

Date: August 19, 2020

Abbi Ginsberg
Area Engineer
Federal Highway Administration
380 Jackson Street, Suite 500
St. Paul, Minnesota 55101-2904

In reply refer to:

De Minimis Determination Notice of Intent Request for Trunk Highway 43

S.P. 2306-26 (TH 43)

From TH 44 in Mabel (RP 0+00.000) To S end of Bridge No. 23012 in Rushford (RP 21+99.853)

Fillmore County

Attn: Abbi Ginsberg

MnDOT is requesting that FHWA issue a notice of intent to make a determination that the impact of the above reference project on Choice Wildlife Management Area (WMA) would be de minimis.

Information supporting this request is presented below.

1. General Project Information

SP: 2306-26

Federal Project No.: N/A

Route: TH 43

From /To: from TH 44 in Mabel (RP 0+00.000) to south end of Bridge No. 23012 in Rushford (RP 21+99.853)

Project Letting Date: 11-19-2021

Date Construction Expected to Begin: 5-5-5022

Description of Proposed Improvement: The proposed project involves the bituminous mill and overlay of the driving lanes of TH 43. This will involve mill of 1.5 inches in-place pavement and an overlay of 3" of new bituminous. The project will raise the final profile grade by a total of 1.5".

Much of the Project Corridor is currently under prescriptive easement. Right-of-way will be acquired in these areas where culvert and inslope repair work is required beyond the prescriptive easement boundaries.

Additional work will include the removal and replacement of all existing guardrail with MnDOT Type 31 guardrail, roadside inslope repair and improvement between RP 9.5 and RP 10.4, RP 12.4 to 12.6, and RP 17.8 to 17.9. Furthermore, pipe extensions, safety aprons, and grading improvements will be implemented to address drainage structures within the clear zone throughout the corridor.

The proposed work within Choice Wildlife Management Area (WMA) involves the lining of two culvert and extending aprons outside the roadway clear zone. The two culverts are identified by Hydinfra ID's 727535 and 727546. This work will require a permanent easement of 0.26 acres of the Choice WMA to extend the culverts outside of the roadway clear zone.

The Maple Creek Aquatic Management Area (AMA) appears to extend through the Choice WMA; however, this project does not have any proposed impacts to the Maple Creek AMA.

2. Project Manager

Name: Tom Austin

Title: Project Manager

Address: 2900 48th Street NW, Rochester, MN 55903

Phone: 507-286-7559

Email: tom.austin@state.mn.us

3. Description of the Section 4(f) Property.

Name: Choice Wildlife Management Area

Total Size (acres): 1,515.78 acres

Location: Approximate 10 miles south of Rushford, Minnesota along TH 43.

Section 4(f) Property Owner/Manager: Minnesota DNR

Official(s) with Jurisdiction (OWJ): Martha Vickery, Central Region DNR Lands and Minerals Divisions

Address: 1200 Warner Road, St. Paul, MN 55106

Phone: 651-259-5792

Email: martha.vickery@state.mn.us

Type of Section 4(f) Property: wildlife or waterfowl refuge

Function of or Available Activities on the Property: hiking, hunting, wildlife observation, fishing

Description and Location of Existing and Planned Facilities: The Choice WMA is primarily managed for deer, turkey, and pheasants. No maintained trails or facilities are located throughout the WMA.

Access: Pedestrian access to this WMA is provided off of County Road 13 and 441st Avenue east of Choice, Minnesota.

Other Features or Attributes Important to the Section 4(f) resource: N/A

4. Impacts to the Section 4(f) Property.

Amount of land impacted (acres): 0.26 acres

Permanent R/W Acquisition/Easements: 0.26 acres

Temporary Easements: 0

Functions/Activities Affected: The proposed work involves the permanent easement of 0.26 acres of the Choice WMA along TH 43. The proposed easement areas extend approximately 50 feet beyond the edge of the roadway. These areas are to improve slope stability and drainage along the roadway and will not affect Choice WMA's functions and activities.

Facilities Affected: Since there are no facilities located within the WMA, the proposed project will not affect any facilities.

Access Affected: The proposed project will not affect the access to the WMA.

Other Features or Attributes Affected: N/A

5. Considerations in consultation with the OWJ.

Impact avoidance: Complete avoidance of all impacts to the Choice WMA is only possible if no work occurs at this location. This would require MnDOT to continue to use the aging culvert pipe that has shown deterioration and drainage issues. The continued use of the existing pipe could lead to pipe failure and possibly road failure, creating unsafe conditions and potentially more extensive impacts to the resource.

Planning to minimize harm: Where the work is within reach of the roadway, the project will use backhoe equipment to perform grading work from the roadway. This will minimize equipment tracking and disturbance in the ditches and the WMA. Redundant perimeter control BMPs will be used within the WMA areas to ensure that sediment from the work site is not allowed to track into the WMA, during large storm runoff events. The working limits and perimeter control BMPs will be set as closely to the culvert locations as possible to reduce the area exposed to storm runoff, and stabilization of the disturbed soils will be initiated immediately after construction has temporarily or permanently ceased, in the work location. Work will be completed as quickly as possible to prevent the risk of a flash flood event before the work is complete and the area is stabilized. The contractor is required to maintain and repair or replace any erosion or perimeter control BMPs if they become non-functional or if sediment has reached $\frac{1}{2}$ the height of the BMP. Rock and culvert stockpiles will not be placed into or adjacent to tall grass and will not be allowed to site for long periods of time since these conditions may attract snakes. If, this does happen, no workers should try lifting or moving rocks or culverts without leather gloves. When pulling old culverts out of the ground, make sure no one is down by the culvert and do a quick inspection of the hole prior to anyone moving into the hole for any handwork or inspection. If on-site consultation is necessary, please contact Michael Worland, DNR Wildlife Specialist, at 507-206-2820 or Michael Worland@state.mn.us.

