MSP 2020 Improvements project on regional air quality conditions; and (2) dispersion modeling designed to evaluate the carbon monoxide (CO) impacts of the alternatives on local air quality.

22. Hennepin County, including the area surrounding MSP, is currently designated as an attainment area for all National Ambient Air Quality Standards (NAAQS) except carbon monoxide (CO). The area including MSP meets NAAQS for the following criteria air pollutants: lead, nitrogen dioxide, sulfur dioxide, PM 10, PM 2.5, and the current 8-hour standard for ozone. Hennepin County is designated as a CO maintenance area, which means that violations of NAAQS for CO have occurred in the past but that the area is currently in attainment. The difference in operational and

construction CO emissions between the no action alternative and the proposed project would not exceed conformity *de minimis* levels of 100 tons per year, and CO concentrations associated with the proposed project will not exceed federal or state standards. The emissions of all criteria pollutants under the proposed project will be similar to existing emissions and to emissions under the no action alternative. The project will also improve highway operations without adding substantial new capacity, so air toxics emissions from mobile sources under the project will not differ materially from current conditions.

23. The FAA and the MAC have prepared a hazardous air pollutant (HAP) emissions inventory that complies with FAA and EPA guidance, and that is based upon current known information regarding airport-related HAP emissions. FAA guidance also explains that, other than a HAP emissions inventory, environmental review documents may not include HAP assessments because the science of atmospheric reactions regarding airport-related HAP emissions is evolving and the current level of understanding regarding such reactions is limited.

24. Lead emissions are typically not considered in emission inventories for commercial-service airports such as MSP, because lead emissions are primarily the result of piston engine aircraft using aviation gas. Piston engine aircraft represent less than two percent of total MSP operations and have been decreasing steadily at MSP since 2005. However, the EA/EAW contains an air quality assessment that evaluated lead emissions associated with the proposed project.

25. As discussed above, emissions levels for fine particulate matter equal to or less than 2.5 micrometers (PM 2.5) meet existing NAAQS in Hennepin

County and in the area surrounding MSP. Minnesota Pollution Control Agency (MPCA) ambient monitoring stations near MSP have shown that PM 2.5 concentrations have decreased steadily since 2009 and are well within the NAAQS, in part because of regulation and in part because of improved combustion efficiencies of stationary sources such as boilers. The EA/EAW also demonstrates that there is no expected increase in PM 2.5 emissions associated with the proposed project. Under both the no action alternative and the proposed project, PM 2.5 emissions are predicted to be 36 tons during 2020 and 39 tons during 2025. In fact, the proposed project may actually reduce overall air emissions by reducing aircraft taxi times.

(ii) Greenhouse Gas Emissions

26. The EA/EAW includes a greenhouse gas emissions inventory prepared under the guidance of the Airport Cooperative Research Program (ACRP) *Guidebook on Preparing Airport Greenhouse Gas Emission Inventories* and the MPCA's *General Guidance for Carbon Footprint Development in Environmental Review*, as well as FAA guidance. The EA/EAW compares the incremental increase in greenhouse gas emissions associated with the proposed project with existing greenhouse gas emissions at MSP. Under the comparison, the proposed project will result in an increase in greenhouse gas emissions of less than one percent over MSP's existing greenhouse gas emissions.

(iii) Construction Impacts

27. The EA/EAW identifies that fugitive dust emissions from excavated areas and construction equipment emissions may result in temporary impacts to air quality during construction. To minimize fugitive dust impacts, the MAC's construction contracts require contractors to employ appropriate dust control measures

during construction. In addition, the MAC requires a re-circulating air sweeper with dust control and auxiliary pick-up type sweepers to be present and available as necessary to suppress dust generated at the project construction sites and on haul routes to and from project construction sites.

