

# **Appendix D**

## **Agency Correspondence**

**Exhibit D1. MnDOT CRU Letter (February 5, 2016)****Minnesota Department of Transportation****Office of Environmental Stewardship**

Mail Stop 620  
395 John Ireland Boulevard  
St. Paul, MN 55155-1800

Office Tel: (651) 366-4291

Fax: (651) 366-3603

February 05, 2016

Re: S.P. 6284-172 (Additional north and southbound lanes and associated work on I-35W, between TH 36 and Lexington Avenue, Anoka and Ramsey Counties)

Dear Mr. Adams,

We have reviewed the above-referenced undertaking pursuant to our FHWA-delegated responsibilities for compliance with Section 106 of the National Historic Preservation Act, as amended (36 CFR 800), and as per the terms of the applicable Programmatic Agreements between the FHWA and the Minnesota State Historic Preservation Office (SHPO). The Section 106 review fulfills MnDOT's responsibilities under the Minnesota Historic Sites Act (MS 138.665-.666), the Field Archaeology Act of Minnesota (MS 138.40); and the Private Cemeteries Act (MS 307.08, Subd. 9 and 10).

This project was originally reviewed in January 2015 and was proposed as constructing an additional lane on northbound and southbound I-35W from TH 36 in Roseville to Lexington Avenue (CSAH 17) in Blaine, a distance of approximately 10 miles. In addition, the project may include pavement resurfacing on all existing lanes within the project limits, and grading, concrete pavement, and utility replacements. Storm water treatment will be required; at this time it is assumed the storm water treatment will be provided within the right of way. Noise barriers may be needed along some residential areas.

In January of 2016 additional work was added to the scope and it included work proposed under SP 0280-74 (I-35W). SP 0280-74 will be deleted from MnDOT's program. SP 0280-74 includes reconstruction of TH 35W (unbonded concrete overlay) from 0.1 mile north of Lake Drive (RP 030+00.970) to 0.1 mile north of the Sunset Avenue overpass (RP 034+00.978). This project is identified in the 2016-2019 STIP for construction in 2019. SP 0280-74 (unbonded concrete overlay) will be combined with the TH 35W MnPASS project. S.P. 6284-172 has been revised to include construction of an auxiliary lane on westbound TH 10 from the TH 35W interchange to the CR J interchange

Based on our existing programmatic agreements with various tribal groups, we sent a consultation letter to the following tribes: Fort Peck Tribes, Lower Sioux Indian Community, Santee Sioux Nation, Sisseton-Wahpeton Oyate Community, and Turtle Mountain Band of Chippewa. We did not receive any response within the allotted time.

The area of potential effects (APE) for direct effects of the project consists of the proposed construction area. There are no known archaeological sites in the APE. Much of the APE has been disturbed by previous roadway construction. The APE has low potential for containing unidentified significant archaeological resources. The APE for indirect effects of the project consist of

**Exhibit D1. MnDOT CRU Letter (February 5, 2016)**

properties adjacent to the proposed project. There are no eligible or potentially-eligible buildings or structures in the APE.

The finding of this office is that there will be **no historic properties affected** by the project as currently proposed. If the project scope changes, please provide our office with the revised information and we will conduct an additional review.

Sincerely,



Renée Hutter Barnes, Historian  
Cultural Resources Unit

cc: Brett Danner, SRF Consulting Group  
Rick Dalton, MnDOT Metro District  
MnDOT CRU Project File

## Exhibit D2. MnDOT CRU Letter (January 12, 2015)

**Minnesota Department of Transportation**

**Office of Environmental Stewardship**  
 Mail Stop 620  
 395 John Ireland Boulevard  
 St. Paul, MN 55155-1800

Office Tel: (651) 366-4291  
 Fax: (651) 366-3603

January 13, 2015

Natalie Ries  
 SRF Consulting Group  
 One Carlson Parkway, Suite 150  
 Minneapolis, MN 55447  
[nries@srfconsulting.com](mailto:nries@srfconsulting.com)

Re: S.P. 6284-172, I-35W Additional Lanes, Roseville, New Brighton, Arden Hills, Mounds View, Shoreview, Lexington, Blaine, and Circle Pines, Anoka and Ramsey Counties

Dear Ms. Ries:

We have reviewed the above-referenced undertaking pursuant to our FHWA-delegated responsibilities for compliance with Section 106 of the National Historic Preservation Act, as amended (36 CFR 800), and as per the terms of the 2005 Section 106 Programmatic Agreement between the FHWA and the Minnesota State Historic Preservation Office (SHPO). The Section 106 review fulfills MnDOT's responsibilities under the Minnesota Historic Sites Act (MS 138.665-.666), the Field Archaeology Act of Minnesota (MS 138.40); and the Private Cemeteries Act (MS 307.08, Subd. 9 and 10).

The project will construct an additional lane on northbound and southbound I-35W from TH 36 in Roseville to Lexington Avenue (CSAH 17) in Blaine, a distance of approximately 10 miles. In addition, the project may include pavement resurfacing on all existing lanes within the project limits, and grading, concrete pavement, and utility replacements. Storm water treatment will be required; at this time it is assumed the at storm water treatment will be provided within the right-of-way. Noise barriers may be needed along some residential areas, between TH 36 and Lexington Avenue in Blaine. All work will be within current right-of-way.

On behalf of the FHWA, MnDOT CRU has studied all bridges in the state (on both the state and local systems) built prior to 1970 and has determined which bridges have historical significance. Only about 3 percent of the bridges in the state are historically significant and require further analysis. For the remaining 97 percent of pre-1970 bridges, determinations can be made with little delay. As long as historic bridges continue to be prioritized for preservation, this streamlining approach will remain in effect and will continue to benefit MnDOT and local agencies. Through this statewide bridge streamlining study, MnDOT CRU has determined that Bridges 9353, 9354, 9355, 9357, 9570, 9599, 9602, 9601, 9577, 9578, 9586, 9585, 9582, 9603, 9605, 02571, 02817, 02566, and 02550 are not eligible for the National Register.

Based on our existing programmatic agreements with various tribal groups, we sent a consultation letter to the following tribes: Fort Peck Tribes, Lower Sioux Indian Community, Santee Sioux Nation, Sisseton-Wahpeton Oyate Community, and Turtle Mountain Band of Chippewa. We did not receive any response within the allotted time.

The area of potential effects (APE) for the project consists of the proposed construction area. Because all work will occur within areas previously disturbed by road and associated construction, as well as substantial urban development, it is unlikely that the

**Exhibit D2. MnDOT CRU Letter (January 12, 2015)**

APE contains intact, significant archaeological resources. No historic structures are located within the APE.

The finding of this office is that there will be **no historic properties affected** by the project as currently proposed. If the project scope changes, please provide our office with the revised information and we will conduct an additional review.

Sincerely,



Renée Hutter Barnes  
Historian, Cultural Resources Unit

cc: Jerome Adams, MnDOT Metro District Rick  
Dalton, MnDOT Metro District Mn/DOT CRU  
Project File

## Exhibit D3. MnDOT CRU Letter (August 7, 2013)

**Minnesota Department of Transportation****Office of Environmental Services**

Mail Stop 620  
 395 John Ireland Boulevard  
 St. Paul, MN 55155-1899

Office Tel: (651) 366-4291

Fax: (651) 366-3603

August 07, 2013

Brigid Gombold  
 Metro District  
 1500 W. Co. Rd. B2  
 Roseville, MN 55113

Re: S.P. 6284-172 (35W Mn Pass lane from Lexington Avenue to TH 36, Anoka and Ramsey Counties)

Dear Ms. Gombold,

We have reviewed the above-referenced undertaking pursuant to our FHWA-delegated responsibilities for compliance with Section 106 of the National Historic Preservation Act, as amended (36 CFR 800), and as per the terms of the applicable Programmatic Agreements between the FHWA and the Minnesota State Historic Preservation Office (SHPO). The Section 106 review fulfills MnDOT's responsibilities under the Minnesota Historic Sites Act (MS 138.665-.666), the Field Archaeology Act of Minnesota (MS 138.40); and the Private Cemeteries Act (MS 307.08, Subd. 9 and 10).

MnDOT Metro District has received funds from the Interstate Maintenance Discretionary Program from the I-35W North Corridor Coalition which is available to spend on studies for a 35W MnPASS lane from Lexington Avenue in Anoka County to TH 36 in Ramsey County. This would be approximately 10 miles of a center lane addition in each direction, crossing the Environmental Assessment (EA) threshold. Since this project is in very early planning stage, specific design details are not available. The focus of this project is a MnPASS for each direction.

On behalf of the FHWA, MnDOT CRU has studied all bridges in the state (on both the state and local systems) built prior to 1970 and has determined which bridges have historical significance. Only about 3 percent of the bridges in the state are historically significant and require further analysis. For the remaining 97 percent of pre-1970 bridges, determinations can be made with little delay. As long as historic bridges continue to be prioritized for preservation, this streamlining approach will remain in effect and will continue to benefit MnDOT and local agencies. Through this statewide bridge streamlining study, MnDOT CRU has determined that Bridges 9607, 02571, 9605, 9603, 9582, 9585, 9586, 9578, 9577, 9602, 9599, 9570, 9357, 9492, 9355, 9353, 9354, 9352, 9351 are not eligible for the National Register.

Since specific design details are not known, including but not limited to: ponding placement if needed, additional right-of-way acquisition if needed and other design issues that may come up during this process; this review focuses on the placement of a MnPASS lane in the center of I-35W where previous land has been disturbed. Therefore the area of potential effects (APE) for the project consists of the proposed construction area within the current right-of-way. Because this work will occur within previously disturbed ground and current right-of-way, it is unlikely that the APE contains intact, significant archaeological resources. There are no historic structures within the APE.

**Exhibit D3. MnDOT CRU Letter (August 7, 2013)**

The finding of this office is that there will be **no historic properties affected** by the project as currently proposed. If the project scope changes, please provide our office with the revised information and we will conduct an additional review.

Sincerely,



Renée Hutter Barnes  
Historian  
Cultural Resources Unit

cc: Bill Goff, Metro District  
Mark Lindeberg, Metro District  
Mn/DOT CRU Project File

## Exhibit D4. Tribal Letter and Attachments (January 4, 2016)

**Minnesota Department of Transportation**

**Office of Environmental Services**  
 Mail Stop 620  
 395 John Ireland Boulevard  
 St. Paul, MN 55155-1899

Office Tel: (651) 366-4291  
 Fax: (651) 366-3603

January 4, 2016

Re: S.P. 6284-172 (Additional north and southbound lanes and associated work on I-35W, between TH 36 and Lexington Avenue, Anoka and Ramsey Counties, T29N, R23W, Sections 5, 8 and 9; T30N, R23W, Sections 4, 5, 8, 9, 16, 17, 21, 28, 29, and 32; T31N, R23W, Sections 23, 24, 26, 27, and 34)

Dear Tribal Representative:

Minnesota Department of Transportation is proposing constructing additional MnPASS lanes on I-35W using Federal Highway Administration (FHWA) funds. This undertaking is subject to review under Section 106 of the National Historic Preservation Act. The project is not on tribal land. Section 106 requires Federal agencies to take into account the effects of their undertakings on historic properties (i.e., those resources eligible for or listed on the National Register of Historic Places). This process involves efforts to identify historic properties potentially affected by the undertaking, assess project effects, and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. On behalf of the FHWA, which has delegated some of its Section 106 responsibilities to the Mn/DOT Cultural Resources Unit, we are now initiating review to determine the possible effects of the undertaking on historic properties. In accordance with the Section 106 regulations (36 CFR 800.2[c]) and the agreement between the FHWA and the Tribe, we are contacting you to see if you know of any historic properties of religious or historic significance in the area, and to see if you would like to participate in the Section 106 process for this project.