Mitigation: Areas where the soil is disturbed, will be stabilized as soon as possible. Disturbed areas will be revegetated with native species that are suitable to the local habitat. Erosion control blanket will be limited to bio-netting and/or natural netting types. Measures will be implemented to prevent the spread of invasive species. All of the culvert work will be completed outside of the trout stream exclusion dates (October 15th to April 15th). In order to prevent hot water precipitate or chemical containing precipitate from discharging into receiving waters, special provisions in construction specifications will be written.

Enhancement: N/A

6. Coordination with Responsible Official with Jurisdiction (OWJ) Over the Section 4(f) Property:

Table 1. Summarizes the consultation with the OWJ

Date	Agency/Organization, Personnel, and their Position	Discussion description	Conclusions
July 3, 2020	Minnesota DNR –Lanesboro Area Fisheries Supervisor:	Mr. Benjamin was contacted by MnDOT Project Manager, Tom Austin, on June 24 th with	MnDOT will work to wrap up work at each culvert as

<i>Date</i>	<i>Agency/Organization, Personnel, and their Position</i>	<i>Discussion description</i>	<i>Conclusions</i>
	<p><i>Ronald Benjamin (ronald.benjamin@state.mn.us)</i></p> <p><i>No concerns with the project</i></p>	<p><i>regards to this acquisition. Mr. Benjamin indicated that as long as the work at each culvert is completed as quickly as possible, he has no concerns. He did indicate that if a large rainfall is received during the construction the intermittent stream through the culvert would likely flash flood, which could lead to erosion and sedimentation issues.</i></p>	<p><i>quickly as possible to reduce the risk of flooding during the work.</i></p>
<p><i>July 14, 2020</i></p>	<p><i>Minnesota DNR - Transportation Hydrologist: Peter Leete (peter.leete@state.mn.us)</i></p> <p><i>No concerns with the project</i></p>	<p><i>Mr. Leete was contacted by MnDOT Project Manager, Tom Austin, on July 8th with regards to this acquisition. Mr. Leete indicated that all of the culvert work should be included outside of the trout stream exclusion dates (October 15th to April 15th). Furthermore, he indicated that the commitments listed in the <u>MnDNR /MnDOT Coordination for Section 4(f) Concurrence</u> document should be followed.</i></p>	<p><i>MnDOT will complete the work outside of the exclusion period, which is from October 15th to April 15th.</i></p> <p><i>MnDOT will also adhere to the commitments listed in the Coordination Document.</i></p> <p><i>These commitments are now listed in the Mitigation and Commitments section of the CATEX.</i></p>

If after consideration of the information presented in this letter, FHWA intends make a de minimis determination, conditioned upon consideration of any comments received during the required 14-day public

comment period, please indicate by signature below. MnDOT will transmit a copy of this signed letter to the OWJ as notice of FHWA's intent to make a de minimis finding.

A notice describing the proposed impacts to the Choice WMA and Maple Creek AMA will be published in the local newspaper for 14 days. Furthermore, the notice will be published on the project website and local notice boards. The de minimis process, including correspondence related to FHWA's intent to make a de minimis determination, comments received on the notice of FHWA's intent to make a de minimis determination, FHWA's final de minimis determination, and the OWJ's final concurrence will be reported in the Categorical Exclusion document.

