



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

MAY 24 2016

Sarah Beimers  
State Historic Preservation Office  
Minnesota Historical Society  
345 Kellogg Blvd. West  
St. Paul, Minnesota 55102-1903

Dear Sarah Beimers:

The U.S. Environmental Protection Agency is reviewing an application for construction at the Mystic Lake Casino Hotel (MLCH) in Scott County, Prior Lake, MN, Shakopee. The generator is located within the boundary of the Shakopee Mdewakanton Sioux Community of Minnesota's (SMSC) reservation. As the SMSC historic preservation officer, we request your concurrence with our determination that this undertaking will have no effect on historic properties pursuant to Section 106 of the National Historic Preservation Act.

MLCH is requesting authorization to construct a new diesel-fired generator, designated EU 119. The electricity produced by EU 119 will provide standby power and peak load management for MLCH. The proposed generator is certified by the manufacturer to meet EPA Tier 4 emissions requirements. Construction of the generator will take place on previously disturbed ground at the casino.

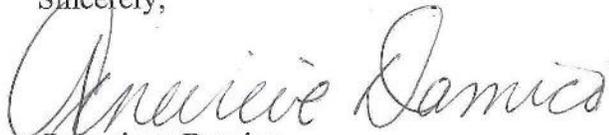
Since the generator is located on the SMSC reservation, EPA is the permitting authority and is responsible for making final permit decisions on permit applications for projects on the reservation. Issuance of an air permit authorizing construction is an undertaking, as defined at 36 C.F.R. § 800.16(y). A search of the National Register of Historic Places (National Register) determined that MLCH is not listed on the National Register and that there are no properties listed within 2 miles of MLCH.

As a result, EPA has determined that this undertaking will have no effect on historic properties since no historic properties were identified at or near the generator. Any historic properties located near the generator would likely not be affected by this undertaking since construction will occur on previously disturbed ground.

A more thorough analysis is included as an attachment to this letter. We request that you respond to our determination within 30 days of receipt. If you do not object to our determination within 30 days of receipt, we will consider our Section 106 responsibilities fulfilled as provided at 36 C.F.R. § 800.4(d)(1)(i) and continue with our undertaking. If you have any questions

regarding this letter or disagree with our determination, please feel free to contact Michelle Robinson-Austin, of my staff, at (312) 353-0605.

Sincerely,

A handwritten signature in cursive script that reads "Genevieve Damico". The signature is written in black ink and is positioned above the printed name.

Genevieve Damico  
Chief  
Air Permits Section

Attachment

National Historic Preservation Act  
Section 106 Consultation and Analysis  
Shakopee Mdewakanton Sioux Community of Minnesota  
Mystic Lake Casino Hotel  
Sioux County, Minnesota

The U.S. Environmental Protection Agency has concluded that the issuance of a construction permit to Shakopee Mdewakanton Sioux Community in Sioux County's Mystic Lake Casino Hotel, Prior Lake, Minnesota, will have no effect on historic properties. We request Minnesota's state historic preservation officer's (SHPO's) concurrence with our determination.

**Summary of Undertaking and Determination**

Shakopee Mdewakanton Sioux Community of Minnesota (SMSC) is a federally recognized Indian tribe. SMSC's reservation is located in Prior Lake and Shakopee Minnesota and is comprised of approximately 4,200 acres. SMSC operates several businesses within the boundaries of its reservation, including two casinos, a fire department and a public works department.

SMSC owns and operates Mystic Lake Casino Hotel (MLCH) located at 2400 Mystic Lake Boulevard, Prior Lake, Minnesota, 55372. The geographic coordinates of the facility is 44°43'51" N, 93°28'25" W. MLCH is located on reservation lands held by the United States government in trust for the SMSC. The EPA retains responsibility for implementing the Clean Air Act within Indian country in Minnesota including within the SMSC reservation.

SMSC submitted an application for a preconstruction permit pursuant to the Federal Tribal Minor New Source Review Program in Indian Country (tribal minor NSR program), codified at 40 C.F.R. § 49.151 – 165. The tribal minor NSR program is a preconstruction permitting program which evaluates the emission of regulated new source review (NSR) pollutants for the construction of new emission units or for the modification of existing emission units. Since MLCH is located on tribal land, EPA is the permitting authority for this permit action.

MLCH is requesting authorization to construct a new diesel-fired generator, designated EU 119. The electricity produced by EU 119 will provide standby power and peak load management for the MLHC. The proposed generator is a caterpillar 3516C HD generator set designed for emergency standby installations. The generator is certified by the manufacturer to meet EPA Tier 4 emissions requirements.

The table below summarizes the generator's potential to emit air pollutants.

Potential to Emit After Controls and Emissions Limits

	PM	PM <sub>10</sub>	PM <sub>2.5</sub>	SO <sub>x</sub>	NO <sub>x</sub>	CO	VOC	Pb	HAPS
Potential Emissions (TPY)	0.07	0.07	0.07	0.01	1.42	0.28	0.07	0	0.01

Table 1: EU 119 Allowable Emission After Permit Issuance (tons/year)

EPA concludes that the issuance of the proposed construction permit will have no effect on historic properties. The MLCH itself is not listed on the National Register, there are no historically significant places within 2 miles of the facility listed on the National Register, and the proposed project will likely have no adverse impact on any historic properties that may be near MLCH. The basis for EPA's conclusion is included below.