A letter was sent to you concerning a project in December 2014. This project description included the construction of an additional lane on northbound and southbound I-35W from TH 36 in Roseville to Lexington Avenue (CSAH 17) in Blaine, a distance of approximately 10 miles. In addition, the project may include pavement resurfacing on all existing lanes within the project limits, and grading, concrete pavement, and utility replacements. Storm water treatment will be required; at this time it is assumed the at storm water treatment will be provided within the right-of-way. Noise barriers may be needed along some residential areas.

Additional work has been added to this original proposed project. The additional work will include reconstruction of TH 35W from Lake Drive to Sunset Avenue overpass and the construction of an auxiliary lane on westbound TH 10 from TH 35W interchange to the CR J interchange (see attached figures).

The area of potential effect (APE) is defined as the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties (including archaeological sites). Our office has defined the project APE as the proposed construction limits. Once the APE was established, we examined the State Historic Preservation Office database for previously recorded sites in the area. Based on these queries,

**Exhibit D4. Tribal Letter and Attachments (January 4, 2016)**

there are no previously recorded archaeological resources within the APE, or adjacent to it.

We would appreciate any comments you may have about historic, cultural, and archaeological resources and other concerns regarding this project. Our planning schedule is such that we must initiate work on our environmental and historic preservation studies, so we hope to hear from you within **30 days** of receipt of this letter. If you indicate that you are not aware of any historic properties with religious or cultural significance and that you do not wish to comment on the project, or if our office does not receive a response within 30 days, we will conclude that you do not wish to be a consulting party for this project and no further project information will be forwarded.

Thank you for your attention to this request. We look forward to working with you on this project.

Sincerely,



Renée Hutter Barnes, Historian  
Cultural Resources Unit  
renee.barnes@state.mn.us

Attachments

cc: A. T. Stafne, Chairman, Fort Peck Tribes  
Rpbert Larsen, Chairman, Lower Sioux Indian Community  
Grace Goldtooth-Campos, THPO, Lower Sioux Indian Community (email)  
Roger Trudell, Chairman, Santee Sioux Nation (email)  
Rick Thomas, THPO, Santee Sioux Nation (email)  
Dianne Desrosiers, THPO, Sisseton-Wahpeton Oyate Community (email)  
Jim Whitted, Sisseton-Wahpeton Oyate Community (email)  
Bruce Nadeau, THPO, Turtle Mountain Band of Chippewa (email)  
Brett Danner, SRF Consulting (email)  
Rick Dalton, MnDOT Metro District (email)  
Mn/DOT CRU Project File

Exhibit D4. Tribal Letter and Attachments (January 4, 2016)

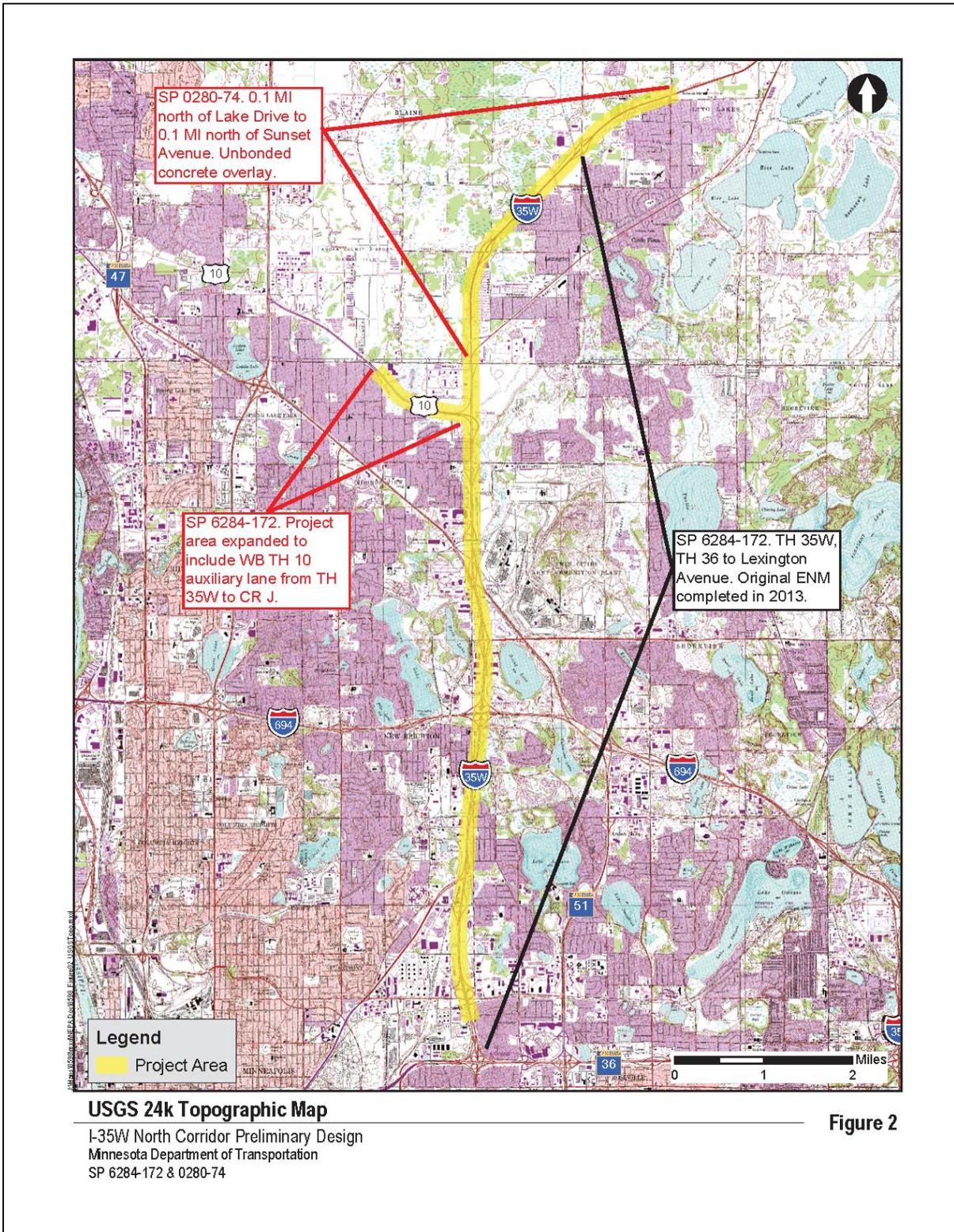


Figure 2

## Exhibit D5. Tribal Letter and Attachments (December 12, 2014)

**Minnesota Department of Transportation****Office of Environmental Services**

Mail Stop 620  
 395 John Ireland Boulevard  
 St. Paul, MN 55155-1899

Office Tel: (651) 366-4291

Fax: (651) 366-3603

December 12, 2014

Re: S.P. 6284-172 (Additional north and southbound lanes and associated work on I-35W, between TH 36 and Lexington Avenue, Anoka and Ramsey Counties, T29N, R23W, Sections 5, 8 and 9; T30N, R23W, Sections 4, 5, 8, 9, 16, 17, 21, 28, 29, and 32; T31N, R23W, Sections 23, 24, 26, 27, and 34)

Dear Tribal Representative:

Minnesota Department of Transportation is proposing constructing additional north and southbound lanes on I-35W using Federal Highway Administration (FHWA) funds. This undertaking is subject to review under Section 106 of the National Historic Preservation Act. The project is not on tribal land. Section 106 requires Federal agencies to take into account the effects of their undertakings on historic properties (i.e., those resources eligible for or listed on the National Register of Historic Places). This process involves efforts to identify historic properties potentially affected by the undertaking, assess project effects, and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. On behalf of the FHWA, which has delegated some of its Section 106 responsibilities to the Mn/DOT Cultural Resources Unit, we are now initiating review to determine the possible effects of the undertaking on historic properties. In accordance with the Section 106 regulations (36 CFR 800.2[c]) and the agreement between the FHWA and the Tribe, we are contacting you to see if you know of any historic properties of religious or historic significance in the area, and to see if you would like to participate in the Section 106 process for this project.

The project will construct an additional lane on northbound and southbound I-35W from TH 36 in Roseville to Lexington Avenue (CSAH 17) in Blaine, a distance of approximately 10 miles. In addition, the project may include pavement resurfacing on all existing lanes within the project limits, and grading, concrete pavement, and utility replacements. Storm water treatment will be required; at this time it is assumed the storm water treatment will be provided within the right-of-way. Noise barriers may be needed along some residential areas.

The area of potential effect (APE) is defined as the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties (including archaeological sites). Our office has defined the project APE as the proposed construction limits. Once the APE was established, we examined the State Historic Preservation Office database for previously recorded sites in the area. Based on these queries, there are no previously recorded archaeological resources within the APE, or adjacent to it.

We would appreciate any comments you may have about historic, cultural, and archaeological resources and other concerns regarding this project. Our

**Exhibit D5. Tribal Letter and Attachments (December 12, 2014)**

planning schedule is such that we must initiate work on our environmental and historic preservation studies, so we hope to hear from you within **30 days** of receipt of this letter. If you indicate that you are not aware of any historic properties with religious or cultural significance and that you do not wish to comment on the project, or if our office does not receive a response within 30 days, we will conclude that you do not wish to be a consulting party for this project and no further project information will be forwarded.

Thank you for your attention to this request. We look forward to working with you on this project.