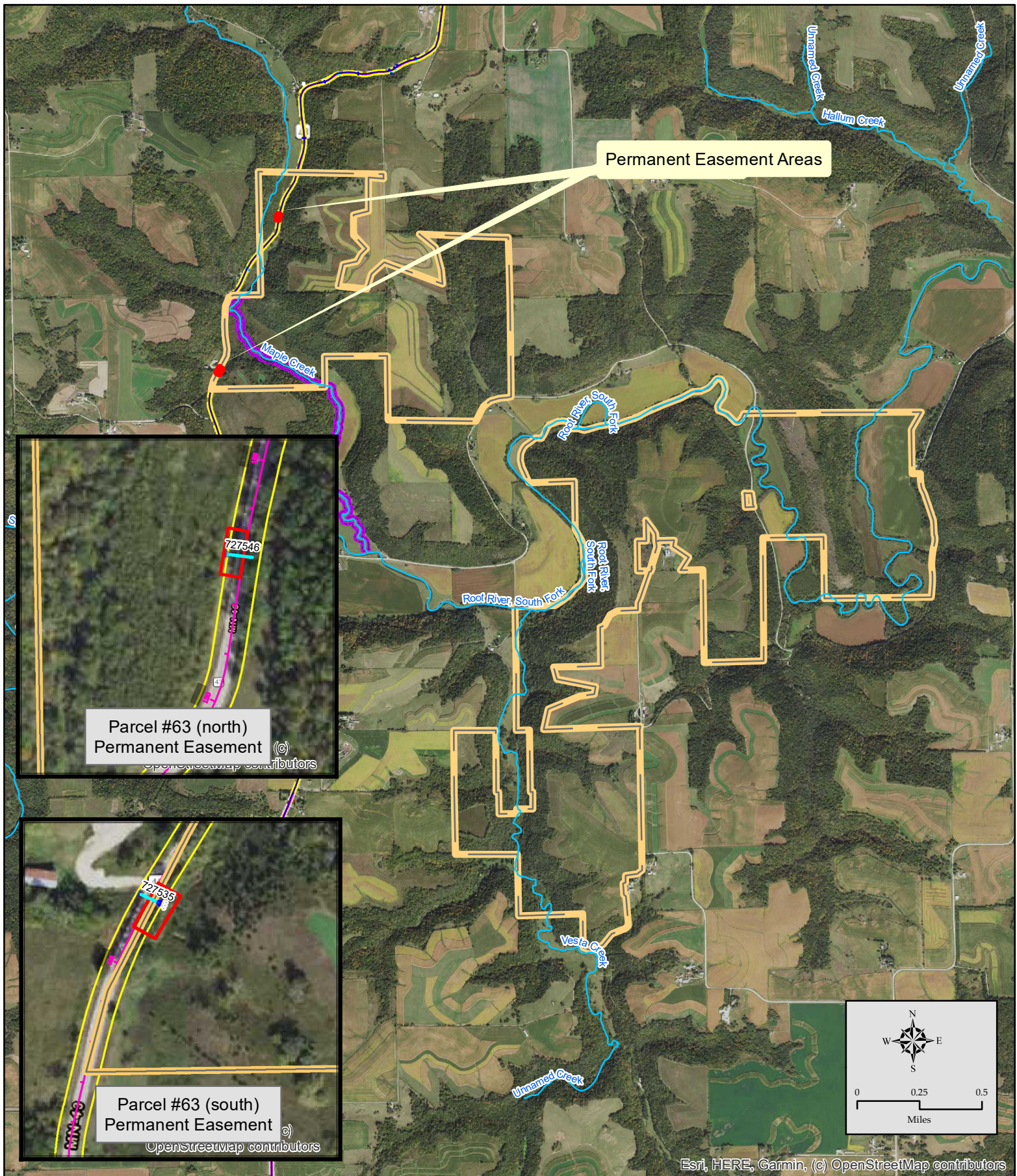
Sincerely,

Tom Austin
MnDOT Project Manager
District 6

CC: Derek Hilding, Attorney – Division of Land and Minerals, DNR
Ronald Benjamin – Lanesboro Area Fisheries Supervisor, DNR
Peter Leete – MnDOT Liaison, DNR
Debra Moynihan – Environmental Review Program, OES
Martha Vickery - Central Region DNR Lands and Minerals Divisions

FHWA Intent to Make a De Minimis Determination conditioned on results of public notice and comment period:

FHWA Engineer _____ **Date** _____



Section 4(f) Right-of-Way Map

SP 2306-26 (TH 43)


Fillmore County, Minnesota


Legend


- Permanent Easement Areas
- Maple Creek AMA Boundary
- Choice WMA Boundaries





This map was created using Sambatek's Geographic Information Systems (GIS), it is a compilation of information and data from various sources. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Sambatek is not responsible for any inaccuracies contained herein.


 INPLACE APRON


 PROPOSED APRON


 PROPOSED CULVERT


 RANDOM RIPRAP


 CONSTRUCTION LIMITS

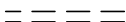
 ENGINEERING LIMITS


 PROPOSED GUARDRAIL


 PAVEMENT RECONSTRUCTION


 DITCH BOTTOM GRADING TRANSITION


 DELINEATED WETLAND EDGE (ENVIRONMENTALLY SENSITIVE)


