

**MnDOT Office of Environmental Stewardship
Environmental Investigation Unit**

Property Reconveyance Assistance on Environmental Issues

Contact Information:

Environmental Investigation Unit

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The intent of this guidance document is to provide general procedural information for Minnesota Department of Transportation (MnDOT) personnel or contractors working on reconveyance of MnDOT-administered property. Any deviation from procedures contained in this document must be discussed with Environmental Investigation Unit (EIU) personnel prior to implementation.

This document should not be construed as a full description of all regulations pertaining to the subject matter. Contact the EIU in the MnDOT Office of Environmental Stewardship (OES) for additional information or legal requirements.

Background

MnDOT is exposed to short and long term financial liability when reconveying properties that have environmental risk associated with soil or groundwater contamination. The EIU can assist District Land Management and Maintenance Operations personnel in assessing environmental risk associated with property transfers and recommend an appropriate course of action to reduce liability to MnDOT. The success of liability reduction depends on early recognition and communication of affected properties by the District to EIU to ensure that appropriate review is conducted before reconveyance.

Types of Reconveyance Properties and Associated Risks

- Surplus property – property that is acquired for trunk highway purposes but at a later date it is discovered that a portion of the property is no longer needed. Surplus properties also include acquisition of property that is an uneconomical remnant.

Depending on when MnDOT acquired surplus properties or the conditions of the acquisition, it is possible the entire property was not adequately investigated for contamination prior to purchase.

- Excess property – additional property being acquired at the written request of the property owner.

Because MnDOT personnel did not anticipate acquiring the additional property early in the project, it is likely that the unneeded portion was not investigated for contamination prior to acquisition. This can result in MnDOT becoming the owner of contaminated property that must be characterized and potentially cleaned up prior to reconveyance.

- MnDOT-Owned Facility – a facility such as a district headquarters, truck station, rest area, storage yard, gravel pit or any other property owned by the Department with a potential for chemical use, storage or disposal activities.

If the property is being sold to a buyer who intends to use, store or dispose of the same chemicals, a future release could be said to have occurred during MnDOT's ownership if not proven otherwise prior to sale of the property. Completing an environmental review prior to reconveyance establishes the condition of the property relative to soil and groundwater contamination. Therefore, environmental review and if deemed necessary, cleanup of contaminated soil/groundwater at the site, should be completed prior to reconveyance. If the property is to be redeveloped for a completely different use, the condition of the property relative to soil and groundwater contamination still needs to be determined.

Associated Risk in Reconveying Property with Uncharacterized Contamination

If contamination is discovered after MnDOT reconveys these types of property, the buyer, a regulatory agency, or other third party may look to MnDOT for the cost to cleanup, or for damages associated with exposure to the contamination.

Property Reconveyance Review

From mid-2007 to early 2009, the EIU reviewed all reconveyance parcels for known or potential contamination issues. This review period encompassed approximately 150 reconveyance packages including about 200 parcels. Based on this experience, the EIU has determined that only certain properties are likely to present a higher risk of contamination problems that could lead to substantial difficulties with future owners of the properties, potentially resulting in cleanup costs to MnDOT. The EIU determined that higher risk sites are MnDOT-owned facilities and surplus and excess properties that have any Recognized Environmental Conditions (RECs – see definition below). Therefore, district personnel should contact the EIU before reconveying any MnDOT-owned facility or surplus or excess properties with RECs to determine the need for site characterization and/or cleanup.

Recognized Environmental Conditions:

- Evidence of dumping (waste abandoned on surface or buried at the site).
- Known or suspected fill materials of unknown origin or quality placed on the property.
- Aboveground and underground storage tanks.
- Vent pipes (may indicate presence of underground storage tanks).
- Groundwater monitoring wells
- Groundwater supply wells (not generally considered a REC but the well should be sealed by a licensed contractor before the property is sold).

- Onsite chemical use (e.g., vehicle maintenance, manufacturing or industrial operations, dry cleaning, degreasing, paint spraying, wood treatment, etc.).
- Chemical/waste containers, storage rooms, or sheds.
- Outdoor storage yards.
- Subgrade features with the potential to leak (e.g., hydraulic hoists, flammable waste traps – oil/water separators, vaults, pits, or vats).
- Stained soil or stained floors with large cracks.
- Dead vegetation.

Property Reconveyance Environmental Review Process

The following procedure defines the environmental review process for reconveyances:

1. District Planning and Notification to EIU
 - District identifies and prioritizes anticipated property reconveyances requiring EIU review – All MnDOT-owned facilities and surplus and excess properties containing any RECs.
 - District notifies EIU of properties requiring review at least six months prior to reconveyance for typical property transactions or immediately for expedited reconveyances.
 - District immediately notifies EIU if any RECs are identified during district review of the property

2. Preliminary Environmental Review
 - EIU completes a cursory environmental review of the property and surrounding land use (e.g., review of environmental databases, historical photographs, historical topographic maps, MnDOT project files, and parcel files) and determines whether or not a more detailed review of property history is necessary.
 - EIU communicates the review to the District and makes a recommendation to complete a Detailed Environmental Review (see Item 3), or for no further action.

3. Detailed Environmental Review
 - EIU sends requisition to District for approval and to secure funding to retain an Environmental Consultant to perform a historical review of the property by completing a Phase I Environmental Site Assessment (ESA). Phase I ESAs generally cost \$5,000 to \$10,000 depending on the complexity of the property use and size.
 - Consultant prepares a Phase I ESA, which includes the following additional tasks: review of property use; review of regulatory agency files for the site; interviews with MnDOT maintenance personnel or previous property owners (as appropriate); reconnaissance of the site; and report preparation.

4. EIU Recommendations to District
Possible outcomes of the environmental review of the property are as follows:

- EIU recommends that MnDOT reconveys the property without additional environmental investigation.
 - EIU recommends that MnDOT not reconvey the property.
 - EIU recommends that MnDOT limit the area being reconveyed.
 - EIU recommends that MnDOT conduct a drilling investigation (see item 5) to collect soil and/or groundwater samples from the property in order to determine the existence and magnitude of contamination and work with appropriate regulatory agency to (1) obtain letters of assurance to reduce our liability in releasing the property and/or (2) cleanup of the property to appropriate levels for reconveyance.
5. Drilling Investigation
- EIU provides District with estimated investigation cost.
 - EIU sends requisition to District for approval and to secure funding to retain a consultant to perform a drilling investigation at the property (i.e., obtain soil and/or groundwater samples).
 - Consultant completes the investigation and prepares a Drilling Investigation Report.
 - EIU submits the report to the MPCA to obtain liability assurances, approvals, and/or site closure, as appropriate.
 - EIU notifies the District if the drilling investigation results identify the need to complete cleanup of soil and/or groundwater contamination prior to reconveyance (see item 6).
6. Property Cleanup
- EIU provides District with estimated cleanup cost.
 - EIU sends requisition to District for approval and to secure funding to retain a consultant to perform cleanup operations at the property.
 - Consultant prepares and submits a cleanup plan, known as a Response Action Plan (RAP), to the MPCA for approval.
 - Once the RAP has been approved by MPCA, the Consultant provides oversight of the cleanup and prepares a RAP Implementation Report upon completion.
 - EIU submits the report to the MPCA to obtain liability assurances, approvals, and/or site closure, as appropriate.

Please contact the [Environmental Investigation Unit](#) for further assistance.

jmk03-2018