

## **Appendix B. Agency Comment Letters and Responses to Tier 2 Project Level EA**

## Comments from the Public Agencies and Responses

### Guide to Appendix B

Appendix B contains comments and responses to comments received from public agencies on the Northern Lights Express Tier 2 Environmental Assessment (EA) during the public comment period, held from April 24 to May 24, 2017 (see Appendix C for comments and responses to comments from the public). Appendix B includes three parts:

- Part 1: Comment Coding: Includes a summary of the comment intake and coding process.
- Part 2: Public Agency Comment Summary Table: Includes an index of all public agency comments received, including the assigned communication number, commenter's name, organization, and the coding of their comments (i.e., themes and issues on which they commented).
- Part 3: All Public Agency Comments, Coding, and Responses: Contains a copy of all public agency comments received, as well as the coding of those comments, by theme and issue (as described in Appendix B, Part 1). Each comment is followed by a table showing the responses to each coded comment.

## Appendix B, Part 1: Comment Coding

This section includes a description of the public agency comment intake and coding process. All communications (i.e., written comments and testimony) from public agencies on the Northern Lights Express Tier 2 Environmental Assessment (EA) during the public comment period were reviewed and considered as part of the Finding of No Significant Impacts (FONSI) development process. The following is a summary of the comment coding process:

1. Communication number: Each communication was assigned a unique communication number in chronological order, as it was received.
2. Alpha code: Communications were then assigned one or more 'alpha' codes to identify the total number of discrete comments within each communication (e.g., 'A' for the first comment, 'B' for the second comment, etc.).
3. Theme and issue: Finally, each comment was assigned a theme and issue code, generally based on the Environmental Assessment (EA) sections and subsections (see Table 1).

The coding described above was applied to each of the public and public agency comments received and is summarized in Appendix B, Part 2: Comment Summary Table, and shown in Appendix B, Part 3: All Public Agency Comments, Coding, and Responses. The following are examples of typical comment coding:

- **1-A-03-2** – This would reflect the first letter received, first comment, transportation theme, transit issue area.
- **59-C-04-1** – This would reflect the 59th letter received, third comment in letter, environmental theme, land cover and land use issue area.
- **120-D-06-1** – This would reflect the 120th letter received, fourth comment in letter, non-substantive comment.

**Table 1: Theme and Issue Codes**

Theme	Issue
01: Purpose and Need	N/A
02: Alternatives	1: Decision Making Process 2: Stations 3: Layover/Maintenance Facilities 4: Infrastructure Improvements 5: Grade Crossings 6: Operations
03: Transportation	1: Freight and Passenger Rail Operations 2: Transit 3: Traffic Circulation in Station Communities 4: Bicycle and Pedestrian Facilities
04: Affected Environment and Environmental Consequences	1: Land Use and Land Cover 2: Right of Way 3: Vegetation and Wildlife 4: Threatened and Endangered Species 5: Wetlands 6: Surface Water 7: Groundwater 8: Air Quality 9: Noise and Vibration 10: Contaminated Properties and Regulated Waste 11: Cultural Resources 12: Farmland and Soils 13: Parks and Recreation Areas 14: Visual 15: Socioeconomics (includes safety and security) 16: Environmental Justice 17: Economics 18: Indirect and Cumulative Effects
05: Public and Agency Involvement	N/A
06: Non-substantive	1: General Support of Project 2: General Opposition to Project 3: Administrative Correction

## **Appendix B, Part 2: Public Agency Comment Summary Table**

The following table includes an index of all public agency comments received, including the assigned communication number<sup>1</sup>, commenter’s name, organization, and the coding of their comments (i.e., themes on which they commented).

<sup>1</sup> The communication numbers are not sequential. Communication numbers were assigned to all communications chronologically, as they were received. This included comments from both the public and from public agencies. Comments from the public are not included in this table (see Appendix B).