 INPLACE PIPE CULVERT

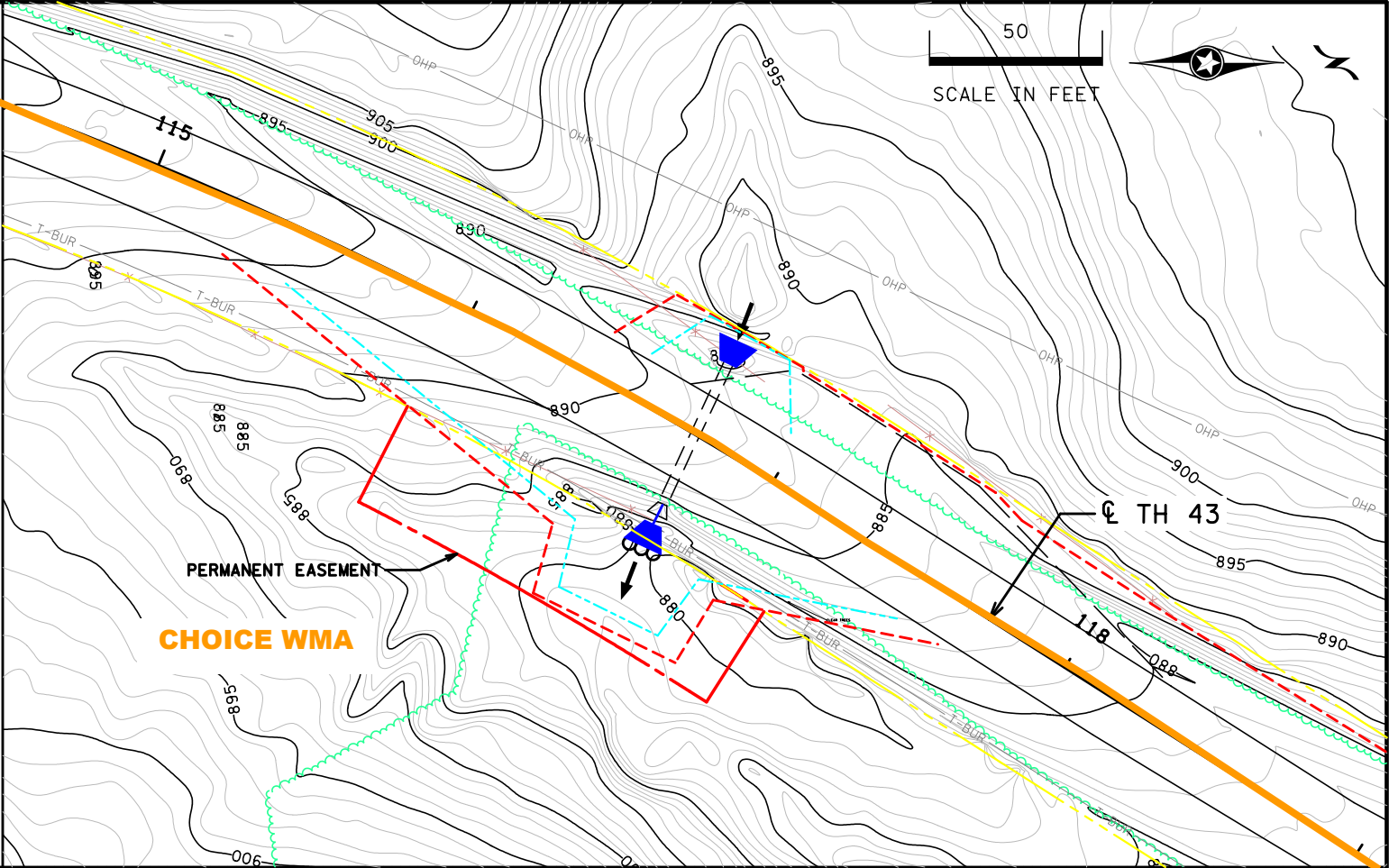
 INPLACE RIGHT-OF-WAY

 PRESCRIPTIVE EASEMENT

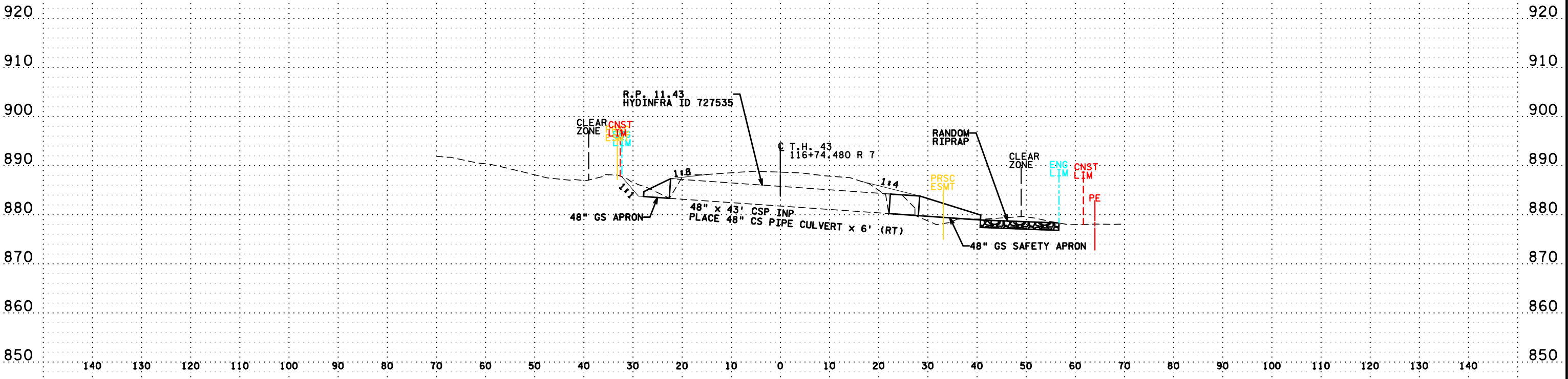
 PROPOSED PERM RIGHT-OF-WAY


 PROPOSED FLOW LINES

 CHOICE WMA BOUNDARY



NOTES:
EXISTING 50-YEAR OUTLET VELOCITY = 9.5 FT/SEC
PROPOSED 50-YEAR OUTLET VELOCITY = 9.5 FT/SEC
SCOUR NOTED DURING SITE INSPECTION, 14'X 12'X 2'



					I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.					DRAWN BY J. BARSTOW			MINNESOTA STATE PROJECT NO. 2306-26 (T.H. 43)	MINNESOTA DEPARTMENT OF TRANSPORTATION CULVERT PLAN AND PROFILE T.H. 43	SHEET 62 OF 123
					DESIGNED BY B. HAUTH					CHECKED BY B. LODIN					
					Print Name: _____										
					Date <u>7/22/2020</u> License # _____										
NO	DATE	BY	CKD	APPR	REVISION										
L:\PROJECTS\21263\Design\PlanSheets\23_Drainage Plans\cd21263_dr28.dgn															

7/22/2020
4:56:22 PM

INPLACE APRON

PROPOSED APRON

PROPOSED CULVERT

RANDOM RIPRAP

CONSTRUCTION LIMITS

ENGINEERING LIMITS

PROPOSED GUARDRAIL

PAVEMENT RECONSTRUCTION

DITCH BOTTOM GRADING TRANSITION

DELINEATED WETLAND EDGE (ENVIRONMENTALLY SENSITIVE)

INPLACE PIPE CULVERT

INPLACE RIGHT-OF-WAY

PRESCRIPTIVE EASEMENT

PROPOSED PERM RIGHT-OF-WAY

PROPOSED FLOW LINES

LEGEND

NOTE:

EXISTING 50-YEAR OUTLET VELOCITY = 7.6 FT/SEC

PROPOSED 50-YEAR OUTLET VELOCITY = 7.7 FT/SEC

920

910

900

890

880

870

860

140

130

120

110

100

90

80

70

60

50

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70

80

90

100

110

120

130

140

LINEING CULVERT PIPE (24") SPECIAL

CLEAR ZONE

CLEAR ZONE

24" GS SAFETY APRON

24" x 41' CSP INP

1:5

Q.T.H. 43

153+04.700 R 7'

R.P. 12.14

HYDINFRA ID 727546

CNST LIM

ENG LIM

PRSC ESMT

PRSC ESMT

					I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.					DRAWN BY J BARSTOW		<div><div></div><div>Sambatek</div><div>Engineering Surveying Planning Environmental</div></div>	MINNESOTA STATE PROJECT NO. 2306-26 (T.H. 43)	MINNESOTA DEPARTMENT OF TRANSPORTATION CULVERT PLAN AND PROFILE T.H. 43	SHEET 66 OF 123					
					Print Name: _____					DESIGNED BY B HAUTH										
					Date: 7/22/2020 License # _____					CHECKED BY B LODIN										
NO DATE BY CKD APPR REVISION																				

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7/22/2020 4:56:23 PM

Jessica Abernathy-Callahan, WDC

From: Ben Lodin, PE
Sent: Tuesday, July 14, 2020 10:39 AM
To: Jessica Abernathy-Callahan, WDC
Subject: FW: culverts in Choice WMA & Maple Creek AMA

Follow Up Flag: Follow up
Flag Status: Flagged

FYI.