28. Emissions from construction equipment associated with the proposed project will be *de minimis* and temporary. Temporary road and lane closures may occur during construction of the roadway improvements associated with the proposed MSP 2020 Improvements project. The MAC is developing a temporary traffic plan to maintain traffic flow during construction and to minimize road and lane closures, especially during rush hours. The MAC will work with its construction contractor to stage vehicle trips to avoid any negative impacts on traffic flow in the area, and will implement a temporary traffic control plan to maintain traffic flow during construction.

29. Because the proposed MSP 2020 Improvements project will not change runway use during construction, there are no anticipated aircraft noise changes during construction. As for noise from construction activities, the MAC's construction contracts provide that the use of construction equipment with elevated noise levels (such as pile drivers, jack hammers, and pavement saws) will be prohibited during nighttime hours to the extent possible.

30. The MAC is likely to encounter hazardous substances, asbestos-containing materials, contaminated soils, and other regulated materials under the proposed project. If the MAC encounters hazardous substances, asbestos-containing materials, contaminated soils, or other regulated materials during construction of the proposed project, the MAC will manage the contaminated soil or pavement according to

the MPCA-approved Soil Management Plan for MSP, which the MPCA reviews annually.

31. Construction may cause temporary impacts to water quality, such as increased turbidity. The MAC will implement best management practices to protect against these temporary impacts, including implementation of erosion and sediment control practices such as installation of silt fences, temporary sediment basins, stormwater inlet filters, and silt curtains. The MAC's construction contractors will also obtain stormwater permits for the proposed project from MPCA. In addition, the MAC's construction contracts require the contractor to comply with all applicable permit requirements, including applicable stormwater requirements in the MAC's permits for MSP.

(iv) Aircraft Noise and Compatible Land Use

32. The proposed MSP 2020 Improvements project does not require changes to runway use or increase aircraft operations. MSP's existing infrastructure is able to accommodate projected daily and annual demand as of 2020, albeit at a reduced level of service.

33. There is a small variation between runway use under the no action alternative and under the proposed MSP 2020 Improvements project, but that variation does not arise from the proposed project. The variation is a function of FAA air traffic control procedures during low-demand periods at MSP, is consistent with existing conditions, and is not significant.

34. Aircraft noise impacts are virtually identical under the no action alternative and under the proposed project. Under the no action alternative and based on

484,879 total forecast operations in 2020, approximately 4,388 acres around MSP are predicted to be in the 65 and greater Day Night Average Sound Level (DNL) noise contours and approximately 11,240 acres are predicted to be in the 60 and greater DNL noise contours. Under the proposed project and based upon 484,879 total forecast operations in 2020, approximately 4,387 acres are predicted to be in the 65 and greater DNL noise contours and approximately 11,230 acres are predicted to be in the 60 and greater DNL noise contour. Under the no action alternative, the MAC estimates that by 2020 there will be 2,162 residential units within the 65 and greater DNL contours, and 12,398 residential units within the 60 and greater DNL contours. Under the proposed MSP 2020 Improvements project, the MAC estimates that by 2020 there will be 2,166 residential units within the 65 and greater DNL contours, and 12,272 residential units within the 60 and greater DNL contours. All residential land uses within the 65 and greater DNL contours for 2020 and 2025 under the proposed project have already received noise mitigation.

35. The FAA threshold of significance under NEPA for aircraft noise is triggered if an action causes an increase of 1.5 dB DNL or greater for a noise sensitive land use at or above the 65 DNL noise exposure level when compared to the forecast no action conditions. Under the no action alternative and the proposed MSP 2020 Improvements project, there are no areas of sensitive land use that experience a 1.5 dB DNL or greater increase in the 65+ DNL noise contours.

36. The proposed MSP 2020 Improvements project does not make changes in runway use or in departure or approach paths. The proposed project will not

result in changed conditions in land use compatibility related to safe aircraft operations and wildlife hazards.