Sincerely,



Renée Hutter Barnes, Historian  
Cultural Resources Unit  
renee.barnes@state.mn.us

Attachments

cc: Mr. Floyd Azure, Chairman, Fort Peck Tribes  
Denny Prescott, President, Lower Sioux Indian Community  
Grace Goldtooth-Campos, THPO, Lower Sioux Indian Community (email)  
Roger Trudell, Chairman, Santee Sioux Nation (email)  
Rick Thomas, THPO, Santee Sioux Nation (email)  
Dianne Desrosiers, THPO, Sisseton-Wahpeton Oyate Community (email)  
Jim Whitted, Sisseton-Wahpeton Oyate Community (email)  
Kade Farres, THPO, Turtle Mountain Band of Chippewa (email)  
Jerome Adams, MnDOT Metro District (email)  
Rick Dalton, MnDOT Metro District (email)  
Mn/DOT CRU Project File

Exhibit D5. Tribal Letter and Attachments (December 12, 2014)

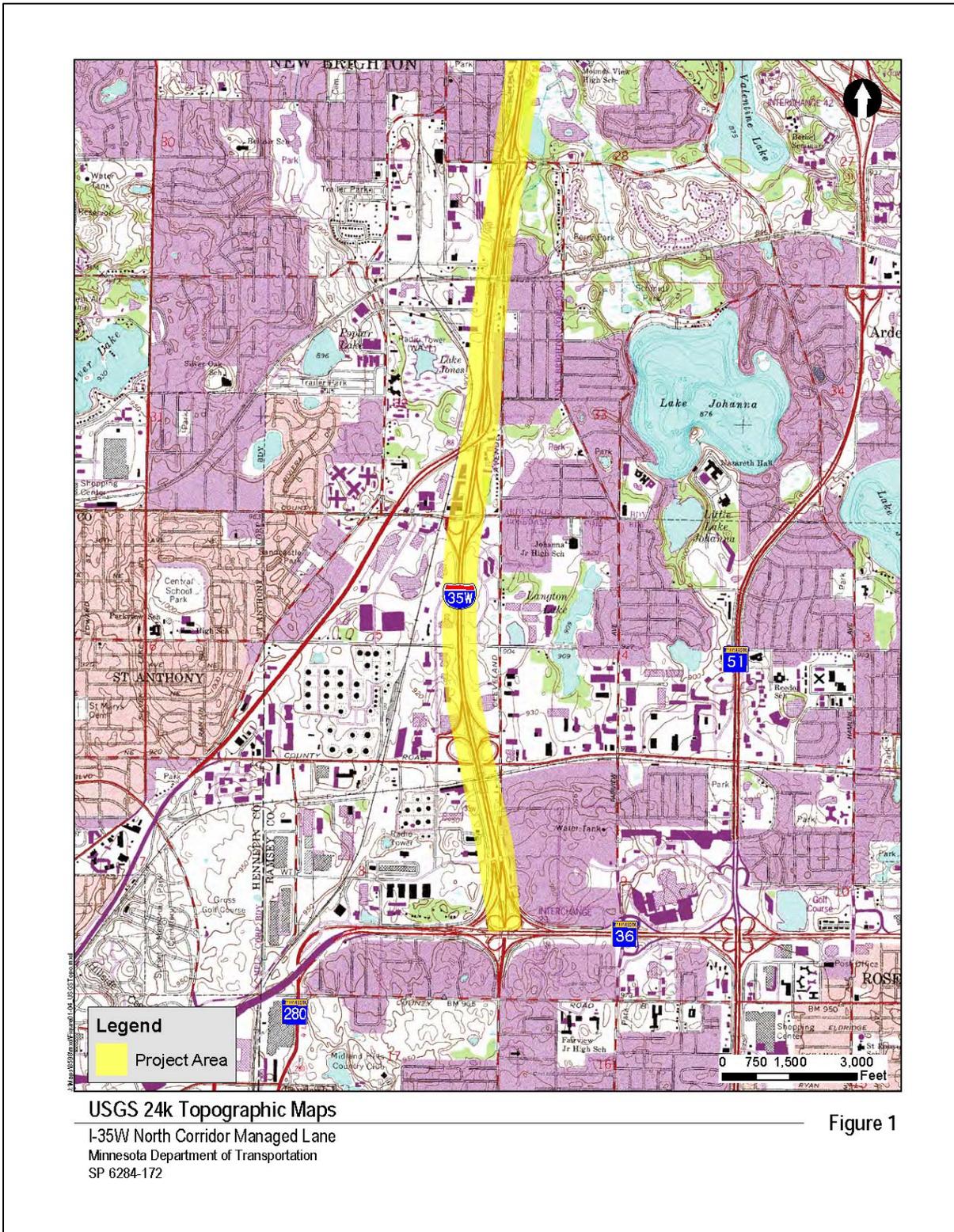


Exhibit D5. Tribal Letter and Attachments (December 12, 2014)

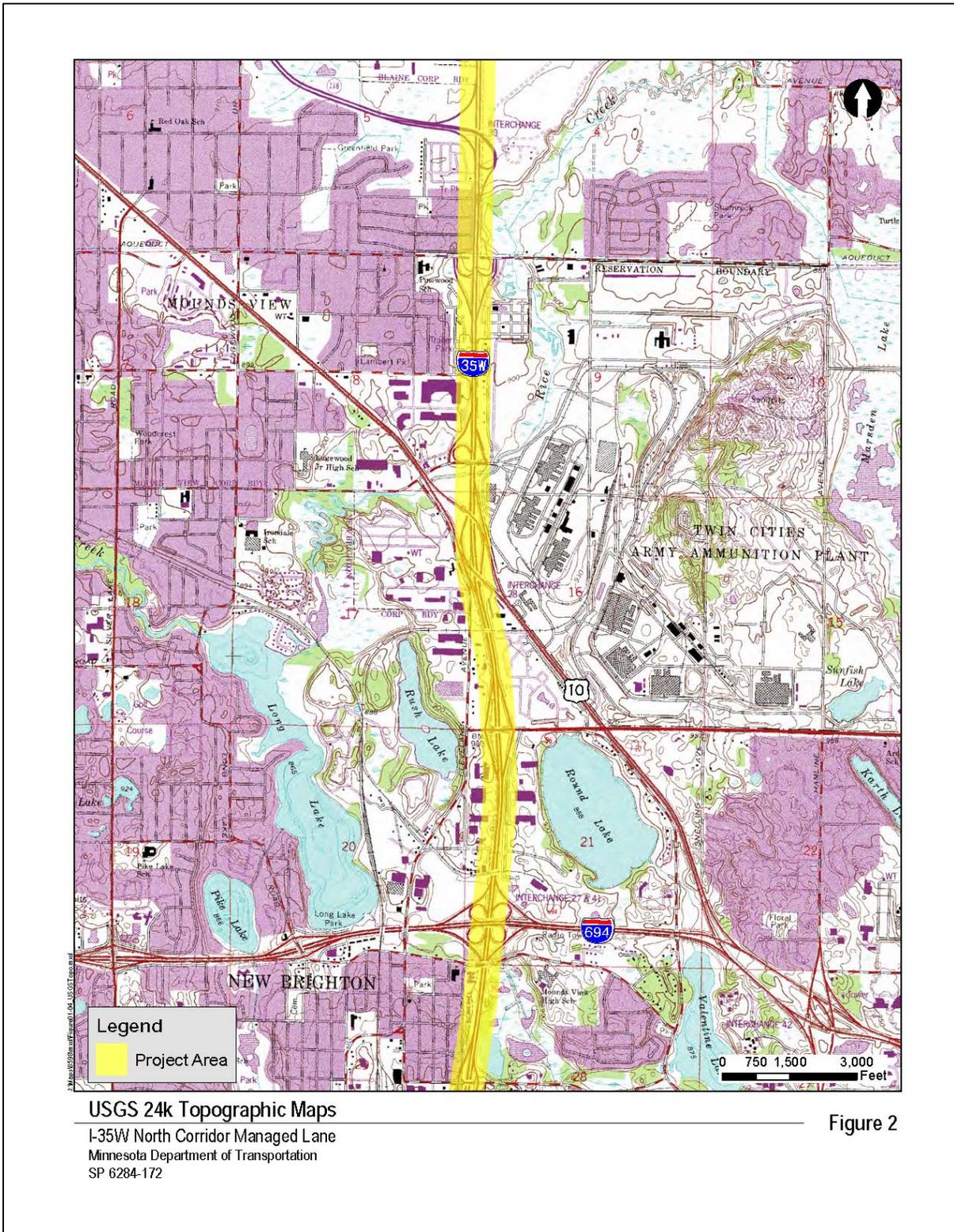
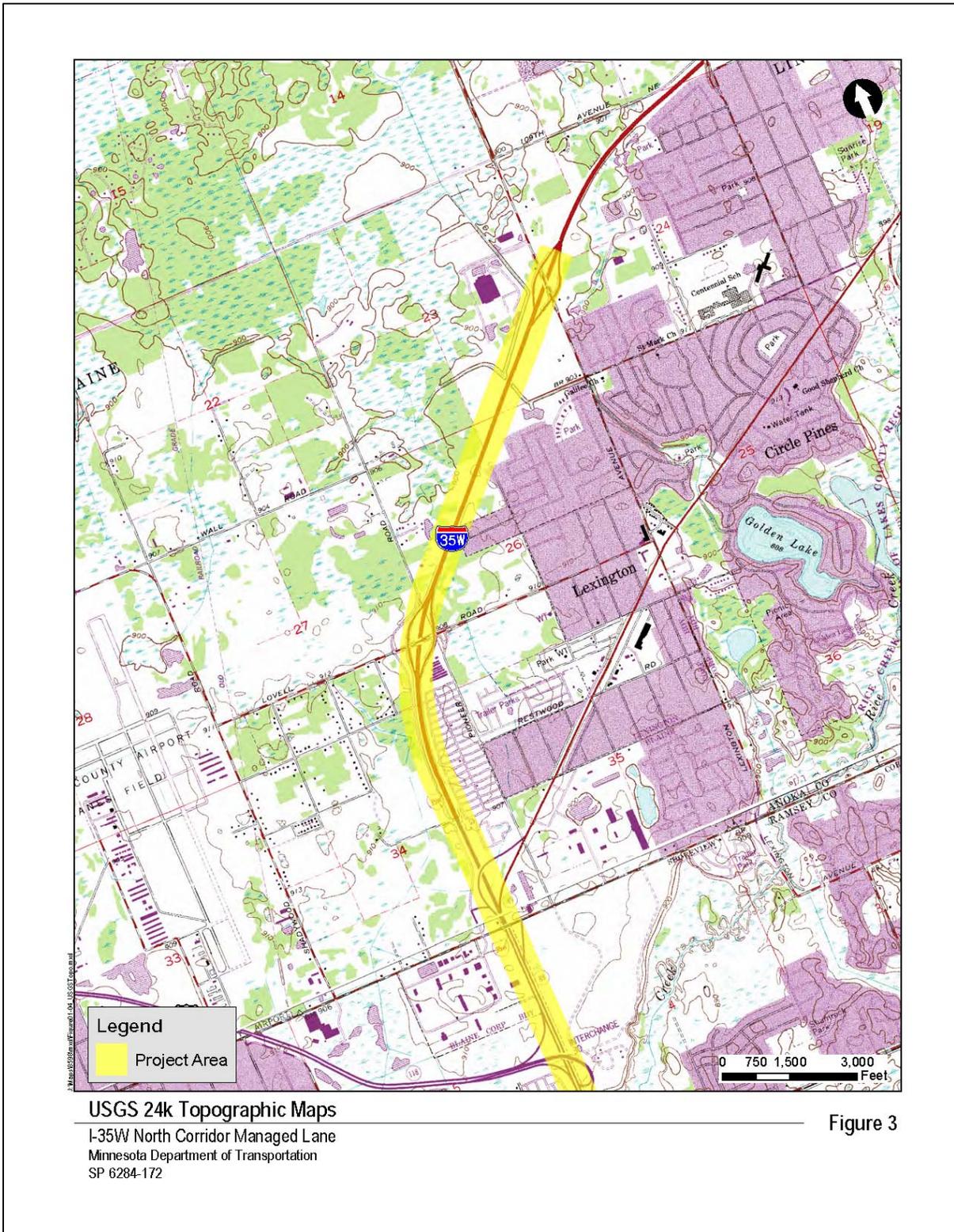


Exhibit D5. Tribal Letter and Attachments (December 12, 2014)



**Exhibit D6. Threatened and Endangered Species – Section 7 (February 5, 2016)**



**Minnesota Department of Transportation**

395 John Ireland Boulevard  
 Saint Paul, MN 55155

February 5, 2016

Andrew Horton  
 Fish and Wildlife Biologist  
 U. S. Fish and Wildlife Service  
 Twin Cities ES Field Office  
 4101 American Blvd East  
 Bloomington, MN 55425-1665

Notification of Determination – May Affect, but will not cause prohibited incidental take – northern long-eared bat (*Myotis septentrionalis*)

No Effect Determination – Higgins eye pearl mussel (*Lampsilis higginsii*)

No Effect Determination – Snuffbox (*Epioblasma triquetra*)

No Effect Determination – Winged mapleleaf (*quadrula fragosa*)

**State Project 6284-172, Interstate Highway 35 W**

Roseville, New Brighton, Arden Hills, Mounds View, Shoreview, and Blaine. Ramsey and Anoka Counties.