Ben Lodin, PE

Client Service Manager, Transportation

Direct 763.259.6002 | *Cell* 763.670.4683

Email BLodin@sambatek.com



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From: Austin, Thomas (DOT) <tom.austin@state.mn.us>
Sent: Tuesday, July 14, 2020 11:34 AM
To: Benjamin, Ronald (DNR) <ronald.benjamin@state.mn.us>; Leete, Peter (DOT) <peter.leete@state.mn.us>
Cc: Lehman, Nicole (DNR) <nicole.lehman@state.mn.us>; Gregor, Nathan (DOT) <nathan.gregor@state.mn.us>; Ben Lodin, PE <BLodin@sambatek.com>
Subject: RE: culverts in Choice WMA & Maple Creek AMA

Thank you for the input Peter and Ron.

We will be sure the work is completed outside of the exclusion period and will add that requirement to the draft of our initial FHWA determination notice as well as the roadway plans and provisions during final plan development.

Thanks,

-tom

Tom Austin
District 6 Project Management
2900 48th Street NW
Rochester, MN 55903
507-286-7559

From: Benjamin, Ronald (DNR)
Sent: Tuesday, July 14, 2020 11:17 AM
To: Leete, Peter (DOT) <peter.leete@state.mn.us>; Austin, Thomas (DOT) <tom.austin@state.mn.us>

Cc: Lehman, Nicole (DNR) <nicole.lehman@state.mn.us>; Gregor, Nathan (DOT) <nathan.gregor@state.mn.us>

Subject: RE: culverts in Choice WMA & Maple Creek AMA

I completely agree and thought, probably wrongly, that it would happen between 4/15 and 10/15. If the plan it to work in the exclusion time period we will need to revisit.

From: Leete, Peter (DOT) <peter.leete@state.mn.us>

Sent: Tuesday, July 14, 2020 11:01 AM

To: Austin, Thomas (DOT) <tom.austin@state.mn.us>; Benjamin, Ronald (DNR) <ronald.benjamin@state.mn.us>

Cc: Lehman, Nicole (DNR) <nicole.lehman@state.mn.us>; Gregor, Nathan (DOT) <nathan.gregor@state.mn.us>

Subject: RE: culverts in Choice WMA & Maple Creek AMA

Tom/Ron,

I don't not know all the nuances of 4(f)/6(f) processes, though attached a standard process MnDOT and DNR agreed to a couple years ago. Also the south pipe is identified as a "trout stream tributary" on the Public Waters maps. It is not a full public waters, but there is a mechanism for DNR to require adherence to Public Waters regulations. I am not certain how area managers determine which ones should be under permit or not. Regardless of permitting need (it can easily be run under the MnDOT GP), the work should be completed outside the work exclusion dates (no work between Oct 15 through April 15)

Peter Leete

Transportation Hydrologist (DNR-MnDOT Liaison) | Division of Ecological & Water Resources

Minnesota Department of Natural Resources

Office location: MnDOT Office of Environmental Stewardship

395 John Ireland Blvd., MS 620

St. Paul, MN 55155

Phone: 651-366-3634

Email: peter.leete@state.mn.us



From: Austin, Thomas (DOT)

Sent: Wednesday, July 8, 2020 3:21 PM

To: Benjamin, Ronald (DNR) <ronald.benjamin@state.mn.us>

Cc: Leete, Peter (DOT) <peter.leete@state.mn.us>

Subject: RE: Choice WMA & Maple Creek AMA

Thanks Ron. We'll be sure to include additional measures at pipe 1 to address the flashy nature of that location.

Peter-

Do you have any additional comments or concerns regarding these locations?

We will include Ron's comments as we complete the draft of our initial FHWA determination notice.

Thank you,

-tom

Tom Austin
District 6 Project Management
2900 48th Street NW
Rochester, MN 55903
507-286-7559

From: Benjamin, Ronald (DNR)
Sent: Friday, July 03, 2020 2:30 PM
To: Austin, Thomas (DOT) <tom.austin@state.mn.us>
Cc: Leete, Peter (DOT) <peter.leete@state.mn.us>
Subject: RE: Choice WMA & Maple Creek AMA

Austin, Peter,

I reviewed the pipes today, they do not carry water normally. As long as you get it done quickly from the time you start to finish and get it buttoned up and stabilized as such, fisheries has no problems. Be aware that pipe 1 looked to me to be an active intermittent stream. If in construction you get a substantial rain that stream will flash.

From: Austin, Thomas (DOT) <tom.austin@state.mn.us>
Sent: Wednesday, June 24, 2020 1:39 PM
To: Benjamin, Ronald (DNR) <ronald.benjamin@state.mn.us>
Cc: Leete, Peter (DOT) <peter.leete@state.mn.us>
Subject: FW: Choice WMA & Maple Creek AMA

Good Afternoon Ron-

My apologies, I realized today that I mistakenly addressed you as Ben in my previous email.

I tried calling you at 507-467-2442 and also 507-765-7061 to discuss the impacts with the two pipe repairs in the Choice WMA.

I did get an email response yesterday asking me to *identify which pipes actually carry water yeararound*. I'm not sure I'm completely understanding the question as it pertains to the pipe repairs and as the work relates to the WMA impacts, but I would assume the pipes carry some water year around as things freeze and thaw but I do not believe either location carries continuous flowing water year around.

The two locations are identified on the Choice WMA map attached and then further identified in the additional maps with the final two exhibits, DNR pipe 1 and DNR pipe 2 identifying the specific repairs being proposed as well as our proposed limits of construction and proposed easement.

Note that the need for right of way acquisition was not identified at the time of the project ENM that Peter responded to so he is also likely just becoming aware of this 4(f) de minimis impact as well.

Peter-

Based on input from Deb Moynihan I believe there may be some additional folks at DNR that would have been notified if we had identified this impact during scoping and the initial ENM. Please let me know if you need anything additional from me to make those contacts.