(v) Vehicle Noise

37. By 2030, modeled daytime traffic noise levels for the no action alternative are predicted to increase by 0.9 dBA to 2.6 dBA as compared to existing conditions. For the proposed MSP 2020 Improvements project, by 2030 modeled daytime traffic noise levels are predicted to increase by 0.9 dBA to 2.7 dBA as compared to existing conditions.

(vi) Socioeconomic Impacts, Vehicular Traffic, and Circulation

38. The proposed MSP 2020 Improvements project involves construction on MSP airport property or within existing road right-of-way.

39. The proposed MSP 2020 Improvements project will require relocation of one business, the SuperAmerica located at Post Road and Highway 5, to a location just south of its current location. The relocation will not result in a loss of business or employment.

40. The EA/EAW includes a traffic and circulation study that evaluates the impact of the proposed MSP 2020 Improvements project. Based upon that study, the proposed MSP 2020 Improvements project is expected to improve parking operations at MSP, circulation at on-airport roadways, and freeway conditions in the area near MSP.

(vii) Environmental Justice

41. The proposed MSP 2020 Improvements project does not exceed the thresholds of significance for any impact category. Therefore, the proposed project will not disproportionately impact minority or low-income populations, or children's environmental health and safety.

(viii) Fish, Wildlife, Plants, and Parks

42. No federally-listed endangered or threatened species are located in or adjacent to the area of the proposed project. In addition, there are no state-listed endangered, threatened, or special concern species, critical habitat, natural plant communities, or other natural features in or adjacent to the proposed project. There are no bald eagle nests in the area of the proposed project. However, because new nests could be built before the MAC commences construction of the proposed project, during construction the MAC will implement United States Fish and Wildlife Services (USFWS) guidelines to avoid disturbing nesting bald eagles.

43. The proposed MSP 2020 Improvements project includes construction of a new Trunk Highway 5 and Post Road interchange. Post Road serves as the park entrance access road to Fort Snelling State Park. The MAC will coordinate with the Minnesota Department of Natural Resources before construction to ensure safe vehicle access for park visitors during the interchange construction.

(ix) Historical, Architectural, Archaeological, and Cultural Resources

44. The only site potentially eligible for National Register of Historic Places designation identified in the area of the proposed MSP 2020 Improvements project is an archaeological site northwest of the Post Road/Trunk Highway 5 interchange.

45. Additional design for the proposed MSP 2020 Improvements project is necessary to determine whether archaeological resources are in the area northwest of the intersection of Post Road and Trunk Highway 5. Before commencing construction in the Post Road/Trunk Highway 5 area, the MAC will: (a) further define the limits of construction in the area; (b) undertake additional archaeological investigations, if necessary; and (c) coordinate with the FAA and the Minnesota State Historic Preservation Office to select a course that avoids or minimizes adverse impacts to archaeological resources, if any are present in the area.

(x) Light Emissions and Visual Effects

46. Potential new light sources associated with the proposed MSP 2020 Improvements project are apron lighting installed on the new and expanded aprons near Terminal 2-Humphrey and new parking facility lighting. The existing aprons are already lighted and the nearest residents in the area live south of I-494 and west of Highway 77, so the new apron lighting is unlikely to interfere with residential activities. In addition, the existing parking structures in the area are lighted, so the lighting on the new parking structures is also unlikely to interfere with residential activities.

(xi) Natural Resources and Energy Supply

47. Under the proposed MSP 2020 Improvements project, aviation gas and diesel consumption will drop in 2020 as compared to the no action alternative. Natural gas consumption would increase by about seven percent and electricity consumption would increase by about 16 to 23 percent as a result of expanded terminal facilities. However, even with the increased electrical consumption, energy demand from

the proposed project will not exceed supply. In addition, the proposed project will not use any unusual natural resources or raw materials, or any materials that are in short supply.