Internal Comment Summary																				
Communication Number	Name	Date Received	Organization (if Applicable)	Type of Comment (email, mail, public meeting, phone, testimony)	Agency Comment (yes/no)	Number of Comments	Section 1: Purpose and Need	Section 2.1: Decision Making Process	Section 2.2: Stations	Section 2.3: Layover/Maintenance Facilities	Section 2.4: Infrastructure Improvements	Section 2.5: Grade Crossings	Section 2.6: Operations	Section 2.7: Safety	Section 3.1: Freight and Passenger Rail Operations	Section 3.2: Transit	Section 3.3: Traffic Circulation in Station Communities	Section 3.4: Bicycle and Pedestrian Facilities	Section 4.1: Land Use and Land Cover	
34	Kenneth Westlake	5/24/17	U.S. Environmental Protection Agency (EPA)	Mail	Yes	7														
23	Cathleen A. Villas-Horns	5/23/17	Minnesota Department of Agriculture (MDA)	Mail	Yes	18														
38	Lori Dowling-Hanson	5/24/17	Minnesota Department of Natural Resources (MnDNR)	Mail	Yes	18					1									
35	Karen Kromar	5/24/17	Minnesota Pollution Control Agency (MPCA)	Mail	Yes	10														
22	Kimberly Cook	5/22/17	Wisconsin Historical Society	Mail	Yes	1														
36	LisaBeth Barajas	5/24/17	Metropolitan Council	Mail	Yes	13									1	2	1			
19	Sally Hoy	5/19/17	City of Braham	Email	Yes	5							2	2						
42	Staff Comments	5/24/17	City of Minneapolis	Email	Yes	4				1									1	
41	Dean Michalko	5/24/17	Hennepin county	Email	Yes	3							2			1				
					<b>TOTALS</b>	<b>79</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>

Note: MDA submitted the same comment as both a letter and as an attachment to an email. Each communication received it's own Communication Number. Only Communication Number 23 is displayed in the table.

Communication Number	Name	Section 4.2: Right of Way	Section 4.3: Vegetation and Wildlife	Section 4.4: Threatened and Endangered Species	Section 4.5: Wetlands	Section 4.6: Surface Water	Section 4.7: Groundwater	Section 4.8: Air Quality	Section 4.9: Noise and Vibration	Section 4.10: Contaminated Properties and Regulated Waste	Section 4.11: Cultural Resources	Section 4.12: Farmland and Soils	Section 4.13: Parks and Recreation Areas	Section 4.14: Visual	Section 4.15: Socioeconomics	Section 4.16: Environmental Justice	Section 4.17: Economics	Section 4.18: Indirect and Cumulative Effects	Section 5: Public and Agency Involvement	Section 6.1: General Support of Project	Section 6.2: General Opposition to Project	Section 6.3: Administrative Correction
34	Kenneth Westlake			1	1	2		1	1						1							
23	Cathleen A. Villas-Horns									15									3			
38	Lori Dowling-Hanson		7	3	1	4				1								1				
35	Karen Kromar				3	5				1		1										
22	Kimberly Cook										1											
36	LisaBeth Barajas		1		1	1			3				2		1							
19	Sally Hoy																1					
42	Staff Comments	1							1													
41	Dean Michalko																					
		1	8	4	6	12	0	1	5	17	1	1	2	0	2	0	1	1	3	0	0	0

## **Appendix B, Part 3: All Public Agency Comments, Coding, and Responses**

This section includes copies of all public agency comments received, as well as the coding of those comments, by theme, as described in Appendix B, Part 1. Each comment is followed by a table showing the responses to each coded comment.



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

MAY 23 2017

REPLY TO THE ATTENTION OF:

E-19J

Andrea Martin  
Federal Railroad Administration  
1200 New Jersey Avenue S.E.  
Mail Stop 20  
Washington, District of Columbia 20590

Frank Loetterle  
Minnesota Department of Transportation  
395 John Ireland Boulevard  
Saint Paul, Minnesota 55155

**Re: Northern Lights Express Tier 2 Draft Environmental Assessment, Minneapolis to Duluth, Minnesota; Hennepin, Anoka, Isanti, Kanabec, Pine, Carlton, and St. Louis Counties in Minnesota and Douglas County, Wisconsin**

Dear Ms. Martin and Mr. Loetterle:

The U.S. Environmental Protection Agency has reviewed the Tier 2 Draft Environmental Assessment (EA) for the above-referenced project. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

The Federal Railroad Administration (FRA) and the Minnesota Department of Transportation (MnDOT) propose new intercity passenger rail service over 152 miles between Minneapolis and Duluth, Minnesota. Stations are proposed for Minneapolis, Coon Rapids, Cambridge, Hinckley, and Duluth in Minnesota and Superior in Wisconsin. Proposed operations include four round trips per day at speeds up to 90 miles per hour on existing BNSF Railway track. The proposed project includes one maintenance and one layover facility, in addition to system and infrastructure upgrades, within and adjacent to BNSF's right-of-way.