Deb provided the process outlined below as well as the attached MnDNR-MnDOT Section 4f Process document outlining the coordination process.

*The attached process was briefly mentioned at the October 2018 Environmental Document Writers Meeting for coordinating Section 4(f) correspondence with DNR on projects that impact their resources. **This coordination process will need to be followed on Section 4(f) temporary occupancy letters and Section 4(f) de minimis impacts.** The process will also be posted in the HPDP within the Section 4(f) topic area. OES staff must review draft correspondence before it is sent to DNR.*

The process changes what we have currently been doing in the following ways:

- *All correspondence must be addressed to the appropriate regional Lands and Minerals Managers as provided in the attachment. PMs will still coordinate with the local DNR resource manager regarding project impacts and reasonable mitigation such as seed mixes that are appropriate for that resource. Coordination with the local DNR resource manager needs to be briefly discussed in the Section 4(f) correspondence.*
- *The process requires the attachment of Peter Leete's ENM response. Peter's response will most likely cover appropriate mitigation for the resource and he will try to catch these as part of his ENM review but it would be a very good idea to contact Peter directly and early as possible when you know you will impact a Section 4(f) resource to seek his assistance. This is not as critical for trails as much as it would be for impacts to a WMA, WFA or a state park.*
- *Your Section 4(f) correspondence will require more information regarding how impacts to the resource will be mitigated than what we have currently been providing. Please describe how we plan to mitigate erosion or other impacts to aquatic resources and more detail about how we will restore the land to what it was before the project occurred.*
- *A project layout or plan will need to be attached to the Section 4(f) correspondence to help the DNR staff understand the project. Provide whatever detail that you have at the time of preparing the Section 4(f) concurrence correspondence.*

Thanks Ron and Peter,

-tom

Tom Austin
District 6 Project Management
2900 48th Street NW
Rochester, MN 55903
507-286-7559

From: Austin, Thomas (DOT)
Sent: Wednesday, June 17, 2020 6:31 PM
To: MN_fisheries, lanesboro (DNR) <lanesboro.fisheries@state.mn.us>
Cc: Leete, Peter (DOT) <peter.leete@state.mn.us>
Subject: Choice WMA & Maple Creek AMA

Jessica Abernathy-Callahan, WDC

From: Leete, Peter (DOT)
Sent: Wednesday, June 5, 2019 4:21 PM
To: Breyfogle, Aaron (DOT)
Cc: Gasper, Jacob (DOT); Gregor, Nathan (DOT); Markeson, Christina (DOT); Straumanis, Sarma (DOT); Joyal, Lisa (DNR); Orne, Benjamin G MVP; Elstad-Haveles, Kit (DNR); Horton, Becky (DNR); Benjamin, Ronald (DNR); Worland, Michael (DNR); Lehman, Nicole (DNR)
Subject: DNR Comments on MnDOT Early Notification Memo, TH43 rehabilitation (SP2306-26) Houston Co
Attachments: cd230626_TH 43 LAYOUT.PDF; AES (w veg protection sheet).pdf; We do have records of Timber rattlesnakes.pdf; 2306-26 ENM.PDF

Hi Aaron,

This email is the DNR response for your project records. I have not sent this Early Notification Memo (ENM) out for full DNR review. The following comments are based on information provided in the submitted documents regarding the proposed rehabilitation of TH43 between Mabel (TH44) and Rushford. Houston County.

For MnDOT planning purposes, embedded in this email are maps of the project area showing nearby locations of DNR areas concern (if they exist), such as Public Waters (in blue), **waterbodies designated as infested with aquatic invasive species (AIS)**, snowmobile Trails (in pink), and various green shaded polygons for Sites of Biodiversity Significance. These maps may be shared or included in project documentation, as all information is from publically available data layers.

The Natural Heritage Information System (NHIS) database has been reviewed, though in order to prevent the inadvertent release of a rare features location, those details are not shown on any maps. Comments on potential impacts to rare features listed in the NHIS comments are below. If you have questions regarding proposed work near any of the data shown, please give me a call.

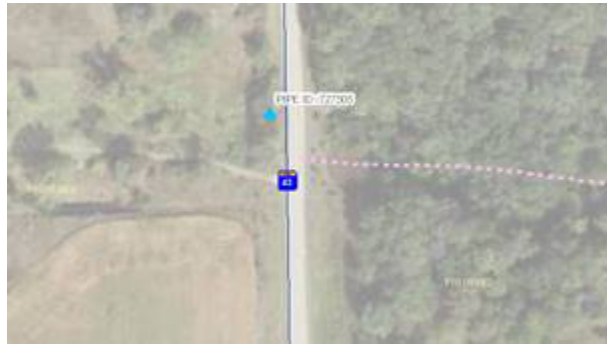
Please incorporate the following comments into final designs and special provisions as they are developed:

1. The MnDOT structures in or near Public waters are located at:

Unnamed Stream: RP 0.0, Station 8 at the Junction with TH44 . No work proposed in ENM.



Tributary to Unnamed Trout Stream. RP 3.9, Station 213.5, Pipe 727505? No work proposed in ENM.



Tributary to Trout Stream. RP 8.5, Station 456 (pipe 727522). Apron resetting/replacement, No permit required.



Root River, South Fork, Trout Stream. No work proposed in ENM



Tributary to Trout Stream. RP 11.7, Station 133.8. pipe 727538 & 727539. Riprap at downstream end proposed.



Maple Creek (Trout Stream). RP 11.9 , Station 145, Had abutment repairs in 2017. No work proposed



Tributary to Trout Stream. RP 14.4 Station 750, pipe 727556, Riprap and apron work proposed.