(xii) Surface Water and Groundwater

48. Surface water impacts are virtually identical under the no action alternative and under the proposed MSP 2020 Improvements project. Although the proposed project will result in a net impervious surface increase of 28.4 acres, the increase is insignificant when compared to the amount of existing impervious surface at MSP (in excess of 1,880 acres). In addition, there are no significant differences in stormwater runoff volume and runoff water quality between the no action alternative and the MSP 2020 Improvements project. Overall efficiency of organic pollutant collection from surface water will increase by nearly two percent under the proposed project, because current deicing activities in the Terminal 1-Lindbergh E Concourse area will move to new systems installed in the area of Terminal 2-Humphrey.

49. The only river segment listed on the Nationwide Rivers Inventory within five miles of MSP is the Mississippi River between St. Croix and the United States Army Corps of Engineers Lock and Dam #1 in Minneapolis. The proposed project will not alter this river segment physically, and will not change the quality or quantity of surface water runoff or discharges from MSP. The closest designated Wild and Scenic River to MSP is the St. Croix River, which is approximately 25 miles from the airport and will not be affected by the proposed project.

50. Because the proposed project does not change the total number of aircraft operations, total fueling operations will remain similar under the no action alternative and the proposed project, with minor changes in the location of the fueling

activities. The MAC does not expect that there will be a material difference in the potential for groundwater impacts between the no action alternative and the proposed project.

51. Aircraft deicing may have the potential to impact groundwater. However, the proposed project reduces the potential for groundwater contamination, as compared to the no action alternative, because it includes construction of new pavement with storm sewer systems that will improve collection of deicing fluid.

(xiii) Coastal Resources

52. The Coastal Zone Management Act (CMZA) of 1972 ensures the effective management and protection of the coastal zone. Under the statute, states prepare Coastal Zone Management Programs to implement protection of coastal areas. Minnesota approved the Lake Superior Coastal Program under the CMZA in 1999. MSP is not within the coastal boundary as defined by the Lake Superior Coastal Program, so the EA/EAW does not analyze coastal impacts under the CMZA.

53. The Coast Barrier Improvement Act of 1990 prohibits federal financing for development of undeveloped coast barriers along the shores of the Great Lakes, including the Minnesota Point unit in Lake Superior, Minnesota. The proposed MSP 2020 Improvements project will not affect any coastal barrier resources.

(xiv) Farmland

54. The Farmland Protection Policy Acts of 1980 and 1995 regulate the conversion of important farmland to non-agricultural uses. The proposed MSP 2020 Improvements project is within airport property or existing road right of way and will be constructed in areas already committed to urban development.

B. Cumulative Environmental Effects

55. The EA/EAW evaluates the cumulative potential effects from related or anticipated future projects and the proposed MSP 2020 Improvements project. The EA/EAW's cumulative potential effects analysis considered nearly 50 projects at MSP and in the cities of Richfield, Bloomington, and Minneapolis, and evaluated cumulative construction, traffic, water quality, and noise impacts. According to the EA/EAW, construction of the proposed MSP 2020 Improvements project and other projects in the area may create certain unavoidable but temporary cumulative impacts, such as noise, fugitive dust, and degraded water quality. These impacts are likely to be localized, predominantly at MSP at the Post Road/Trunk Highway 5 interchange and the 34th Avenue South/I-494 interchange. In addition, they may be minimized by implementing construction best management practices. The MAC and the City of Bloomington intend to coordinate construction projects to minimize any cumulative effects associated with improvements in the Bloomington South Loop District Plan.

56. The EA/EAW also considers the cumulative potential effects of the proposed MSP 2020 Improvements project and the FAA's proposed Performance Based Navigation (PBN) procedures, which includes Area Navigation (RNAV) and Required

Navigation Performance (RNP). PBN is part of the FAA's NextGen system, which is designed to overhaul the national airspace system to reduce delays, enhance safety, and limit noise impacts by using more precise flight paths.

57. The proposed MSP 2020 Improvements project is a separate project from the FAA's PBN proposal. The MAC is proposing the MSP 2020 Improvements project to provide an acceptable level of service and to accommodate demand throughout MSP's terminal and landside facilities through 2020, as well as to accommodate regional roadway demands through 2030.