This project will construct an additional lane on the northbound and southbound sides of I-35W from County Road C in Roseville to 0.1 mile north of Sunset Avenue in Blaine. Work may include resurfacing of existing lanes, utility replacement, and construction of stormwater treatment facilities and noise barriers. Work will also include construction of an auxiliary lane on westbound TH 10 from 35W to County Road J. Five bridges will be replaced and several others will have minor work. There will be 2-3 acres of tree removal occurring in various small patches scattered along the 10 mile length of the project. The map attached to the end of this letter shows the location of this project. (Note that the section referred to as SP 0280-74 is now included as a part of this project).

Species List for the Project County

According to the official County Distribution of Minnesota and Wisconsin's Federally-Listed Threatened, Endangered, Proposed, and Candidate Species list (revised in September 2015), maintained by the Service, the project county is within the distribution range of the following:

*Revised September 2015*

County	Species	Status	Habitat
Anoka	<a href="#">Northern long-eared bat</a> <i>Myotis septentrionalis</i>	Threatened	Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
Ramsey	<a href="#">Northern long-eared bat</a> <i>Myotis septentrionalis</i>	Threatened	Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
	<a href="#">Higgins eye pearl mussel</a> ( <i>Lampsilis higginsii</i> )	Endangered	Mississippi River
	<a href="#">Snuffbox</a> ( <i>Epioblasma triquetra</i> )	Endangered	Mississippi River

State Project 6284-172  
 ESA (Section 7) Notice of Determination  
 February 5, 2016

Exhibit D6. Threatened and Endangered Species – Section 7 (February 5, 2016)

	<a href="#">Winged mapleleaf</a> <i>(Quadrula fragosa)</i>	Endangered	St. Croix River
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No Effect Determinations

Section 7 of Endangered Species Act of 1973, as amended (Act), requires each Federal agency to review any action that it funds, authorizes or carries out to determine whether it may affect threatened, endangered, proposed species or listed critical habitat. Federal agencies (or their designated representatives) must consult with the U.S. Fish and Wildlife Service (Service) if any such effects may occur as a result of their actions. Consultation with the Service is not necessary if the proposed action will not directly or indirectly affect listed species or critical habitat. If a federal agency finds that an action will have no effect on listed species or critical habitat, it should maintain a written record of that finding that includes the supporting rationale.

- No Effect Determination – Higgins eye pearlymussel (*Lampsilis higginsii*)
- No Effect Determination – Snuffbox (*Epioblasma triquetra*)
- No Effect Determination – Winged mapleleaf (*quadrula fragosa*)

Higgins eye pearlymussel—Determination of No Effect  
 There are no known occurrences of this species within the action area. There is no critical habitat designated for this species. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Snuffbox—Determination of No Effect  
 There are no known occurrences of this species within the action area. There is no critical habitat designated for this species. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Winged mapleleaf—Determination of No Effect  
 There are no known occurrences of this species within the action area. There is no critical habitat designated for this species. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Notice of Determination

Northern long-eared bat— May Affect, but will not cause prohibited incidental take.

According to the information provided, this project will include work on or replacement of several bridges as well as 2-3 acres of tree clearing. Most of the bridges and tree removals are in areas that would not be considered suitable habitat for NLEB because of their locations in a high density urban setting. However, some work will be near possible habitat along Rice Creek and near natural areas between County Road 10 and Lexington Avenue. There are no documented maternity roost trees or hibernacula in this area. Although there is a slight chance that bridge work and tree removal in these areas could impact bats, it is not considered to be prohibited incidental take based on the final 4(d) rule for the northern long-eared bat as published on January 14, 2016 and effective beginning February 16, 2016.

**Based on the optional framework for section 7 consultation described in the Programmatic Biological Opinion on the Final 4(d) Rule for the Northern Long-Eared Bat, MnDOT on behalf of the FHWA has determined that the proposed action may affect, but will not cause prohibited incidental take of the northern long-eared bat (*Myotis septentrionalis*). MnDOT will proceed with this action unless we receive additional information from the Service within 30 days.**

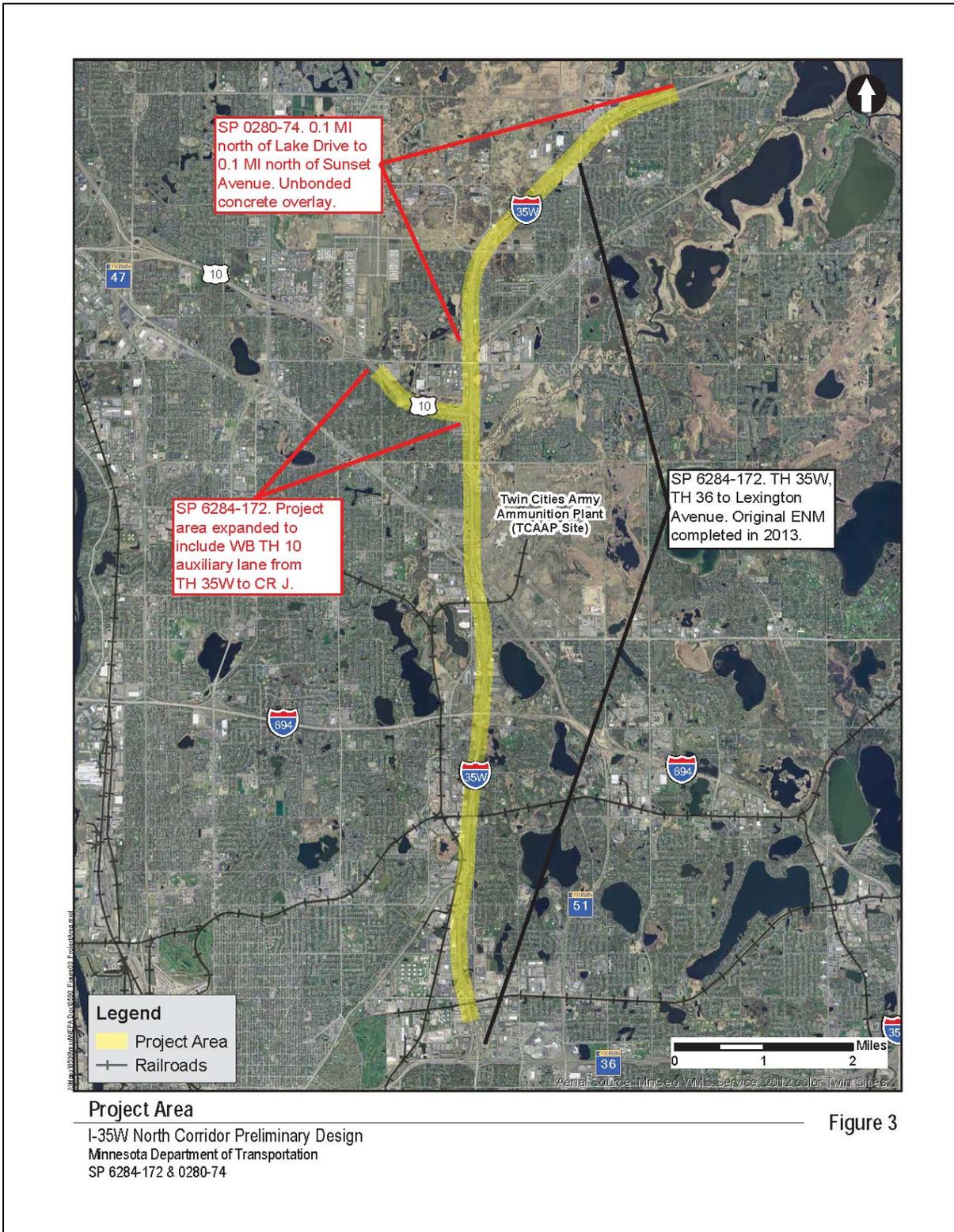
Please contact me if there are any questions or concerns.

Ken Graeve  
 Minnesota Department of Transportation,  
 Office of Environmental Stewardship  
 395 John Ireland Boulevard,  
 St. Paul, MN 55155  
 Phone: 651-366-3613  
 Email: kenneth.graeve@state.mn.us

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State Project 6284-172  
 ESA (Section 7) Notice of Determination  
 February 5, 2016

Exhibit D6. Threatened and Endangered Species – Section 7 (February 5, 2016)



**Exhibit D7. Threatened and Endangered Species – Section 7 (September 16, 2013)****Gombold, Brigid (DOT)**

**From:** Alcott, Jason (DOT)  
**Sent:** Monday, September 16, 2013 9:43 AM  
**To:** Gombold, Brigid (DOT)  
**Cc:** Moynihan, Debra (DOT)  
**Subject:** S.P. 6284-163, 6284-172, 8206-45 - ESA (Section 7) - Determination of No Effect

**Endangered Species Act of 1973, as amended – Section 7 - Determination of No Effect**  
**S.P. 6284-163, Interstate 35W, Replacement of Bridges 9570/9599/Auxiliary Lane Construction, Cities of Arden Hills/New Brighton, Ramsey County**  
**S.P. 6284-172, Interstate 35W, MnPASS Lane Construction, Anoka and Ramsey Counties**  
**S.P. 8206-45, Trunk Highways 61/97, Roundabout Construction and Associated Improvements, City of Forest Lake, Washington County**

In response to your request, the proposed actions have been reviewed for potential effects to federally-listed threatened, endangered, proposed, candidate species and listed critical habitat. As a result of this review, a determination of **no effect** has been made.

Section 7 of Endangered Species Act of 1973, as amended, requires each Federal agency to review any action that it funds, authorizes or carries out to determine whether it may affect threatened, endangered, proposed species or listed critical habitat. Federal agencies, or their designated non-federal representatives (FHWA has delegated MnDOT) as their non-federal representative) must consult with the Service if any such effects may occur as a result of their actions. Consultation with the Service is not necessary if the proposed action will not directly or indirectly affect listed species or critical habitat. If a federal agency finds that an action will have no effect on listed species or critical habitat, it should maintain a written record of that finding that includes the supporting rationale.