Root River. RP 258, Bridge 23012, No work proposed



Work proposed above does not require a Public Water Work permit. However, should plans change to include additional work at these locations, please contact me as additional review will be required. Resetting aprons or replacing 'in kind' (no change to length, diameter, invert elevations) typically will not require field review, though be aware the project may need to be reviewed/authorized under GP2004-0001 and that the design and timing of the work will need to follow DNR standard requirements, including use of natural net erosion control blanket, use of native vegetation, crossings designed for fish passage requirements, and limits to work in the water (Work Exclusion dates) for allowing undisturbed fish migration and spawning. Regardless of potential impact, these locations should be identified as an 'Area of Environmental Sensitivity' on plans. See the attached AES best practices guidance.

- For other culvert work, it is unknown what repairs may be proposed. A general comment on repairs that may utilize Cured In Place Plastic liners (CIPP) is that installation methods may temporarily alter the chemical or thermal properties in the receiving water during the installation process, curing process, or initial flush. These by-products of installation have potential for adverse impacts to receiving waters. In extreme cases, impacts may result in a localized fish kill. To help assure suitable containment or treatment prior to discharge to Public Waters, Special Provisions in the construction specifications should be written to prevent hot water precipitate or chemical containing precipitate (e.g. styrene or cement waste) from discharging into receiving waters.

3. Please be aware that the MPCA NPDES general permit for authorization to discharge stormwater associated with construction activities (permit MN R10001) recognizes the DNR “work in water restrictions” during specified fish migration and spawning time frames for areas adjacent to water. For trout streams the dates are Oct 15 through April 15, and non-Trout streams March 1 through June 1. This applies to all Public Waters locations regardless of the need for a Public Waters work permit. Work in during the restriction period, all exposed soil areas that are within 200 feet of the water’s edge and drain to these waters, must have erosion prevention stabilization activities initiated immediately after soil disturbing activity has ceased (and be completed within 24 hours).
4. Erosion Control Materials. Due to entanglement issues with small animals, use of erosion control blanket shall be limited to ‘bio-netting’ or ‘naturalnetting’ types, and specifically not products containing plastic mesh netting or other plastic components. These are Category 3N or 4N in the 2016 & 2018 MnDOT Standards Specifications for Construction. Be aware that hydro-mulch products may contain small plastic fibers to aid in its matrix strength. These loose fibers could potentially re-suspend and make their way into Public Waters. Please review mulch products and not utilize any materials with plastic fiber additives in areas that drain to Public Waters.
5. Please remind contractors that a separate water use permit is required for construction if there is withdrawal of more than 10,000 gallons of water per day or 1 million gallons per year from surface water or ground water. GP1997-0005 (temporary water appropriations) covers a variety of activities associated with road construction and should be applied if applicable. See <http://files.dnr.state.mn.us/waters/forms/tempprojectsdp.pdf> . An individual appropriations permit may be required for projects lasting longer than one year or exceeding 50 million gallons.
6. The Minnesota Natural Heritage Information System (NHIS) has been queried to determine if any rare plant or animal species, native plant communities, or other significant natural features are known to occur within an approximate one-mile radius of the project area. The project passes through bluffland and riverine areas that are known to contain rare features identified in this query. In order to prevent the inadvertent release of the location of specific listed or rare species contained in the NHIS, I have not identified the species or their location on the attached ‘DNRbasemap.pdf’. If these details are needed for documentation, please contact me. Please note that the following rare features were identified in the query and *may* be impacted by the proposed project. Suggested avoidance and/or protection measures are also identified:
 - a. The segment through the South Fork Root River and Maple Creek valleys (from about station 505 through 685) is considered a Site of Biodiversity significance, with differing segments ranked either ‘moderate’ or ‘Outstanding’, for its ecological composition. "Outstanding" sites contain the best occurrences of the rarest species, the most outstanding examples of the rarest native plant communities, and/or the largest, most ecologically intact or functional landscapes. "Moderate" sites contain occurrences of rare species, moderately disturbed native plant communities, and/or landscapes that have strong potential for recovery of native plant communities and characteristic ecological processes.

This area should be identified as an ‘Area of Environmental Sensitivity’ on plans. See the attached AES best practices guidance. The concern along this segment is that soil disturbance, incidental herbicide exposure, hydrologic alterations, tree disturbance, competition from non-native, sod-forming grasses, introduction of weed seeds, or shading by encroaching shrubs can all lead to degradation of these sites. A copy of AES protection guidance is attached (From the Collection of Best Practices for Meeting DNR Public Waters Permit GP2004-0001). The entire collection of best practices may be found at: http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html.

The attached guidance is based on your spec 2572.3, and includes the following Best Practices:

- Design the project to avoid impacts to any identified Area of Environmental Sensitivity.
- Protect and preserve vegetation from damage in accordance with MnDOT Spec 2572.3, including prohibiting vehicle and construction activities, including the location of field offices, storage of

equipment and other supplies in this area unless it has been determined not to contain native vegetation remnants.

- Enhance areas adjacent to Areas of Environmental Sensitivity by revegetating disturbed soils with native species suitable to the local habitat. Revegetation of disturbed soils should include native mixes in areas that are not proposed for mowed turf grass. Please utilize the native recommendations developed by BWSR (http://www.bwsr.state.mn.us/native_vegetation/) or MnDOT in the 'Vegetation Establishment Recommendations' – dated November 13, 2015 (<http://www.dot.state.mn.us/environment/erosion/seedmixes.html>). Please contact your Districts representatives for the Erosion Control & Stormwater Management Unit, Roadside Vegetation Management Unit, and the Districts Maintenance staff to help determine appropriate permanent revegetation plans
 - Additionally, any use of Category 3 or 4 erosion control blanket shall be limited to 'bio-netting' or 'naturalnetting' types (category 3N or 4N), and specifically not allow plastic mesh netting.
- b. Timber Rattlesnake (*Crotalus horridus*), a state-listed threatened species, have been reported from the vicinity of the proposed project and may be encountered on site. If they are found on the site, please remember that state law and rules prohibit the destruction of threatened or endangered species, except under certain prescribed conditions. If snakes are in imminent danger they should be allowed to move out of harm's way, otherwise they should be left undisturbed. Be aware that there are also other species of snakes in the area, such as North American Racer (*Coluber constrictor*) a species of Special Concern (SPC), Gophersnake (*Pituophis catenifer*) also a species of Special Concern (SPC), and more common species such as fox snakes (*Elaphe vulpina*) which will mimic rattlesnakes.