58. PBN is an independent FAA proposal which is not a prerequisite to the proposed MSP 2020 Improvements project. The FAA will undertake its own environmental review of PBN under NEPA.

59. Although PBN is a separate FAA project, the EA/EAW includes PBN in the analysis of cumulative impacts of aircraft noise for the proposed MSP 2020 Improvements project.

60. The FAA threshold of significance under NEPA for aircraft noise is triggered if a proposed action will cause an increase of 1.5 dB DNL or greater for a noise-sensitive land use at or above the 65 DNL noise exposure when compared to the forecast no action conditions. When combined with the MAC's endorsed PBN, for both the forecast no action conditions and the proposed MSP 2020 Improvements project there are no areas of sensitive land use that experience a 1.5 dB DNL or greater increase in the 65+ DNL noise contours.

C. Mitigation of Environmental Effects by Ongoing Public Regulatory Authority

61. Environmental effects of the proposed MSP 2020 Improvements project are subject to mitigation by ongoing public regulatory authority.

62. The EA/EAW identifies that fugitive dust emissions from excavated areas and construction equipment emissions may result in temporary impacts to air quality during construction of the proposed project. However, as discussed above, the MAC's construction contracts require contractors to employ appropriate dust control measures during construction, including minimizing the amount of time soils or graded areas are exposed, minimizing the extent of exposed soils or graded areas, watering disturbed areas, and minimizing the use of vehicles on unpaved surfaces. In addition, the MAC requires a re-circulating air sweeper with dust control and auxiliary pick-up type sweepers to be present and available as necessary to suppress dust generated at the project construction sites and on haul routes to and from the project construction sites.

63. If the MAC encounters hazardous substances, asbestos-containing materials, contaminated soils, or other regulated materials during construction of the proposed project, the MAC will ensure that they are addressed properly. The MAC's construction contracts for the project require trained environmental personnel to verify the condition of soils in the project area. The MAC manages impacted soils according to the MPCA-approved Soil Management Plan for MSP, which the MPCA reviews annually. All regulated materials found in the proposed project area will be handled and disposed of in accordance with applicable regulations.

64. The MAC and its construction contractors must meet all requirements set forth in MSP's National Pollutant Discharge Elimination System

(NPDES) permits for stormwater discharges as a result of construction activities. In addition, the MAC must comply with Stormwater Pollution Prevention Plan (SWPPP) requirements, as well as permits issued by the Lower Minnesota River Watershed District.

65. The MAC will conduct all construction dewatering in compliance with its Construction Dewatering National Pollutant Discharge Elimination System (NPDES) permit or its Metropolitan Council Environmental Services permit, or both.

66. Erosion control measures for the proposed project will minimize erosion of soils and prevent sediment from entering the storm sewer system or washing to other low areas. Measures to control erosion during the construction of the proposed project will include the installation of silt fencing and storm drain inlet protection.

67. There are no bald eagle nests in the area of the proposed project. However, because new nests could be built before the MAC commences construction of the proposed project, during construction the MAC will implement United States Fish and Wildlife Services (USFWS) guidelines to avoid disturbing nesting bald eagles.

VI. NOISE MITIGATION PROGRAM

68. Separate and apart from the MSP 2020 Improvements project, the MAC is proposing a noise mitigation program that will commence in 2013. For the purposes of NEPA and MEPA, this program is not noise mitigation for the proposed MSP 2020 Improvements project. Aircraft noise mitigation for the MSP 2020 Improvements project is not necessary under NEPA and MEPA because aircraft noise impacts are virtually identical under the no action alternative and under the proposed project. In addition, under both the no action alternative and the proposed MSP 2020

Improvements project, there are no areas of sensitive land use that experience a 1.5 dB DNL or greater increase in the 65+ DNL noise contours, which is the FAA's threshold of significance for aircraft noise under NEPA.