**Based on the information you have provided, it has been determined that no further action under Section 7 of the Act is required. However, if information becomes available indicating that federally-listed species or designated critical habitat may be affected, please contact this office and consultation with the Service will be initiated, if necessary.**

Jason Alcott  
Minnesota Department of Transportation  
Office of Environmental Stewardship  
395 John Ireland Boulevard  
St. Paul, MN 55155  
Phone: 651-366-3605  
Email: [Jason.alcott@state.mn.us](mailto:Jason.alcott@state.mn.us)

**Exhibit D8. DNR Letter and Attachments (January 29, 2015)****Natalie Ries**

**From:** Leete, Peter (DOT) <peter.leete@state.mn.us>  
**Sent:** Thursday, January 29, 2015 7:42 AM  
**To:** Dalton, Richard (DOT)  
**Cc:** Natalie Ries; Adams, Jerome (DOT); Stenlund, Dwayne (DOT); Straumanis, Sarma (DOT); Alcott, Jason (DOT); Joyal, Lisa (DNR); Haworth, Brooke (DNR); DeBates, TJ (DNR); Hintzman, Rachel (DNR); Drewry, Kate (DNR); Sorensen, Jenifer (DNR); Marion, Tim J (DNR); Hoaglund, Erica (DNR)  
**Subject:** DNR comments on MnDOT Early Notification Memo, I-35W lane addition (MnPass project SP6284-172) Ramsey & Anoka Co  
**Attachments:** ENM.pdf; DNRbasemap.pdf; 20140627-IMG\_3169.jpg; 20140627-IMG\_3190.jpg; Ebflyer&factsheet2008\_9.pdf; Work Exclusion Dates.pdf; Entanglement (from Chapter 1).pdf

Rick,

This email is the DNR response for your project records. I have not sent this Early Notification Memo (ENM) out for full DNR review, however I've looked at the information in the submitted documents regarding the proposed addition of a lane on I-35W in the median along various sections between TH36 and the Lexington Ave Exit. Adding a lane in the existing median does not in itself raise concerns. However, locations for the associated expansion of the stormwater system will need be planned carefully in order to avoid or be compatible with DNR concerns for resources within or adjacent to the existing right of way. Please consider the following comments as designs and special provisions are developed:

1. For MnDOT planning purposes, attached to this email is a map of the project area (DNRbasemap.pdf) showing nearby locations of DNR areas concern (if they exist), such as Public Waters (in dark blue), designated aquatic invasive species (red), snowmobile Trails (in pink), and various green shaded polygons for Sites of Biodiversity Significance. This map may be shared or included in project documentation, as all information is from publically available data layers. If you have questions regarding proposed work near any of the data shown, please give me a call. Your GIS folks also can access this data from the DNR's Data Deli website at <http://deli.dnr.state.mn.us/>. The following files will allow the creation of the same map and ease your cross reference for road locations.

- MBS Railroad Rights-of-Way Prairies
- MBS Native Plant Communities
- MBS Sites of Biodiversity Significance
- Public Waters Inventory (PWI) Watercourse Delineations
- Public Waters Inventory (PWI) Basin Delineations
- DNR managed lands such as Wildlife Management Areas, Scientific & Natural Areas, Public Access, State Parks, State Forests, etc
- Trout streams, including PLS sections with trout streams
- FEMA layers for flood impact potential
- Minnesota Trails (water, state, and snowmobile).

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 the map. Comments on potential impacts to rare features listed in the NHIS comments are below.

2. There are DNR Public Waters in the project area. These are identified in dark blue on the attached DNRbasemap.pdf. Please note the Public Waters in or immediately adjacent to the I-35W right of way. These areas are at the County Rd C exit, between County Rd E2 and I-694, and Rice Creek. The Early Notification Memo does not state whether there will be work at these locations or not. Should plans propose work within the banks of these Public Waters, please contact me as further review will be required. Work in these areas should be avoided, and any work adjacent to them should be replanted with native vegetation suitable to the local habitat. The MnDOT turf establishment letters contain native mix options that are suitable for these areas. Native shrubs and trees may also be incorporated in the vegetation plans.

## Exhibit D8. DNR Letter and Attachments (January 29, 2015)

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. 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 construction activity has ceased (and be completed within 24 hours). For restriction dates in this area see the attached map.

3. Please remind contractors that a separate water use permit is required for 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. An individual appropriations permit may be required for projects lasting longer than one year or exceeding 50 million gallons. Information is located at: [http://www.dnr.state.mn.us/waters/watermgmt\\_section/appropriations/permits.html](http://www.dnr.state.mn.us/waters/watermgmt_section/appropriations/permits.html)
4. 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). In order to prevent the inadvertent release of the location of specific listed or rare species contained in the NHIS, I have not identified their location on the attached ‘DNRbasemap.pdf’. Based on this query, several rare features have been documented within the search area (for details, please contact me). Please note that the following rare features *may* be impacted by the proposed project:
  - a. Two areas are known to have rare plants adjacent to I-35W. The Blaine Preserve SNA abuts the I-35W right of way north of the 95<sup>th</sup> Ave (County Rd 52) exit, and the areas adjacent to the County J /Lake Drive exists also contain known populations of rare plants. It is not known if rare plants are located within the right of way in these areas. A plant survey should be conducted in these areas should there be work proposed outside the existing shoulders at these locations. Contact me or the MnDOT Roadside Vegetation Unit for assistance in this.
  - b. Blanding’s turtles (*Emydoidea blandingii*), a state-listed threatened species, have been reported from the Rice Creek vicinity and may be encountered during construction. If Blanding’s turtles 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 turtles are in imminent danger they should be moved by hand out of harms way, otherwise they should be left undisturbed. For your information, I have attached a Blanding’s turtle fact sheet that describes the habitat use and life history of this species. The fact sheet also provides two lists of recommendations for avoiding and minimizing impacts to this rare turtle. **Please refer to the first list of recommendations for your project.** If greater protection for turtles is desired, the second list of additional recommendations can also be implemented. The attached flyer should be given to all contractors working in the area. Additionally, the use of erosion control blanket should be limited to ‘bio-netting’ or ‘naturalnetting’ types, and specifically not allow plastic mesh netting. See attached. This is info from page 25 of chapter one in the manual: ‘Best Practices for Meeting GP 2004-0001’, at [http://www.dnr.state.mn.us/waters/watermgmt\\_section/pwpermits/gp\\_2004\\_0001\\_manual.html](http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html)
  - c. On that note, this is a good opportunity to take a look at the existing right of way fence in the Rice Creek area. The issue is that areas of fence that are not tight to the ground are areas that can be utilized by turtles to pass through and on to the roadway. Attached are a couple examples of areas that could be tightened up by either back filling along the fence, or blocking gaps at gates. A rule of thumb is that if you can kick the toe of your boot through, then a turtle can pass through. I am willing to work with you at looking at these area to determine if the existing fencing can be tightened up in the area.

**Exhibit D8. DNR Letter and Attachments (January 29, 2015)**

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 Rick, and myself.

Contact me if you have questions

*peter*

Peter Leete  
Transportation Hydrologist (DNR-MnDOT Liaison)  
DNR Ecological & Water Resources  
Ph: 651-366-3634

Office location: MnDOT's Office of Environmental Stewardship

Exhibit D8. DNR Letter and Attachments (January 29, 2015)

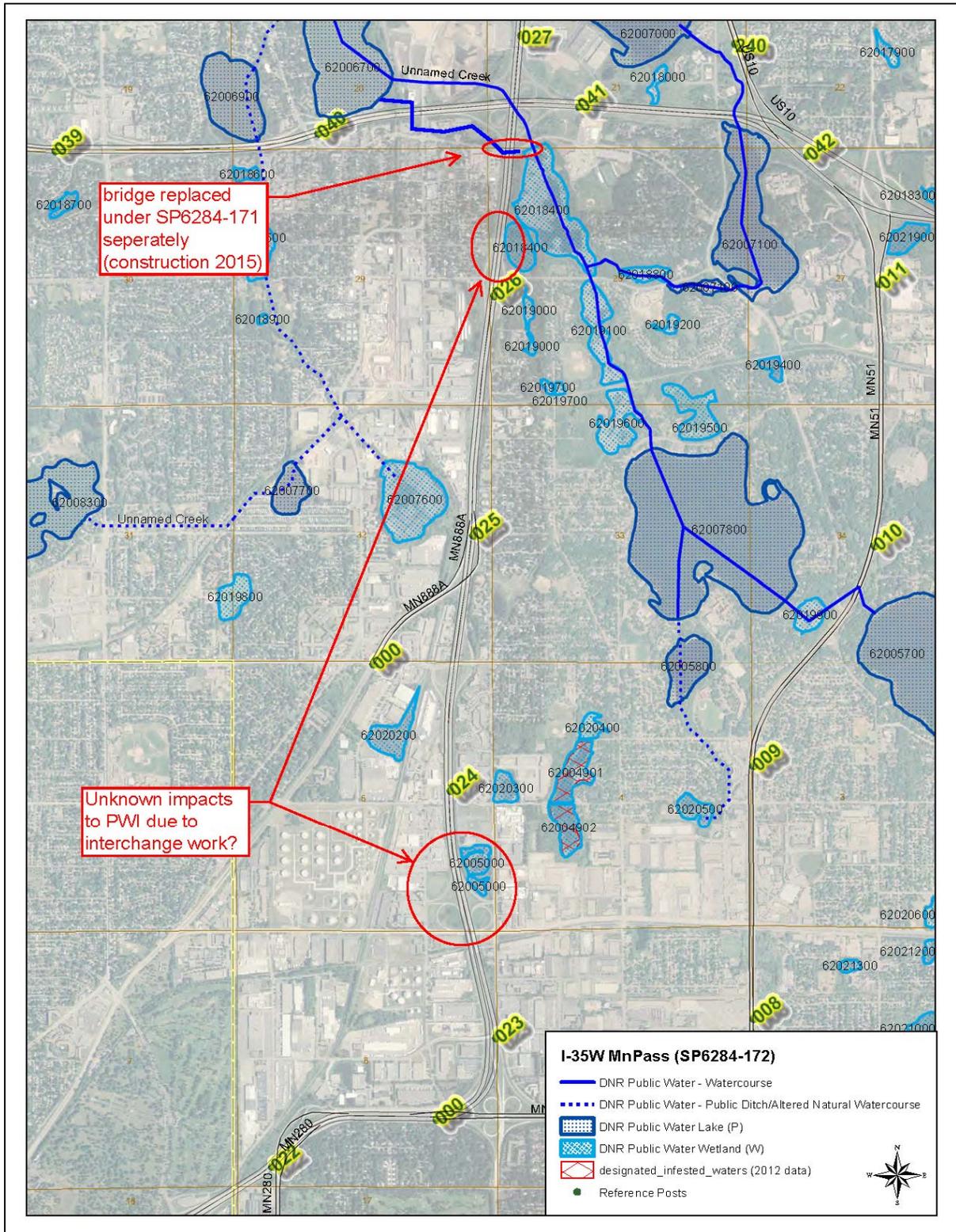
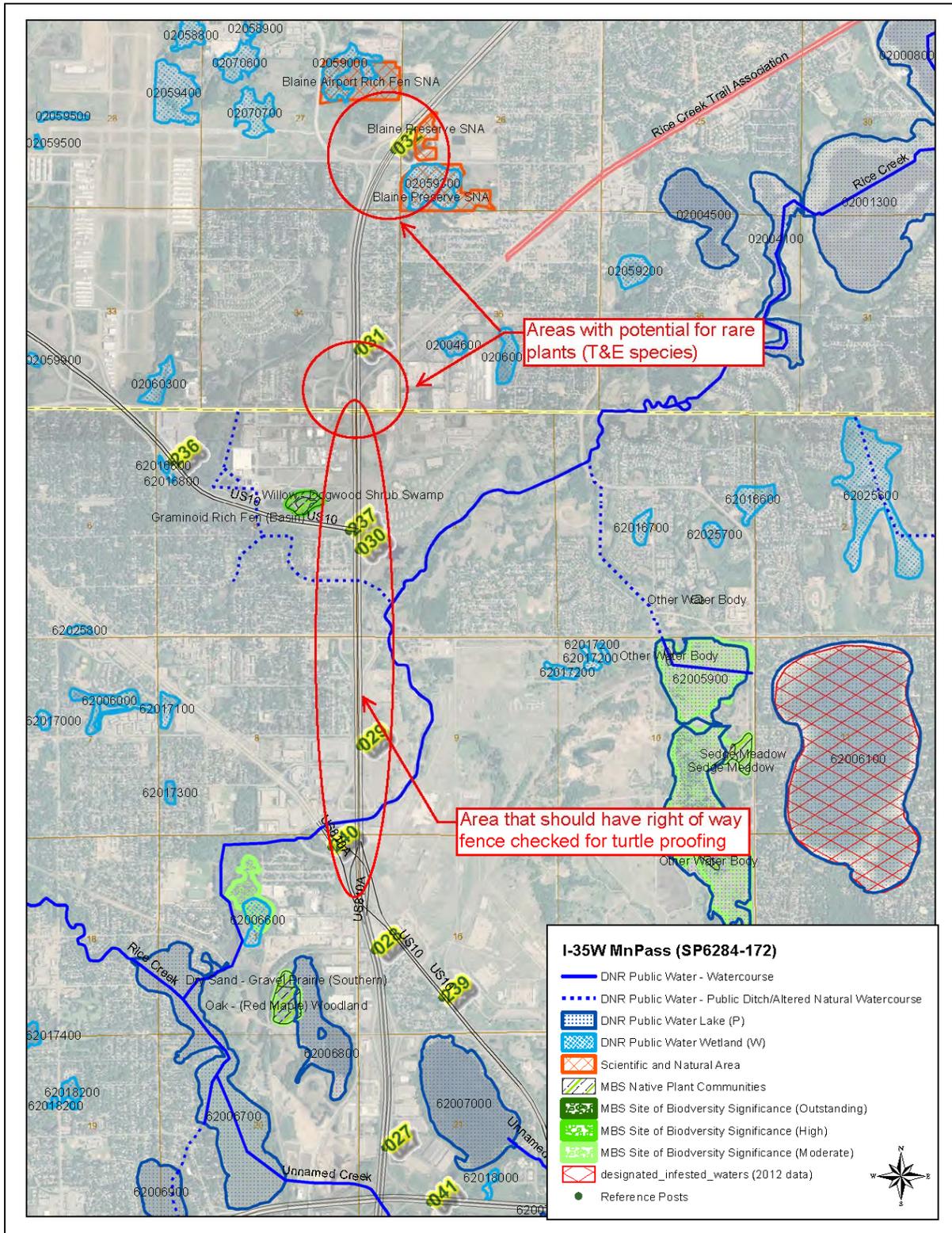