**Initiation of the Section 106 Process**

40 C.F.R. § 800.3 requires EPA to determine whether its action is an undertaking, to identify the appropriate SHPO and THPO, identify other consulting parties, and involve the public in the Section 106 process.

Permit Action Is An Undertaking

An undertaking, as defined at 36 C.F.R. § 800.16(y), is a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license, or approval.

The tribal minor NSR program is, in part, a preconstruction permitting program. If air pollutant emissions attributed to a construction project exceed a certain threshold, then the owner or operator of the facility is required to obtain a permit before commencing construction. Since the generator is located on the SMSC reservation and the tribe does not currently have an approved tribal implementation plan allowing them to issue preconstruction permits to minor sources, EPA is the permitting authority for this action. As the permitting authority, EPA is responsible for making a final permitting decision on MLCH's permit application. As a result, this project is an undertaking since it requires a federal preconstruction permit issued according to the requirements of the tribal minor NSR program.

### Identification of Appropriate SHPO and THPO

The appropriate SHPO is the Minnesota Historical Society. This was verified in a phone call to Leslie Coburn of the Minnesota Historical Society on April 22, 2016. SMSC does not currently have a THPO.

### Plan to Include the Public

Pursuant to 36 C.F.R. §§ 800.2(d) and 800.3(a), EPA will involve the public during the public comment period for the draft tribal minor NSR permit, as required by 40 C.F.R. § 49.157. The public notice period for the permit will be at least 30 days long during which time the public may comment on any aspect of the permitting process, including EPA's NHPA determination.

### Undertaking May Affect Historic Properties

Since issuance of this permit will authorize the construction of a new emission unit and the emission of regulated NSR pollutants, EPA's final permit decision may affect historic properties if any are present at or near the source.

### **Identification of Historic Properties**

Pursuant to 36 C.F.R. § 800.4, identification of historic properties consists of 1.) determining the scope of identification efforts, 2.) identifying historic properties within the area of potential effects, 3.) evaluating the historic significance of properties not previously evaluated for historic significance, and 4.) determining the effects of the undertaking on historic properties.

### Determine Scope of Identification Efforts

The permit will authorize construction at MLCH which will require evaluating whether the Casino Hotel itself is a historic property. The permit will also authorize a certain amount of air pollutant emissions. Without modeling or monitoring data, it is difficult to determine where and in what amount air pollutants will be dispersed. For this permit action, EPA conservatively chooses a 2-mile buffer for the area of potential effects for air emissions. A 2-mile buffer centered on MLCH will ensure that properties that may be affected by construction or air pollutant emissions, either directly or indirectly, are identified.

On April 25, 2016, Michelle Robinson-Austin, on behalf of EPA Region 5's Air Permitting Section, contacted Sarah Beimers, Minnesota SHPO, via phone call. During the phone call, EPA briefly explained the scope of the project as presented in the application.

### Identify Historic Properties Within the Area of Potential Effects

36 C.F.R. § 800.4(b)(1) requires EPA to make a reasonable and good faith effort to carry out appropriate historic property identification efforts. As part of these efforts, EPA is required to

take into account past planning, research and studies, the magnitude and nature of the undertaking and the degree of Federal involvement, the nature and extent of potential effects on historic properties, and the likely nature and location of historic properties within the area of potential effects. Since the permitting action is a minor NSR permitting action, the search for historic properties will focus primarily on properties listed on the National Register and landmarks listed on the National Register.

On April 4, 2016, EPA obtained a list of properties on the National Register and a list containing National Historic Landmarks on the National Register. These lists were current as of November 2, 2013 and were obtained online via the National Park Service's website at <http://focus.nps.gov/nrhp>. EPA also consulted spatial data available from the National Park Service's website to determine the listed properties near the generator. The spatial data, released in May of 2014, generally contains the same information in the spreadsheets containing the previously described lists. The spatial data is available via the National Park Service's website at <https://irma.nps.gov/App/Reference/Profile/2210280/>. EPA obtained the spatial data for this analysis on April 4, 2016.