69. Attachment D to the FAA's FONSI/ROD is a letter from Susan Mowrey-Schalk, Manager, Airports Division, FAA Great Lakes Region, to Jeffrey Hamiel, Executive Director/Chief Executive Officer, MAC, dated March 5, 2013. In the letter, the FAA states that "mitigation measures imposed by a state court as part of a consent decree are eligible for use of airport revenue" and that MAC could "use airport revenues if it were to amend the 2007 consent decree" in *City of Minneapolis, et al. v. Metropolitan Airports Commission* (Civ. No. 05-5474) to include the noise mitigation program.

CONCLUSIONS

1. On March 5, 2031, the FAA issued a FONSI/ROD determining that the EA/EAW for the proposed MSP 2020 Improvements project is adequate under NEPA and that there are no significant impacts associated with the proposed project.

2. The MAC has the authority to determine whether the proposed MSP 2020 Improvements project is exempt from environmental review under MEPA.

3. The MAC has the authority to determine whether the proposed MSP 2020 Improvements project "may have the potential for significant environmental effects." Minn. R. 4410.1000, subp. 3(B).

4. The MAC has the authority to determine whether the proposed MSP 2020 Improvements project "has the potential for significant environmental effects" and requires preparation of an EIS under MEPA. Minn. R. 4410.1700, subp. 7. The four

criteria for determining whether the proposed MSP 2020 Improvements project has the potential for significant environmental effects are: (a) the type, extent, and reversibility of the project's environmental effects; (b) the cumulative potential effects of related or anticipated future project; (c) the extent to which the project's environmental effects are subject to mitigation by ongoing public regulatory authority; and (d) the extent to which the project's environmental effects may be anticipated and controlled as a result of other available environmental studies. *Id.*

5. The proposed MSP 2020 Improvements project is not exempt from environmental review under MEPA.

6. The proposed MSP 2020 Improvements project may have the potential for significant environmental effects.

7. The FAA has prepared a federal EA under NEPA for the proposed MSP 2020 Improvements project because the project will require federal approval. The MAC has the authority to circulate the federal EA in place of an EAW form under MEPA because the federal EA for the proposed MSP 2020 Improvements project addresses all of the impact categories discussed in the EAW form. Minn.R. 4410.1300.

8. Application of the four criteria to determine whether MEPA requires preparation of an EIS for the proposed MSP 2020 Improvements project reveals that the project does not have the potential for significant environmental effects and that preparation of an EIS is not necessary.

9. The type, extent, and reversibility of the proposed MSP 2020 Improvement project's environmental effects demonstrate that an EIS is not necessary.

10. The emissions of all criteria pollutants (carbon monoxide, lead, nitrogen dioxide, sulfur dioxide, PM 10, PM 2.5 and the current 8-hour standard for ozone) under the proposed MSP 2020 Improvements project will be identical or similar to existing MSP emissions and to emissions under the no action alternative. In fact, the proposed project may actually reduce overall air emissions by reducing aircraft taxi times. The proposed project is not expected to affect ambient air quality adversely. As a result, the proposed project's air emissions do not have the potential for significant environmental effects.

11. Emissions of hazardous air pollutants (HAPs) under the proposed MSP 2020 Improvements project will be identical or similar to existing MSP emissions and to emissions under the no action alternative. In addition, the project will improve highway operations without adding substantial new capacity, so air toxics emissions from mobile sources under the project will not differ materially from current conditions As a result, the proposed project's HAP emissions do not have the potential for significant environmental effects.

12. Because the proposed MSP 2020 Improvements project will result in an increase in greenhouse gas emissions of less than one percent over MSP's existing greenhouse gas emissions, the proposed project's greenhouse gas emissions do not have the potential for significant environmental effects and are not expected to have an adverse effect on climate change.

13. Construction impacts from the proposed MSP 2020 Improvement project will be temporary, *de minimis* in most cases, and subject to mitigation by use of best

management practices. As a result, the proposed project's construction impacts do not have the potential for significant environmental effects.