As a Cooperating Agency, EPA provided comments on the Tier 1 Service-Level EA in 2013 and the Administrative Draft Tier 2 Project-Level EA in March 2017. In response to our March 2017 comments, the Draft Tier 2 EA states that "future supplemental environmental documentation is

identified as appropriate throughout this Tier 2 EA.” We appreciate this clarification; however, the Draft Tier 2 EA does not identify the specific information that will be included in the future supplemental NEPA document.

Therefore, in order to fully inform any future supplemental NEPA document on this project, EPA continues to recommend the bulk of the comments provided in our March 30, 2017 letter (enclosed) concerning the Administrative Draft EA, except for the following, which have been sufficiently addressed and require no further action:

- All recommendations under *Project Description and Alternatives* on page 3<sup>a</sup>;
- All recommendations under *St. Louis River Area of Concern* on page 3;
- Under *Wetlands*: fourth bullet on page 5 (beginning with “Clarify whether impacts to wetlands within BNSF right-of-way have been evaluated...”) and twelfth bullet on page 6 (begins with “Describe how the proposed mitigation ratios were developed...”);
- First recommendation under *Other Surface Waters and Stormwater* on page 7; and
- Recommendation under *Pollinators*.

34-A-04-5 Our March 30, 2017 comments and recommendations that have not been sufficiently addressed  
34-B-04-6 in this Tier 2 EA include those under *Wetlands* and *Other Surface Waters and Stormwater*  
34-C-04-6 (except as noted above), *Flooding*, *Air Quality*, *Noise*, *Species and Habitat*, and *Station Area*  
34-D-04-8 *Development and Environmental Stewardship*. EPA recommends the Finding of No Significant  
34-E-04-9 Impact (FONSI) state whether our March 30, 2017 comments will be explicitly addressed in  
34-F-04-4 future supplemental NEPA documentation, as appropriate.  
34-G-04-15

Thank you in advance for your consideration of our comments, and we look forward to reviewing future documentation concerning this project. If you have any questions or would like to discuss our recommendations, please contact me at 312-3886-6394, or contact Elizabeth Poole at 312-353-2087 or poole.elizabeth@epa.gov. Once the FONSI and supplemental NEPA documentation are available, please send one hard copy and one CD to the mail address above.

Sincerely,



Kenneth A. Westlake  
Chief, NEPA Implementation Section  
Office of Enforcement and Compliance Assurance

Cc via email: Garneth Peterson, Minnesota Department of Transportation  
Kelly Farrell, HDR, Inc

Enclosures: EPA’s Comments on the Administrative Draft EIS (March 30, 2017)

<sup>a</sup> Reference to Enclosure 1 of U.S. EPA’s comments on the Administrative Draft EA dated March 30, 2017.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
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MAR 30 2017

REPLY TO THE ATTENTION OF:

E-19J

Andréa Martin  
Federal Railroad Administration  
1200 New Jersey Avenue S.E.  
Mail Stop 20  
Washington, District of Columbia 20590

Frank Loetterle  
Minnesota Department of Transportation  
395 John Ireland Boulevard  
Saint Paul, Minnesota 55155

**Re: Northern Lights Express Project Tier 2 Administrative Draft Environmental Assessment, Minneapolis to Duluth, Minnesota; Hennepin, Anoka, Isanti, Kanabec, Pine, Carlton and St. Louis Counties in Minnesota and Douglas County, Wisconsin**

Dear Ms. Martin and Mr. Loetterle:

The U.S. Environmental Protection Agency has reviewed the Administrative Draft Environmental Assessment (Admin EA) for the project referenced above. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. The Federal Railroad Administration (FRA) is the lead agency for this project under NEPA, and the Minnesota Department of Transportation (MnDOT) is the project proponent. FRA and MnDOT are coordinating with the Wisconsin Department of Transportation and the Minneapolis-Duluth/Superior Passenger Rail Alliance.

FRA and MnDOT prepared a Tier 1 Service Level EA, which resulted in the current preferred corridor. EPA provided comments on the Tier 1 document in an April 22, 2013 letter. EPA also accepted FRA's invitation to be a cooperating agency, as time and resources allow, for the Tier 2 EA process in a July 25, 2016 letter. EPA conducted an expedited review of this Admin EA to meet FRA's timeline. While this letter contains our recommendations based on available staff time, EPA may raise additional recommendations after we complete a fuller review of materials during the public review period for the public Draft EA.