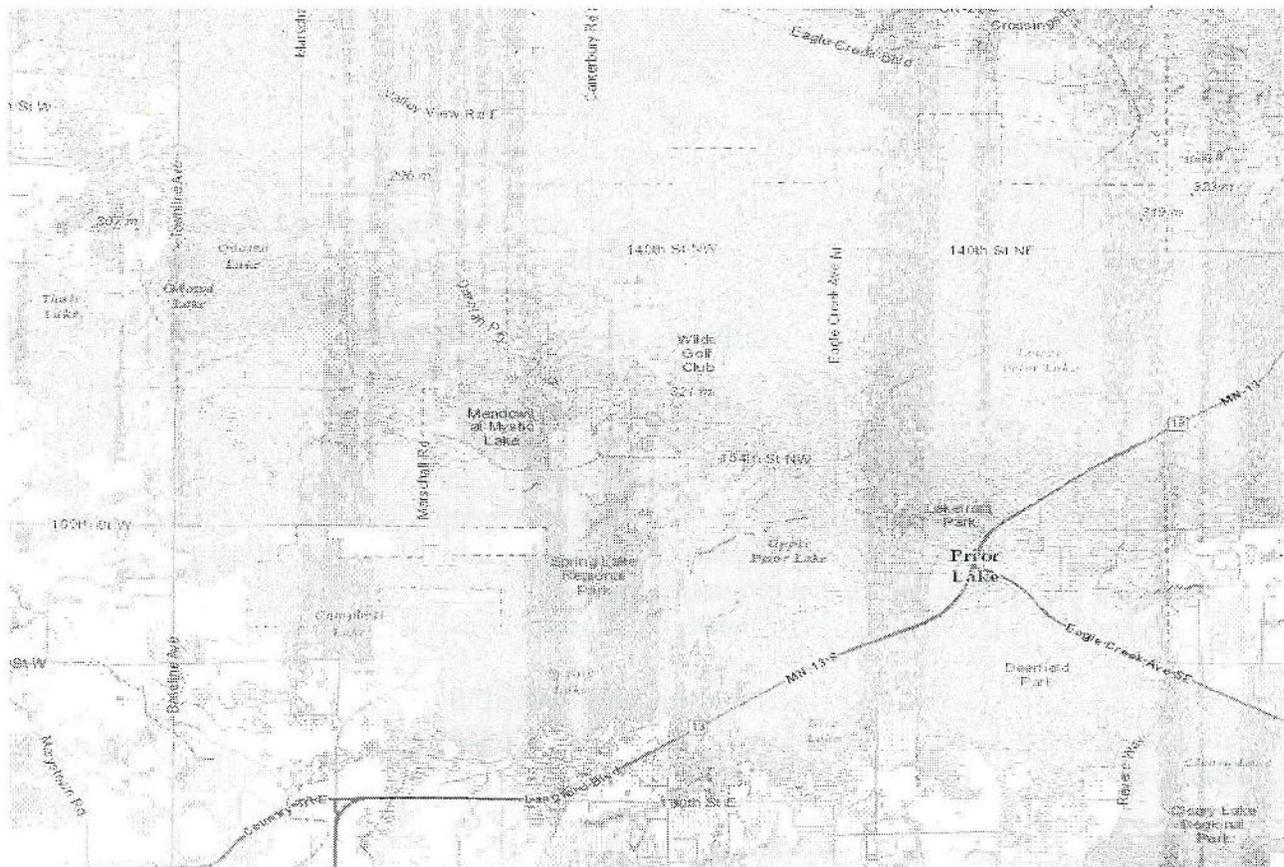


Figure 1. Area of Potential Effect for Generator at MLCII

Figure 1 gives a graphical representation of search results. There are no historic properties listed on the National Register within 2 miles of the facility.

Based on information obtained from the National Register, EPA concludes that MLCH is not listed on the National Register. EPA also concludes that there are no listed properties within 2 miles of MLCH. Therefore, there are no listed properties in either area of potential effect identified for this permitting action.

#### Evaluate Historic Significance of Properties Not Previously Evaluated for Historic Significance

On May 9, 2016, EPA requested Tom Cinadr, Survey and Information Management Coordinator for Minnesota Historic Preservation Office to conduct a search of the Minnesota Archaeological Inventory and Historic Structures Inventory for MLCH. No archaeological sites or historic structures were identified within MLCH's Township/Range/Section coordinates (115 22 33).

A copy of the draft construction permit and technical support document was provided to Leonard Wabash the Director of Cultural Resources for SMSC via email on May 3, 2016. An email was received from Mr. Wabasha concluding that there should be no negative impacts to Tribal Cultural Properties concerning this project.

As a result, the existence of locations not previously evaluated for historic significance that are historically significant is highly unlikely. For this reason, EPA concludes that there are no other properties of historic significance that need to be evaluated for this undertaking.

#### Determination: Undertaking Has No Effect on Historic Properties

Since no historic properties were found in either area of potential effect, issuance of the construction permit will have no effect on historic properties.

If historic properties were located in the areas of potential effect, construction of the generator is limited to previously disturbed ground at the source, which is not listed, in whole or in part, on the National Register.

#### **References**

- National Park Service. *National Register of Historic Places Geospatial Dataset*. May 2014. Accessed April 4, 2016. <https://irma.nps.gov/App/Reference/Profile/2210280/>.
- National Park Service. *National Register of Historic Places Focus Database*. Accessed April 4, 2016. <http://focus.nps.gov/nrhp/>
- Spreadsheet of NHILs*. September 2015. Accessed April 4, 2016. [http://www.nps.gov/nr/research/data\\_downloads/nhl\\_links.xlsx](http://www.nps.gov/nr/research/data_downloads/nhl_links.xlsx).
- Spreadsheet of NRHP List*. September 2015. Accessed April 4, 2016. [http://www.nps.gov/nr/research/data\\_downloads/nrhp\\_links.xlsx](http://www.nps.gov/nr/research/data_downloads/nrhp_links.xlsx).