Exhibit D8. DNR Letter and Attachments (January 29, 2015)



**Exhibit D8. DNR Letter and Attachments (January 29, 2015)**



Exhibit D8. DNR Letter and Attachments (January 29, 2015)



Exhibit D8. DNR Letter and Attachments (January 29, 2015)

# CAUTION



## BLANDING'S TURTLES MAY BE ENCOUNTERED IN THIS AREA

The unique and rare Blanding's turtle has been found in this area. Blanding's turtles are state-listed as Threatened and are protected under Minnesota Statute 84.095, Protection of Threatened and Endangered Species. Please be careful of turtles on roads and in construction sites. For additional information on turtles, or to report a Blanding's turtle sighting, contact the DNR Nongame Specialist nearest you: Bemidji (218-308-2641); Grand Rapids (218-327-4518); New Ulm (507-359-6033); Rochester (507-280-5070); or St. Paul (651-259-5764).

**DESCRIPTION:** The Blanding's turtle is a medium to large turtle (5 to 10 inches) with a black or dark blue, dome-shaped shell with muted yellow spots and bars. The bottom of the shell is hinged across the front third, enabling the turtle to pull the front edge of the lower shell firmly against the top shell to provide additional protection when threatened. The head, legs, and tail are dark brown or blue-gray with small dots of light brown or yellow. A distinctive field mark is the bright yellow chin and neck.

**BLANDING'S TURTLES DO NOT MAKE GOOD PETS  
IT IS ILLEGAL TO KEEP THIS THREATENED SPECIES IN CAPTIVITY**

## Exhibit D8. DNR Letter and Attachments (January 29, 2015)

## Environmental Review Fact Sheet Series

## Endangered, Threatened, and Special Concern Species of Minnesota

## Blanding's Turtle

*(Emydoidea blandingii)*

Minnesota Status: Threatened  
Federal Status: none

State Rank<sup>1</sup>: S2  
Global Rank<sup>1</sup>: G4

### HABITAT USE

Blanding's turtles need both wetland and upland habitats to complete their life cycle. The types of wetlands used include ponds, marshes, shrub swamps, bogs, and ditches and streams with slow-moving water. In Minnesota, Blanding's turtles are primarily marsh and pond inhabitants. Calm, shallow water bodies (Type 1-3 wetlands) with mud bottoms and abundant aquatic vegetation (e.g., cattails, water lilies) are preferred, and extensive marshes bordering rivers provide excellent habitat. Small temporary wetlands (those that dry up in the late summer or fall) are frequently used in spring and summer -- these fishless pools are amphibian and invertebrate breeding habitat, which provides an important food source for Blanding's turtles. Also, the warmer water of these shallower areas probably aids in the development of eggs within the female turtle. Nesting occurs in open (grassy or brushy) sandy uplands, often some distance from water bodies. Frequently, nesting occurs in traditional nesting grounds on undeveloped land. Blanding's turtles have also been known to nest successfully on residential property (especially in low density housing situations), and to utilize disturbed areas such as farm fields, gardens, under power lines, and road shoulders (especially of dirt roads). Although Blanding's turtles may travel through woodlots during their seasonal movements, shady areas (including forests and lawns with shade trees) are not used for nesting. Wetlands with deeper water are needed in times of drought, and during the winter. Blanding's turtles overwinter in the muddy bottoms of deeper marshes and ponds, or other water bodies where they are protected from freezing.

### LIFE HISTORY

Individuals emerge from overwintering and begin basking in late March or early April on warm, sunny days. The increase in body temperature which occurs during basking is necessary for egg development within the female turtle. Nesting in Minnesota typically occurs during June, and females are most active in late afternoon and at dusk. Nesting can occur as much as a mile from wetlands. The nest is dug by the female in an open sandy area and 6-15 eggs are laid. The female turtle returns to the marsh within 24 hours of laying eggs. After a development period of approximately two months, hatchlings leave the nest from mid-August through early-October. Nesting females and hatchlings are often at risk of being killed while crossing roads between wetlands and nesting areas. In addition to movements associated with nesting, all ages and both sexes move between wetlands from April through November. These movements peak in June and July and again in September and October as turtles move to and from overwintering sites. In late autumn (typically November), Blanding's turtles bury themselves in the substrate (the mud at the bottom) of deeper wetlands to overwinter.

### IMPACTS / THREATS / CAUSES OF DECLINE

- loss of wetland habitat through drainage or flooding (converting wetlands into ponds or lakes)
- loss of upland habitat through development or conversion to agriculture
- human disturbance, including collection for the pet trade\* and road kills during seasonal movements
- increase in predator populations (skunks, raccoons, etc.) which prey on nests and young

\*It is illegal to possess this threatened species.

**Exhibit D8. DNR Letter and Attachments (January 29, 2015)**

Minnesota DNR Division of Ecological Resources Environmental Review Fact Sheet Series. Blanding's Turtle.

**RECOMMENDATIONS FOR AVOIDING AND MINIMIZING IMPACTS**

These recommendations apply to typical construction projects and general land use within Blanding's turtle habitat, and are provided to help local governments, developers, contractors, and homeowners minimize or avoid detrimental impacts to Blanding's turtle populations. List 1 describes minimum measures which we recommend to prevent harm to Blanding's turtles during construction or other work within Blanding's turtle habitat. List 2 contains recommendations which offer even greater protection for Blanding's turtles populations; this list should be used *in addition to the first list* in areas which are known to be of state-wide importance to Blanding's turtles (contact the DNR's Natural Heritage and Nongame Research Program if you wish to determine if your project or home is in one of these areas), or in any other area where greater protection for Blanding's turtles is desired.

List 1. Recommendations for all areas inhabited by Blanding's turtles.	List 2. Additional recommendations for areas known to be of state-wide importance to Blanding's turtles.
GENERAL	
A flyer with an illustration of a Blanding's turtle should be given to all contractors working in the area. Homeowners should also be informed of the presence of Blanding's turtles in the area.	Turtle crossing signs can be installed adjacent to road-crossing areas used by Blanding's turtles to increase public awareness and reduce road kills.
Turtles which are in imminent danger should be moved, by hand, out of harms way. Turtles which are not in imminent danger should be left undisturbed.	Workers in the area should be aware that Blanding's turtles nest in June, generally after 4pm, and should be advised to minimize disturbance if turtles are seen.
If a Blanding's turtle nests in your yard, do not disturb the nest.	If you would like to provide more protection for a Blanding's turtle nest on your property, see "Protecting Blanding's Turtle Nests" on page 3 of this fact sheet.
Silt fencing should be set up to keep turtles out of construction areas. It is <u>critical</u> that silt fencing be removed after the area has been revegetated.	Construction in potential nesting areas should be limited to the period between September 15 and June 1 (this is the time when activity of adults and hatchlings in upland areas is at a minimum).
WETLANDS	
Small, vegetated temporary wetlands (Types 2 & 3) should not be dredged, deepened, filled, or converted to storm water retention basins (these wetlands provide important habitat during spring and summer).	Shallow portions of wetlands should not be disturbed during prime basking time (mid morning to mid-afternoon in May and June). A wide buffer should be left along the shore to minimize human activity near wetlands (basking Blanding's turtles are more easily disturbed than other turtle species).
Wetlands should be protected from pollution; use of fertilizers and pesticides should be avoided, and run-off from lawns and streets should be controlled. Erosion should be prevented to keep sediment from reaching wetlands and lakes.	Wetlands should be protected from road, lawn, and other chemical run-off by a vegetated buffer strip at least 50' wide. This area should be left unmowed and in a natural condition.
ROADS	
Roads should be kept to minimum standards on widths and lanes (this reduces road kills by slowing traffic and reducing the distance turtles need to cross).	Tunnels should be considered in areas with concentrations of turtle crossings (more than 10 turtles per year per 100 meters of road), and in areas of lower density if the level of road use would make a safe crossing impossible for turtles. Contact your DNR Regional Nongame Specialist for further information on wildlife tunnels.
Roads should be ditched, not curbed or below grade. If curbs must be used, 4 inch high curbs at a 3:1 slope are preferred (Blanding's turtles have great difficulty climbing traditional curbs; curbs and below grade roads trap turtles on the road and can cause road kills).	Roads should be ditched, not curbed or below grade.

**Exhibit D8. DNR Letter and Attachments (January 29, 2015)**

Minnesota DNR Division of Ecological Resources Environmental Review Fact Sheet Series. Blanding's Turtle.