14. Aircraft noise impacts are virtually identical under the no action alternative and under the proposed MSP 2020 Improvements project. In addition, under both the no action alternative and the proposed MSP 2020 Improvements project, there are no areas of sensitive land use that experience a 1.5 dB DNL or greater increase in the 65+ DNL contours. The proposed project does not change runway use or increase aircraft operations. As a result, the proposed project's aircraft noise impacts do not have the potential for significant environmental effects.

15. The proposed MSP 2020 Improvements project does not materially increase vehicle noise, so vehicle noise from the proposed project does not have the potential for significant environmental effects.

16. Because the proposed MSP 2020 Improvements project will be built entirely within MSP airport property or existing road rights-of-way, the proposed project will not result in relocation of residences, division of communities, disruption of planned developments, or appreciable changes in employment. The relocation of one business just to the south of its existing location, which will occur as a result of the proposed project, will not result in a loss of business or employment. The proposed project will also improve parking operations at MSP, circulation at on-airport roadways, and freeway conditions in the area near MSP. As a result, the proposed project's socioeconomic, vehicular traffic, and circulation impacts do not have the potential for significant environmental effects.

17. The proposed MSP 2020 Improvements project does not exceed the thresholds of significance for any impact category. Therefore, the project will not disproportionately impact minority or low-income populations, or children's environmental health and safety. As a result, the proposed project's environmental justice impacts do not have the potential for significant environmental effects.

18. No federally-listed endangered or threatened species are located in or adjacent to the area of the proposed project. In addition, there are no state-listed endangered, threatened, or special concern species, critical habitat, natural plant communities, or other natural features in or adjacent to the proposed project. The MAC will coordinate with the Minnesota Department of Natural Resources during construction of the proposed project to ensure safe vehicle access to Fort Snelling State Park. As a result, the proposed project's impacts on fish, wildlife, plants, and parks do not have the potential for significant environmental effects.

19. The only historical, architectural, archaeological, or cultural resource that the proposed MSP 2020 Improvements project may affect is a possible archaeological site northwest of the Post Road/Trunk Highway 5 interchange. After completion of final design, the MAC will undertake additional archaeological investigations as necessary in the Post Road/Trunk Highway 5 area to determine whether the site includes archaeological resources. The MAC will coordinate with the FAA and the Minnesota State Historic Preservation Office to select a course that avoids or minimizes adverse impacts to archaeological resources, if any are present in the area. As a result, the proposed project's impacts on historical, architectural, archaeological, and cultural resources do not have the potential for significant environmental effects.

20. Potential new light sources associated with the proposed MSP 2020 Improvements project involve installing lighting on the new and expanded aprons near Terminal 2-Humphrey and new parking facility lighting. Because the existing aprons and parking areas are already lighted, and the nearest residents in the area live south of I-494 and west of Highway 77, the new lighting is unlikely to interfere with residential activities. As a result, the proposed project's light emissions and visual effects do not have the potential for significant environmental effects.

21. The proposed MSP 2020 Improvements project will not cause demands that exceed future energy supplies, use of a rare natural resource, or substantial demand on energy or natural resources. As a result, the proposed project does not have the potential for significant environmental effects.

22. The proposed MSP 2020 Improvement project's increased electrical consumption will not exceed existing supply, and the proposed project will not use any unusual raw materials or natural resources, or any materials that are in short supply. As a result, the proposed project's impacts on natural resources and energy supply do not have the potential for significant environmental effects.

23. Surface water and groundwater impacts are virtually identical under the no action alternative and under the proposed MSP 2020 Improvements project. As a result, the proposed project's impacts on surface water and groundwater do not have the potential for significant environmental effects.

24. The proposed MSP 2020 Improvements project is not within any defined coastal boundary and will not affect any coastal barrier resources, and as a result does not have the potential for significant environmental effects.