The proposed project would introduce new intercity passenger rail service over 152 miles between Minneapolis and Duluth, Minnesota. Stations are proposed for: Minneapolis, Coon Rapids, Cambridge, Hinckley, and Duluth in Minnesota and Superior in Wisconsin. The system would include one maintenance facility and one layover facility. Proposed operations include four round trips per day at speeds up to 90 miles-per-hour following existing BNSF (formerly

Burlington Northern Santa Fe) Railway track. The project would require improvements within and adjacent to BNSF's right-of-way. Types of improvements proposed include: (1) additional mainline tracks in areas where freight is operating at or near capacity, (2) sidings in areas where trains traveling in opposite directions or the same direction at different speeds would meet, (3) turnouts and crossovers where needed to maintain traffic flow, (4) relocation of tracks that serve nearby businesses, (5) modifications of tracks that provide access to existing rail yards, (6) separate tracks at stations, (7) general upgrades to the existing rail system, such as adjusting curve geometry and replacing rails and ties, (8) construction of new and modification of existing bridges and culverts, (9) signal system improvements, (10) roadway and grade crossing improvements, and (11) construction of stations and layover and maintenance facilities. Of the 878-acre construction area, 19 acres are outside of BNSF's right-of-way (page 4-2).

EPA recognizes the environmental and associated health benefits that well-planned rail and other lower-emission transportation options provide. We also understand the project team is operating under a strict project deadline. We offer the enclosed comments with the goal of assisting FRA and MnDOT: (1) to meet project goals in a manner that minimizes adverse impacts on human health and the environment, and (2) to meet project deadlines by raising any potential issues as early as possible.

We appreciate the opportunity to review this project. If you have any questions or would like to discuss our recommendations, please contact me at 312-886-2910, or contact Jen (Blonn) Tyler, the lead reviewer for this project, at 312-886-6394 or tyler.jennifer@epa.gov. When the subsequent NEPA document is available, please send one hard copy and one CD to the mail address above.

Sincerely,



Kenneth A. Westlake  
Chief, NEPA Implementation Section  
Office of Enforcement and Compliance Assurance

Cc via email: Garneth Peterson, Minnesota Department of Transportation  
Kelly Farrell, HDR, Inc

Enclosures: EPA's Detailed Comments  
Construction Emission Control Checklist

Enclosure 1

EPA'S DETAILED COMMENTS ON FEDERAL RAILROAD ADMINISTRATION'S TIER 2 ADMINISTRATIVE DRAFT ENVIRONMENTAL ASSESSMENT FOR THE NORTHERN LIGHTS EXPRESS PROJECT, MINNEAPOLIS TO DULUTH, MINNESOTA, MARCH 30, 2017

### **Project Description and Alternatives**

Chapter 2 of the Administrative Environmental Assessment (Admin EA) describes the types of infrastructure improvements that would be needed to implement the proposed 152-mile rail project (pages 2-7 and 2-8). Table 2-1 lists infrastructure improvements by subsection and includes miles of new tracks, numbers of new bridges, and other project features. Appendix D contains maps that depict project components along the corridor.

#### **Recommendations for the Subsequent NEPA Document:**

- Discuss alternatives that were considered for placement of main tracks, sidings, stations, and other supporting infrastructure and facilities along the preferred corridor in order to minimize environmental impacts.
- Provide the total length of new mainline railroad and sidings to clarify the scope of the proposed project. Adding total lengths to the descriptions of infrastructure improvements on pages 2-7 and 2-8 would assist in understanding the magnitude of potential impacts.
- Discuss permanent and temporary access roads, staging areas, and any needed stormwater retention areas. Ensure such project components are included in the project footprint and impact analysis.

### **St. Louis River Area of Concern**

The St. Louis River was designated as an Area of Concern (AOC) under the 1987 Great Lakes Water Quality Agreement. \$30 million of Great Lakes Restoration Initiative funding is being used for restoration and remediation. The proposed project would cross the St. Louis River within the AOC (page 4-97). The Admin EA reports that operational impacts within the AOC would be associated with changes to land cover, and work in identified coastal zone management areas would be limited to track work (4-100). It's unclear what specific actions under the proposed project could impact the AOC, what safeguards would be in place, and whether impacts may or may not be significant.