3

ROADS cont.	
Culverts between wetland areas, or between wetland areas and nesting areas, should be 36 inches or greater in diameter, and elliptical or flat-bottomed.	Road placement should avoid separating wetlands from adjacent upland nesting sites, or these roads should be fenced to prevent turtles from attempting to cross them (contact your DNR Nongame Specialist for details).
Wetland crossings should be bridged, or include raised roadways with culverts which are 36 in or greater in diameter and flat-bottomed or elliptical (raised roadways discourage turtles from leaving the wetland to bask on roads).	Road placement should avoid bisecting wetlands, or these roads should be fenced to prevent turtles from attempting to cross them (contact your DNR Nongame Specialist for details). This is especially important for roads with more than 2 lanes.
Culverts under roads crossing streams should be oversized (at least twice as wide as the normal width of open water) and flat-bottomed or elliptical.	Roads crossing streams should be bridged.
UTILITIES	
Utility access and maintenance roads should be kept to a minimum (this reduces road-kill potential).	
Because trenches can trap turtles, trenches should be checked for turtles prior to being backfilled and the sites should be returned to original grade.	
LANDSCAPING AND VEGETATION MANAGEMENT	
Terrain should be left with as much natural contour as possible.	As much natural landscape as possible should be preserved (installation of sod or wood chips, paving, and planting of trees within nesting habitat can make that habitat unusable to nesting Blanding's turtles).
Graded areas should be revegetated with native grasses and forbs (some non-natives form dense patches through which it is difficult for turtles to travel).	Open space should include some areas at higher elevations for nesting. These areas should be retained in native vegetation, and should be connected to wetlands by a wide corridor of native vegetation.
Vegetation management in infrequently mowed areas -- such as in ditches, along utility access roads, and under power lines -- should be done mechanically (chemicals should not be used). Work should occur fall through spring (after October 1 <sup>st</sup> and before June 1 <sup>st</sup> ).	Ditches and utility access roads should not be mowed or managed through use of chemicals. If vegetation management is required, it should be done mechanically, as infrequently as possible, and fall through spring (mowing can kill turtles present during mowing, and makes it easier for predators to locate turtles crossing roads).

**Protecting Blanding's Turtle Nests:** Most predation on turtle nests occurs within 48 hours after the eggs are laid. After this time, the scent is gone from the nest and it is more difficult for predators to locate the nest. Nests more than a week old probably do not need additional protection, unless they are in a particularly vulnerable spot, such as a yard where pets may disturb the nest. Turtle nests can be protected from predators and other disturbance by covering them with a piece of wire fencing (such as chicken wire), secured to the ground with stakes or rocks. The piece of fencing should measure at least 2 ft. x 2 ft., and should be of medium sized mesh (openings should be about 2 in. x 2 in.). It is **very important** that the fencing be removed **before August 1<sup>st</sup>** so the young turtles can escape from the nest when they hatch!

**REFERENCES**

<sup>1</sup>Association for Biodiversity Information. "Heritage Status: Global, National, and Subnational Conservation Status Ranks." NatureServe. Version 1.3 (9 April 2001). <http://www.natureserve.org/ranking.htm> (15 April 2001).  
 Coffin, B., and L. Pfannmuller. 1988. Minnesota's Endangered Flora and Fauna. University of Minnesota Press, Minneapolis, 473 pp.

**Exhibit D8. DNR Letter and Attachments (January 29, 2015)**

Minnesota DNR Division of Ecological Resources Environmental Review Fact Sheet Series. Blanding's Turtle.

4

**REFERENCES (cont.)**

- Moriarty, J. J., and M. Linck. 1994. Suggested guidelines for projects occurring in Blanding's turtle habitat. Unpublished report to the Minnesota DNR. 8 pp.
- Oldfield, B., and J. J. Moriarty. 1994. Amphibians and Reptiles Native to Minnesota. University of Minnesota Press, Minneapolis, 237 pp.
- Sajwaj, T. D., and J. W. Lang. 2000. Thermal ecology of Blanding's turtle in central Minnesota. *Chelonian Conservation and Biology* 3(4):626-636.

*Compiled by the Minnesota Department of Natural Resources Division of Ecological Resources, Updated March 2008  
Endangered Species Environmental Review Coordinator, 500 Lafayette Rd., Box 25, St. Paul, MN 55155 / 651-259-5109*

## Exhibit D8. DNR Letter and Attachments (January 29, 2015)

## Preventing Entanglement by Erosion Control Blanket

Plastic mesh netting is a common component in erosion control blanket. It is utilized to hold loose fibrous materials in place (EG straw) until vegetation is established. Erosion control blanket is being utilized extensively and is effective for reducing soil erosion, benefitting both soil health and water quality. Unfortunately there is a negative aspect of the plastic mesh component: It is increasingly being documented that its interaction with reptiles and amphibians can be fatal (Barton and Kinkead, 2005; Kapfer and Paloski, 2011). Mowing machinery is also susceptible to damage due to the long lasting plastic mesh.

### Potential Problems:

- Plastic netting remains a hazard long after other components have decomposed.
- Plastic mesh netting can result in entanglement and death of a variety of small animals. The most vulnerable group of animals are the reptiles and amphibians (snakes, frogs, toads, salamanders, turtles). Ducklings, small mammals, and fish have also been observed entangled in the netting.
- Road maintenance machinery can snag the plastic mesh and pull up long lengths into machinery, thus binding up machinery and causing damage and/or loss of time cleaning it out.

### Suggested Alternatives:

- Do not use in known locations of reptiles or amphibians that are listed as Threatened or Endangered species.
- Limit use of blanket containing welded plastic mesh to areas away from where reptiles or amphibians are likely (near wetlands, lakes, watercourses, or rock outcrops) or habitat transition zones (prairie – woodland edges, rocky outcrop – woodland edges, steep rocky slopes, etc.)
- Select products with biodegradable netting (preferably made from natural fibers, though varieties of biodegradable polyesters also exist on the market). Biodegradable products will degrade under a variety of moisture and light conditions.
- DO NOT use products that require UV-light to degrade (also called "photodegradable") as they do not degrade properly when shaded by vegetation.

**Solution:** Most categories of erosion control blanket and sediment control logs are available in natural net options.

- Specify 'Natural Netting' for rolled erosion control products, per MnDOT Spec 3885. See Table 3885-1.
- Specify 'Natural Netting' for sediment control logs, per MnDOT Spec 3897



The plastic mesh component of erosion control blanket becomes a net for entrapment.

### Literature Referenced

Barton, C. and K. Kinkead. 2005. Do erosion control and snakes mesh? *Soil and Water Conservation Society* 60:33A-35A.  
 Kapfer, J.M., and R.A. Paloski. 2011. On the threat to snakes of mesh deployed for erosion control and wildlife exclusion. *Herpetological Conservation and Biology* 6:1-9.

([http://www.dnr.state.mn.us/waters/watermgmt\\_section/pwpermits/gp\\_2004\\_0001\\_manual.html](http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_manual.html))  
 Best Practices for Meeting DNR GP 2004-0001 (version 4, October 2014)

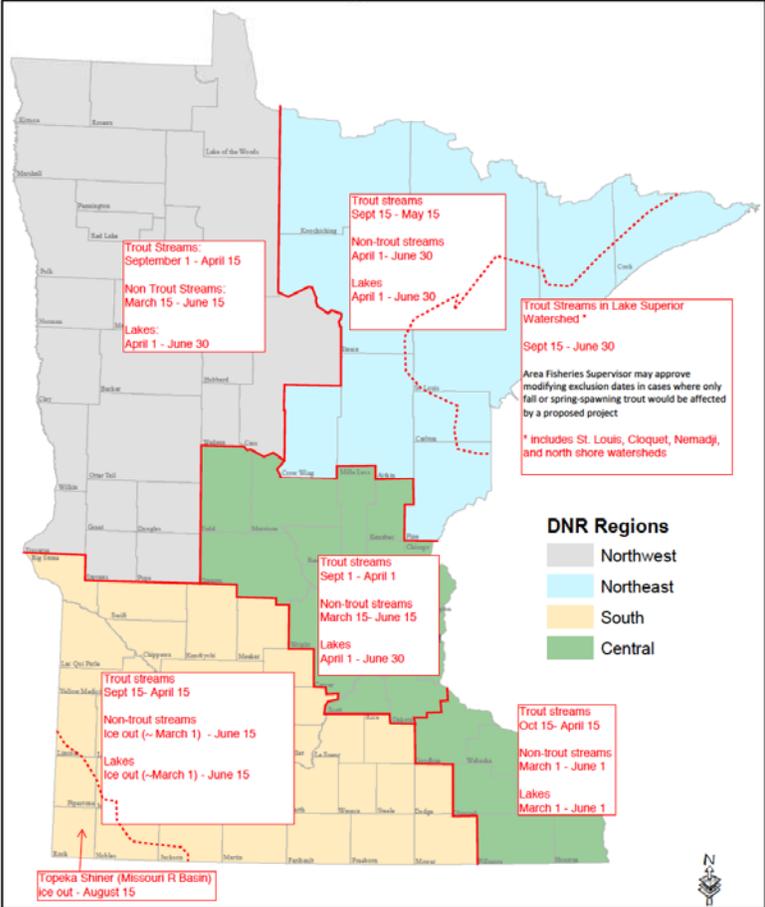
Chapter 1, Page 25

Exhibit D8. DNR Letter and Attachments (January 29, 2015)

# WORK EXCLUSION DATES TO ALLOW FOR FISH SPAWNING AND MIGRATION

To allow for fish migration or spawning, no in-water work is allowed in Public Waters during these dates\*.

The Work Exclusion Dates below shall be incorporated into project scheduling and staging to protect fish spawning and migration. Work may be conducted elsewhere on a project during these dates; however no work shall occur within Public Waters during the specified exclusion dates without written approval from the DNR.



\* Where the permittee demonstrates that a project will minimize impacts to fish habitat or if work during this time is essential, work during this period may occur only upon written approval of the DNR Area Fisheries Manager. Contact information for Area Fisheries Managers:

[http://files.dnr.state.mn.us/fisheries/management/dnr\\_fisheries\\_managers.pdf](http://files.dnr.state.mn.us/fisheries/management/dnr_fisheries_managers.pdf)

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. 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 construction activity has ceased (and be completed within 24 hours).

[http://www.dnr.state.mn.us/waters/watergmt\\_section/pwpermits/gp\\_2004\\_0001\\_manual.html](http://www.dnr.state.mn.us/waters/watergmt_section/pwpermits/gp_2004_0001_manual.html)  
Best Practices for Meeting DNR GP 2004-0001 (version 4, October 2014)

Exhibit D9. Ramsey County Parks and Recreation Coordination Letter (March 31, 2016)



**Minnesota Department of Transportation**

Metropolitan District  
1500 County Road B2, Roseville, MN 55113

March 31, 2016

Jon Oyanagi  
Ramsey County Parks & Recreation  
2015 Van Dyke Street  
Maplewood, MN 55109

Subject: State Project (SP) 6284-172  
Interstate 35W (I-35W)  
In the City of Mounds View  
Extend culvert at Rice Creek west of I-35W in order to widen roadway and construct paved shoulder (Bridge No. 91071)  
Section 4(f) Temporary Occupancy of the Rice Creek Water Trail

Dear Mr. Oyanagi,

As part of the construction for the I-35W North Corridor Preliminary Design Project, the culvert at Rice Creek (Bridge No. 91071) will need to be extended to the west of the interstate to accommodate roadway widening, including construction of additional traffic lanes and a paved shoulder. In order for the culvert extension to be done, a temporary closure of the Rice Creek Water Trail will be required. Ramsey County Parks & Recreation Department has been identified as the official with jurisdiction (OWJ) over this segment of the Rice Creek Water Trail.