25. The proposed MSP 2020 Improvements project will be built entirely within airport property or existing road rights-of-way. Because construction of the proposed project will occur in areas that are already committed to urban development, the proposed project will not convert any existing farmland to non-agricultural uses and does not have the potential for significant environmental effects.

26. Any cumulative potential effects from related or anticipated future projects and the proposed MSP 2020 Improvements project arise from construction, are temporary and localized, and may be minimized by implementing construction best management practices. As a result, there are no cumulative potential effects from future projects that raise the potential for significant environmental effects.

27. The EA/EAW also considers the cumulative potential aircraft noise effects of the proposed MSP 2020 Improvements project and the FAA's separate Performance Based Navigation (PBN) procedures. The cumulative potential aircraft noise effects of the proposed MSP 2020 Improvements project and the FAA's separate Performance Based Navigation (PBN) procedures are virtually identical to the aircraft noise effects from the proposed MSP 2020 Improvements project alone. In addition, even when combining partial implementation of the FAA's PBN procedures, as supported by the MAC, with the proposed MSP 2020 Improvements project, there are no areas of sensitive land use that experience a 1.5 dB DNL or greater increase in the 65+ DNL contours. As a result, the cumulative potential aircraft noise effects associated with the FAA's PBN procedures project and the proposed MSP 2020 Improvements project do not raise the potential for significant environmental effects.

28. Federal law preempts all state laws affecting aircraft operations, such as air traffic control procedures. *Minnesota Pub. Lobby v. Metro. Airports Comm'n*, 520 N.W.2d 388, 391-92 (Minn. 1994). PBN is an independent FAA proposal which is not a prerequisite to the proprosed MSP 2020 Improvements project, and the FAA will undertake its own environmental review of PBN under NEPA. MEPA does not require the MAC to undertake environmental review of any FAA decision to implement PBN.

29. Certain environmental effects of the proposed MSP 2020 Improvements project are subject to mitigation by ongoing public regulatory authority.

30. The MAC and its construction contractors must meet all requirements set forth in MSP's National Pollutant Discharge Elimination System (NPDES) permits for stormwater discharges as a result of construction activities. In addition, the MAC must comply with Stormwater Pollution Prevention Plan (SWPPP) requirements, as well as permits issued by the Lower Minnesota River Watershed District. The MAC will conduct all construction dewatering in compliance with its Construction Dewatering NDPES permit or its Metropolitan Council Environmental Services permit, or both.

31. The MAC will implement construction best management practices to minimize temporary construction impacts during the proposed project, including fugitive dust emission control, erosion controls, management of hazardous substances and other regulated materials according to the MPCA-approved Soil Management Plant for MSP, and United States Fish and Wildlife Service (USFWS) guidelines to avoid disturbing any nesting bald eagles.

32. The FAA has concluded that the MAC, separate and apart from the MSP 2020 Improvements project, may in principle use airport revenue to implement its

proposed noise mitigation if the MAC amends the 2007 Consent Decree in *City of Minneapolis, et al. v. Metropolitan Airports Commission* (Civ. No. 05-5474).

33. Any finding more properly considered a conclusion shall be considered a conclusion. Any conclusion more properly considered a finding shall be considered a finding.

ORDER

Based upon the above findings of fact and conclusions, and the entire administrative record of the proceeding, the Metropolitan Airports Commission (MAC) hereby determines and declares that the proposed MSP 2020 Improvements project Final Environmental Assessment/Environmental Assessment Worksheet is adequate under the Minnesota Environmental Policy Act (MEPA), that the proposed MSP 2020 Improvements project does not have the potential for significant environmental effects, and that preparation of an environmental impact statement (EIS) for the proposed MSP 2020 Improvements project is not required. Accordingly, the MAC is issuing a negative declaration on the need for an EIS under MEPA.

DATED: April 15, 2013 METROPOLITAN AIRPORTS COMMISSION

Daniel Boivin
Chair