#### **Recommendations for the Subsequent NEPA Document:**

- Clearly disclose all potential impacts to the Area of Concern from the proposed project.
- Include commitments to ensure that the proposed project would not hinder any remediation or restoration efforts related to the AOC.
- Coordinate with the AOC remediation team throughout the NEPA process, and summarize coordination in the subsequent NEPA document. Continue coordination as engineering and design advances. We recommend contacting EPA's lead for the St. Louis River AOC, Leah Medley, at [medley.leah@epa.gov](mailto:medley.leah@epa.gov) or 312-886-1307.

### 34-A-04-5 **Wetlands**

The study area for the wetlands analysis includes the construction limits plus a 0.25-mile buffer around the project centerline. The evaluation used a GIS analysis supplemented with limited field review. The project team identified wetland impacts where wetland boundaries intersected the construction limits (pages 4-59 and 4-60). The GIS analysis indicated that 9,424 acres of wetlands are within the study area, and approximately 92 acres would be impacted by the proposed project. Of the impacted acreage, 56 acres would be within Minnesota and 36 acres within Wisconsin. The 92 acres of wetland impacts represent 321 separate wetland features. Approximately 75 percent of wetland impacts would be due to track infrastructure improvements, especially where new track would be needed in Pine and Douglas Counties. The 92 acres of impacts includes both temporary and permanent impacts, and a breakdown is not provided. The Admin EA explains that a wetland delineation has not been completed. After a delineation is complete, then the project team would coordinate with regulatory agencies on permits, including a Clean Water Act (CWA) Section 404 permit (pages 4-67 and 4-68).

The Admin EA explains that avoidance of all wetlands is not possible because the original railway alignment, which the project follows, was constructed through wetlands. Further, the Admin EA states that stations and maintenance and layover facilities were located to avoid wetland impacts to the greatest extent possible. The Admin EA acknowledges that mitigation for unavoidable impacts must be provided in accordance with applicable regulations. Proposed mitigation ratios are included, although it's unclear how they were developed. Future avoidance and minimization measures discussed include examining designs where new track improvements are proposed in Pine and Douglas Counties and using construction best practices throughout the system. The Admin EA indicates that mitigation for unavoidable impacts would likely come from a combination of on-site mitigation and the purchase of wetland bank credits, including credits from the Minnesota state wetland banking system (pages 4-71 and 4-72).

The Admin EA does not identify indirect, also known as secondary,<sup>1</sup> impacts to wetlands. EPA is concerned with the potential for the 152-mile rail project to bisect wetlands. It's unclear whether only the portion of the wetland that would be filled is included in the acreage of impacts, or whether remnant parcels that would be indirectly impacted are also included in the impact totals. Further, while wetland impacts are depicted with icons on maps in Appendix D, imagery of the wetland features, showing the outline of the full feature and the portion that would be filled, is not provided. The analysis also does not discuss the significance of potential impacts. Based on the information provided, impacts to wetlands and the significance of those impacts is unclear.

#### **Recommendations for the Subsequent NEPA Document:**

##### *Overall Disclosure of Wetland Impacts*

- Describe the quality of wetlands that would be impacted. We recommend the following measures for disclosing wetland quality: functional assessment by using the Minnesota Routine Assessment Methodology (MNRAM) or Floristic Quality Assessment (FQA), or by comparing project wetlands to nearby reference wetlands using existing monitoring information in the respective state wetland information databases (i.e. Minnesota or Wisconsin Departments of Natural Resources or

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<sup>1</sup> Secondary impacts are defined in the *Guidelines for Specification of Disposal Sites for Dredge or Fill Materials* at 40 CFR 230.11(h).

Minnesota Board of Water and Soil Resources or Minnesota Pollution Control Agency).

- Augment Table 6 in Appendix J so that it more fully explains wetland impacts. Add columns with information on wetland quality, percentage of each wetland feature that would be impacted, and any available information on associated indirect impacts from fill.
- Include maps that depict the full boundaries of wetland features, and the portions of the wetlands that would be impacted by the proposed project. This information would help clarify: (1) the impacts on remnant wetland parcels, (2) whether adequate minimization measures were taken, and (3) whether plans for meeting mitigation requirements are appropriate.
- Clarify whether impacts to wetlands within the BNSF right of way have been evaluated and are included within the estimated 92 acres of impacts. Text on pages 4-59 and 4-75 states, “any potential impacts within the BNSF right of way would be evaluated during further study...” Ensure that impacts to waters within the BNSF right of way are disclosed in the EA.