You have a greater chance of encountering these snakes where work occurs near steep, rocky, grassy hillsides or bluffs. Road projects typically have culvert or rock work associated them. Existing riprap, culverts, and roadside rock outcrops can contain snakes. Also, if stockpiles of rock or culverts are on site during the project, snakes can get under them to get the heat during the summer. The following precautions are recommended:

- Make sure contractors are aware of the potential to run into snakes and that many species are rattlesnake mimics, so they will shake their tail trying to sound like a rattler. They can be convincing.
- Snakes are active more at night, so a morning sweep of the site would be prudent around metal objects and rock piles to see if anything moved in overnight.
- All workers will likely already be wearing leather boots and long pants, so they should be covered there. Many may have on only short sleeved shirts, which should be fine, but leather gloves are a must if putting hands in rocks or areas you can't see.
- It is illegal to kill a rattlesnake in most situations, so crew members should be directed not to kill snakes. If they run into a significant issue, they should call me and I can try to assist.
- If work starts early in the day, snakes likely won't be out sunning, but later in the day they may so a quick site check could be done for later day starts. Snakes can be moved using a hoe and a bucket or something.
- When stockpiling rock or culverts on site, it may be difficult to place them where snakes might not like it. Try not to locate stock pile into or adjacent to tall grass or let them sit for weeks before they are used. If this does happen, no workers should try lifting or moving culverts without leather gloves on.
- Making noise will often help snakes move off, but not always.
- If snakes are prodded – gently – with a stick and given an out to escape, you can often chase them off site. That worked pretty well for Northern Watersnakes along the Root River.
- Snakes may be encountered when pulling old culverts out of the ground. Not much you can do to avoid this type of encounter. Best approach here would be to not have anyone down by the culvert (which likely wouldn't happen anyway) when it is being removed, and then to do a quick check before a person moves into the hole for any type of hand work or inspection.

Contact Michael Worland, DNR Nongame Wildlife Specialist located in Rochester, at 507-206-2820 or jMichael.Worland@state.mn.us, for an on-site consultation as needed. Also contact her if you start running into rattlesnakes, we can try to move them.

- c. The northern long-eared bat (*Myotis septentrionalis*), federally listed as threatened and state-listed as special concern, can be found throughout Minnesota. During the winter this species hibernates in caves and mines, and during the active season (approximately April-October) it roosts underneath bark, in cavities, or in crevices of both live and dead trees. Pup rearing is during June, July, and early August. Activities that may impact this species include, but are not limited to, any disturbance to hibernacula and destruction/degradation of habitat (including tree removal).

The U.S. Fish and Wildlife Service (USFWS) has published a final 4(d) rule that identifies prohibited take. To determine whether you need to contact the USFWS, please refer to the USFWS Key to the Northern Long-Eared Bat 4(d) Rule (see links below). However, MnDOT projects should be coordinated with MnDOT Wildlife Ecologist Chris Smith at 651-366-3605 or christopher.e.smith@state.mn.us regarding protection measures or enhancement opportunities measures for this species.

Please note that the NHIS does not contain any known occurrences of northern long-eared bat roosts or hibernacula within an approximate one-mile radius of the proposed project.

Links: USFWS Key to the Northern Long-Eared Bat 4(d) Rule for Non-Federal Activities
<http://www.fws.gov/midwest/endangered/mammals/nleb/KeyFinal4dNLEB.html>
USFWS Key to the Northern Long-Eared Bat 4(d) Rule for Federal Actions
<http://www.fws.gov/midwest/endangered/mammals/nleb/KeyFinal4dNLEBFedProjects.html>
USFWS Northern Long-eared Bat Website
<http://www.fws.gov/midwest/endangered/mammals/nleb/index.html>
USFWS Northern Long-eared Bat Fact Sheet
<http://www.fws.gov/midwest/endangered/mammals/nleb/nlebFactSheet.html>

The Natural Heritage Information System (NHIS) is not an exhaustive inventory and thus does not represent all of the occurrences of rare features within the state. If information becomes available indicating additional listed species or other rare features, further review may be necessary.

7. Maple Creek and South Fork Root River are managed as an Aquatic Management Area (AMA). As provided by Minnesota Statutes, section 86A.05, WMA's are established "to protect those lands and waters which have a high potential for wildlife production and to develop and manage these lands and waters for the production of wildlife, for public hunting, fishing, and trapping, and for other compatible outdoor recreational uses." and AMA's are established "to protect, develop, and manage lakes, rivers, streams, and adjacent wetlands and lands that are critical for fish and other aquatic life, for water quality, and for their intrinsic biological value, public fishing, or other compatible outdoor recreational uses." Contact the Area Fisheries Manager, Ron Benjamin, at 507-467-2442 x222 or lanesboro.fisheries@state.mn.us for information on these areas. Typically the concern when working adjacent to these areas is that invasive species not be introduced with any fill or seed mixes. If there is soil disturbance in areas adjacent to these AMAs, revegetate disturbed soils with native species suitable to the local habitat. Additionally, any use of erosion control blanket should be limited to 'bio-netting' or 'naturalnetting' types (category 3N or 4N), and specifically not allow plastic mesh netting. Also be aware that public shore fishing may also be accessed from your right of way at these bridge sites.

This ENM has not been circulated to DNR field staff for comment. I will let you know if any additional comments on design requirements are returned to me due to this email.

DNR folks, if I've missed anything, or have any suggestions for MnDOT to consider, please respond ASAP to Aaron, and myself.

Peter Leete

Transportation Hydrologist (DNR-MnDOT Liaison) | Division of Ecological & Water Resources

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