As per the Federal Register Rules and Regulations (23 CFR 774.13(d)), the proposed culvert extension may be considered a temporary occupancy of Section 4(f) lands. A temporary occupancy may not constitute a Section 4(f) use when all of the conditions listed below are satisfied:

- *The land use is of short duration (defined as less than the time needed for the construction of the project).* The duration of time needed to complete the culvert extension would be minimal in comparison to the overall project construction schedule.
- *There is no change in ownership of the land.* There would be no ownership transfer required for the culvert extension work or any work in the Rice Creek area.
- *The scope of the work must be minor.* The existing culvert would remain in place. An extension would be added on the western end to accommodate the additional lane width. The extension would be placed at the existing culvert elevation and follow the existing culvert dimensions.
- *There are no temporary or permanent adverse changes to the activities, features, or attributes of the property.* During construction, the portion of the water trail that crosses under I-35W would be closed to recreational use. There are access points before the construction area at CR 1 (approximately 1.5 miles upstream) and just after the construction area at Old Highway 8. MnDOT would perform the work at the Rice Creek culvert when water levels are reduced. Typically, use of the water trail is diminished when water levels are down due to navigation issues. The extension of the culvert does not interfere with the activities of the trail on either a permanent or temporary basis.

An Equal Opportunity Employer



**Exhibit D9. Ramsey County Parks and Recreation Coordination Letter (March 31, 2016)**

- *The land must be fully restored to a condition at least as good as prior to the project. Any disturbed areas would be restored to pre-project conditions.*

The Minnesota Department of Transportation (MnDOT) will implement the following measures:

- Construction of the culvert extension will occur when the water trail is used less frequently and water flow is typically low (e.g., late fall/winter);
- Signs will be posted along Rice Creek about the temporary closure upstream of I-35W at the trailhead at County Road I as well as downstream (location to be determined in consultation with Ramsey County Parks & Recreation Department);
- Prior to the closure of the water trail, coordination will occur with both the Ramsey County Parks & Recreation Department and the Rice Creek Watershed District. Information will be made available for posting to the Ramsey County Parks & Recreation Department and Rice Creek Watershed District websites; and
- MnDOT and its contractor will consult with the Ramsey County Parks & Recreation Department if the culvert extension construction cannot occur during the cold weather/low flow time period.

Please review the attached project layout figure and Rice Creek Water Trail Map showing the location of the proposed culvert extension and indicate your concurrence with this assessment by signing below. Please forward the signed original back to me for our records. We will also forward this information to the Federal Highway Administration (FHWA) for their consideration in their Section 4(f) determination.

If you have questions regarding this matter, please contact me at your earliest convenience at 651-234-7611.

Thank you.

Sincerely,



Jerome Adams, PE, PMP  
Project Manager  
MnDOT

I concur with the assessment of the impacts to the Section 4(f) land, the Rice Creek Water Trail, described above.

  
\_\_\_\_\_  
Jon Oyanagi  
Director, Ramsey County Parks & Recreation

4-18-16  
Date

Attachments: Project Layout Figure, Rice Creek Water Trail Map

Exhibit D9. Ramsey County Parks and Recreation Coordination Letter (March 31, 2016)

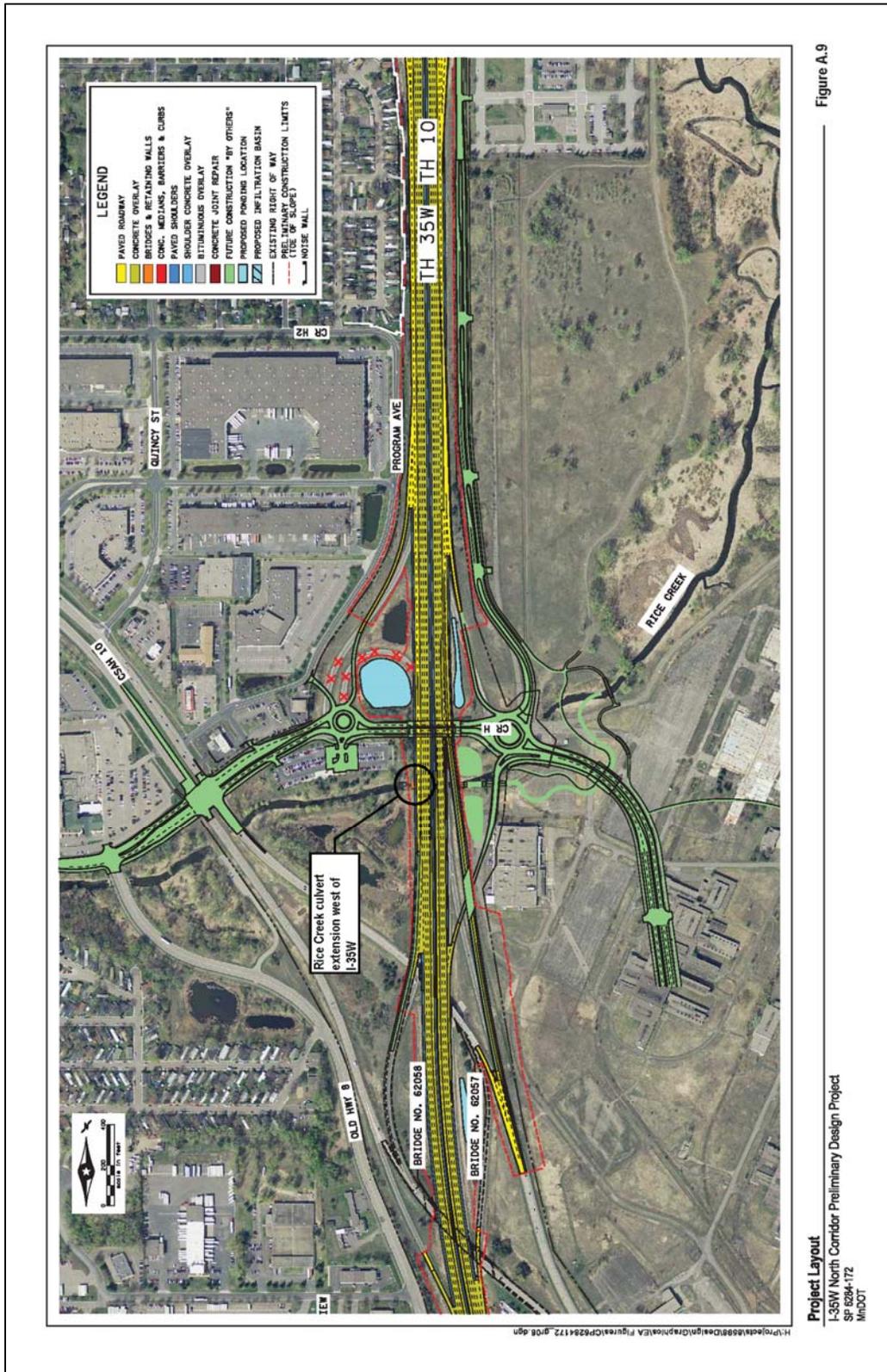


Exhibit D9. Ramsey County Parks and Recreation Coordination Letter (March 31, 2016)

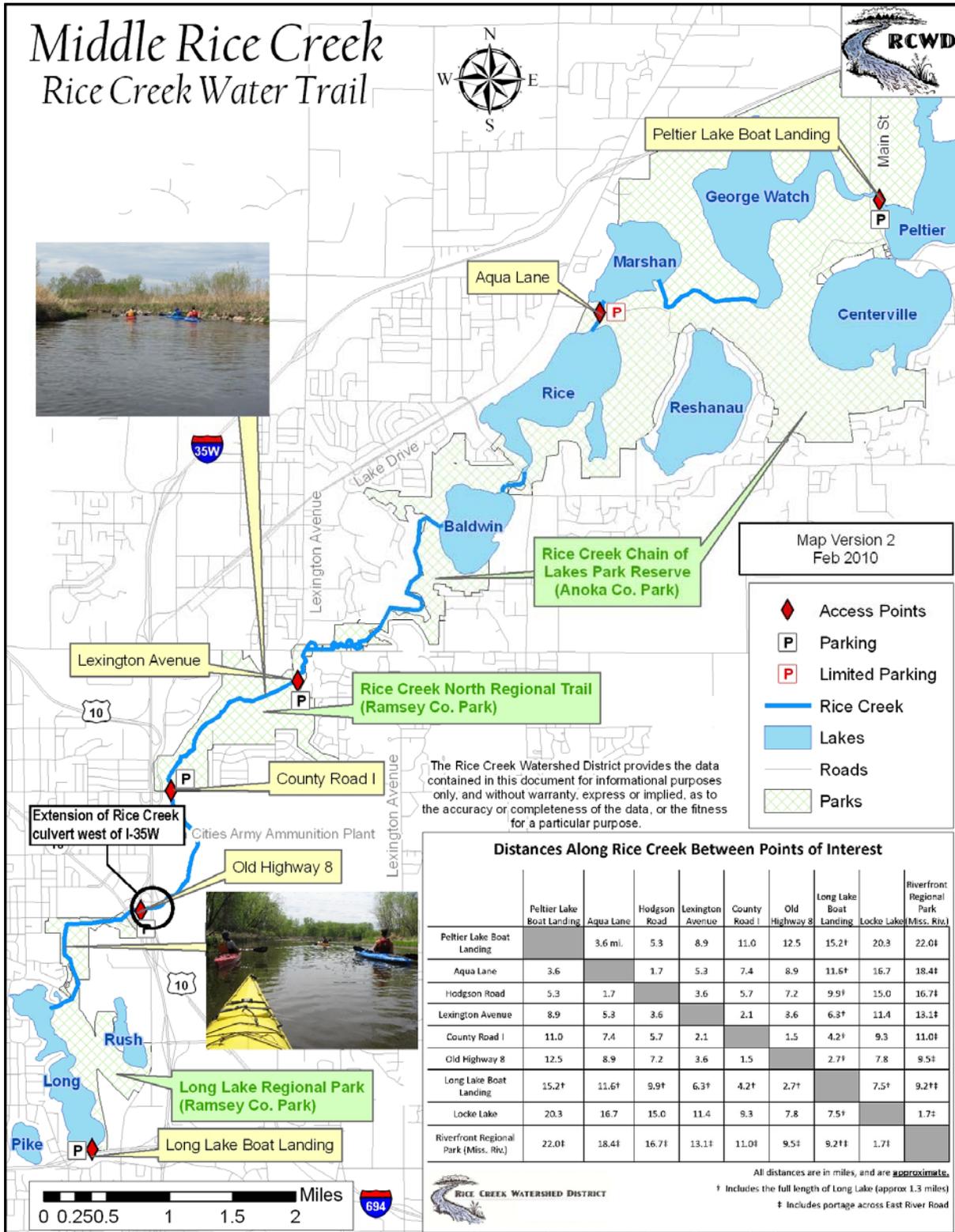


Exhibit D9. Ramsey County Parks and Recreation Coordination Letter (March 31, 2016)