#### *Indirect Wetland Impacts*

- Clarify whether the estimated 92 acres of impacts includes direct and indirect impacts to wetlands.
- Describe indirect impacts to wetlands from the proposed project. Consider: (1) indirect impacts from changes in drainage system-wide, and (2) indirect impacts to wetland features that would be bisected from project implementation. For bisected wetlands, consider the sizes of the remnant portion of wetlands, and whether they would retain their functions and values. Quantify remnant parcels that may lose their functions and values after a portion is filled under the proposed project.

#### *CWA Section 404(b)(1) Guidelines & Regulatory Coordination*

- Clearly explain how the project would comply with the CWA Section 404(b)(1) Guidelines. Include a more robust discussion of efforts that the project team has taken to date, as well as measures that would be taken in the future, to avoid and minimize potential impacts to Waters to the extent practicable. Include discussion of alternatives considered for placement of new trackway and supporting facilities within the preferred corridor.
- Document coordination with regulatory agencies related to the CWA Section 401 Certification and the CWA Section 404 permit.

#### *Wetland Impact Minimization*

- Include commitments to implement the following measures to minimize unavoidable impacts during construction:
  - Perform construction in wetlands during frozen ground conditions, if feasible.
  - Minimize width of temporary access roads.
  - Use easily-removed materials for construction of temporary access roads and staging areas (e.g., swamp/timber mats) in lieu of materials that sink (e.g., stone, rip-rap, wood chips).
  - Use swamp/timber mats or other alternative matting to distribute the weight of the construction equipment. This would minimize soil rutting and compaction.

- Use vehicles and construction equipment with wider tires or rubberized tracks, or use low-ground-pressure equipment to further minimize impacts during construction access and staging.
- Use long-reach excavators, where appropriate, to avoid driving or staging in wetlands.
- Place mats under construction equipment to contain any spills.

*Wetland Impact Mitigation*

- Describe how mitigation would comply with the 2008 Federal Mitigation Rule.
- Clearly commit to mitigate for impacts to wetlands in-kind and within the watershed where impacts occur.<sup>2</sup>
- Describe how the proposed mitigation ratios were developed, and include a summary and documentation of any coordination with the U.S. Army Corps of Engineers (Corps) in determining ratios.
- Discuss how the proposed mitigation is in line with the Corps' St. Paul District Policy for Wetland Compensatory Mitigation in Minnesota.<sup>3</sup>
- Discuss mitigation for indirect impacts to wetlands.
- Describe the availability of credits to mitigate for the proposed project. Discuss banks within the watershed and the credits available in relation to the type, quality, and locations of wetlands that would be impacted.

*Coordination with EPA*

- For questions on our recommendations related to wetlands, please contact Kerryann Weaver of EPA Region 5's Wetlands Section at [weaver.kerryann@epa.gov](mailto:weaver.kerryann@epa.gov) or 312-353-9483.

34-B-04-6

**Other Surface Waters and Stormwater**

The Admin EA reports that nearly 130 streams or rivers and 115 lakes or ponds are within the study area, including 19 impaired surface waters (page 4-78). In addition, 23 public water crossings are within the construction limits. The project team anticipates approximately 47 acres of new impervious surfaces (page 4-99), in addition to several bridge improvements, new bridges, and culvert extensions (pages 4-95 and 4-96). The Admin EA explains that impacts to surface waters “would go beyond immediate locations of operation and construction, as pollutant depositions or changes in hydrologic function of a surface water can travel downstream to other connected surface waters” (page 4-77). The Admin EA discusses potential impacts to surface waters from runoff at an overview level and states that best management practices would be implemented (page 4-101).

The Admin EA also reports that the project could have permanent impacts on shoreland areas from track and bridge work, and concludes that “further study will be completed during future design activities to quantify impacts to shorelands” (page 4-100). Disclosing impacts to shorelands and adjacent waters in the project-level NEPA document is needed in order to evaluate the significance of impacts.

<sup>2</sup> CFR 230.93 (f)(2)

<sup>3</sup> Corps' St. Paul District Policy for Wetland Compensatory Mitigation in Minnesota is available at:

<http://www.mvp.usace.army.mil/Portals/57/docs/regulatory/MN-Special/Final%20St.%20Paul%20District%20Policy%20for%20Wetland%20Compensatory%20Mitigation%20in%20MNs.pdf>

### **Recommendations for the Subsequent NEPA Document:**

- Disclose potential impacts from the proposed project to each water feature listed as impaired under CWA Section 303(d), and ensure that the proposed project would not worsen water quality or hinder remediation.
- Clearly describe all in-water work that would be required for creation or improvement of bridges and culverts. Describe activities, potential impacts, and best practices that would be used to minimize impacts. Page 4-37 mentions piers for new bridges in Rice Creek and Isanti Brook, but details are not provided.
- Discuss whether any mitigation would be required for stream or river crossings, and if so, discuss the methodology that would be employed.
- Describe impacts to shorelands and their potential significance under NEPA.
- Commit to incorporate green infrastructure to address stormwater impacts. Green infrastructure may include bioswales, rain gardens, and permeable pavements for parking lots and access road.
- Consider the following best practices for culverts to promote water, aquatic organism, and wildlife movement through streams:
  - Use single-cell, open bottom, three-sided or arched culverts that span the width of the channel. If this is not feasible and multi-cell culverts are pursued, ensure that they are open bottomed, three-sided or arched culverts that span the width of the channel. If four-sided, box-culverts are pursued, commit to imbed them into the stream bed to provide natural creek bottoms and continuous aquatic habitat.
  - Give special consideration to bottomless or buried culverts when culvert size is greater than 36" diameter.<sup>4</sup> A buried culvert means that the bottom 10% by dimension is buried below the existing stream bed elevation.
  - Design and size culverts to accommodate bankfull discharge and match the existing depth of flow to facilitate the passage of aquatic organisms.
  - When practicable, install culverts at the existing streambed slope to allow for the natural movement of bedload and aquatic organisms.
  - Consult with the U.S. Fish and Wildlife Service for best practices on designing culverts to facilitate wildlife crossings.

34-C-04-6

### **Flooding**

The Admin EA states that 26,130 linear feet of floodplain were identified within the construction limits and may be temporarily or permanently filled, and further evaluation is required for "project-level definition" (4-74). Since the Tier-2 EA is a project-level document, it's unclear why a "project-level definition" of floodplain impacts is not provided. The Admin EA also explains that new construction is proposed in 32 Zone A (1% annual chance of flooding) floodplains, and further study of floodplain encroachment would "be completed as the design process advances" (4-74). Based on information provided, it's unclear how the proposed floodplain crossings may impact flooding. Table 4-30 lists construction activities in floodplains, but does not describe impacts. While EPA understands that engineering and design work will advance after the NEPA process, it is important for the NEPA document to describe impacts with a level of detail that (1) informs the public of likely outcomes so that they may provide

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<sup>4</sup> This condition does not apply if the culvert would have a gradient of greater than 1% or is installed on bedrock.

appropriate input, and (2) clarifies whether or not impacts would be significant so that the project team can consider appropriate mitigation.

**Recommendations for the Subsequent NEPA Document:**

- Describe how the project would comply with Executive Order 11988 on floodplain management.
- Clearly disclose potential impacts on flooding, and explain whether the proposed project could worsen flooding within the project area.
- Discuss specific measures that the project team would implement to ensure that the project does not adversely impact floodplains, beyond the commitment to coordinate with the local floodplain administrator made on page 4-93.
- Consider the increased frequency and intensity of precipitation and flooding events under changing climate scenarios<sup>5</sup> and whether the proposed project would likely be resilient to such events. Add protective measures if needed, such as enhanced stormwater management.

**34-D-04-8** **Air Quality**

The proposed project would result in temporary fugitive dust and diesel exhaust emissions from construction activities, such as material hauling and use of heavy machinery. In 2002, EPA classified diesel emissions as a likely human carcinogen, and in 2012, the International Agency for Research on Cancer concluded that diesel exhaust is carcinogenic to humans. Diesel exhaust can lead to other serious health conditions and can worsen heart and lung disease, especially in vulnerable populations, such as children, the elderly, and those with impaired respiratory systems. The Admin EA briefly discusses construction emissions and states that they would be minimal in any one area (page 4-127). Duration of impacts, presence of nearby people who could be affected, and potential health impacts are not provided.

**Recommendations for the Subsequent NEPA Document:**

- Describe the timing and duration of construction emissions.
- Discuss any health risks associated with construction air emissions from the proposed project to nearby people in residential, recreational, or commercial areas. Discuss protective measures to avoid, minimize, or mitigate human exposure to harmful emissions.
- Commit to require construction contractors to use applicable measures from the enclosed Diesel Emissions Control Checklist.
- Per Executive Order 13045 on Children's Health,<sup>6</sup> pay particular attention to worksite proximity and construction truck routes to places where children live, learn, and play,

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<sup>5</sup> The U.S. Global Change Research Program's *National Climate Assessment* section on the Midwest finds that, in the Midwest, extreme heat, heavy downpours, and flooding will affect infrastructure, health, air and water quality, and more. Available at: <http://nca2014.globalchange.gov/report>

<sup>6</sup> Children may be more highly exposed to contaminants because they generally eat more food, drink more water, and have higher inhalation rates relative to their size. Also, children's normal activities, such as putting their hands in their mouths or playing on the ground, can result in higher exposures to contaminants as compared with adults. Children may be more vulnerable to the toxic effects of contaminants because their bodies and systems are not fully developed and their growing organs are more easily harmed.

such as homes, parks, and playgrounds. Construction emission reduction measures should be strictly implemented near these locations in order to be protective of children's health.

**34-E-04-9** **Noise Impacts**

The noise analysis in the Admin EA indicates that without the establishment of "quiet zones" along the alignment, the proposed project could result in 244 to 250 moderate noise impacts and 46 to 97 severe noise impacts (depending on the maintenance facility location selected; page 4-154). Quiet zones eliminate the need for trains to sound horns except for emergencies due to improvements in rail grade crossings. Municipalities must initiate the request to establish quiet zones through a separate regulatory approval process, and municipalities would be required to provide safety improvements at rail crossings (page 4-152). If all impacted municipalities do successfully establish quiet zones, outstanding noise impacts would include 4 moderate residential and 1 severe park noise impact. The Admin EA reports that these remaining noise impacts could potentially be mitigated by sound walls or insulation.

EPA understands that the Admin EA cannot make firm commitments to mitigation because it is up to the impacted municipalities to request quiet zones, and such requests must go through a separate regulatory process for which outcomes are not yet determined. The Admin EA does not discuss the significance of potential noise impacts under NEPA.

**Recommendations for the Subsequent NEPA Document:**

- Discuss the potential significance of noise impacts under NEPA from the proposed project, in line with FRA's NEPA Procedures.
- If unmitigated noise impacts could be significant, then discuss the potential timing: (1) of FRA gaining certainty around mitigation for any significant noise impacts, and (2) a NEPA decision document for the proposed project.
- Discuss outreach to municipalities regarding establishing quiet zones.
- Discuss public outreach regarding potential noise impacts to residences, schools, churches, day-care facilities, and parks.

**34-F-04-4** **Species and Habitat**

The Admin EA discusses the potential for several state- and federally-listed species to be present in the project area. The document states that further studies are required to confirm whether northern long-eared bat habitat is present within 193 acres of forested land that would be cleared under the proposed project (page 4-55); potential bat impacts and mitigation measures are unclear. Similarly, the Admin EA reports that protected mussel populations could be affected by bridge work and protected turtle populations could be affected by train operations (page 4-56), and the magnitude of potential impacts and commitments to mitigation are unclear. Design features to protect the Canada lynx and gray wolf are also mentioned, but no commitments are made (page 4-57). The Admin EA states that coordination with the Minnesota Department of Natural Resources (MnDNR), the Wisconsin Department of Natural Resources (WDNR), and U.S. Fish and Wildlife Service (FWS) has been conducted and will continue as the project advances.

**Recommendations for the Subsequent NEPA Document:**

- Clarify potential impacts to protected species, whether impacts could be significant, and any protective measures that FRA or MnDOT would take to ensure that impacts are not significant.
- Discuss whether impacts to forested lands from tree clearing, as described on page 4-55, and impacts to native prairies, as described on page 4-41, would be significant. Clearly comment to measures to minimize and mitigate impacts.
- Document coordination with MnDNR, WDNR and FWS.

**Pollinators**

The 2014 Presidential Memorandum entitled, “Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators,” responds to evidence of steep declines in certain pollinator populations. Projects with re-seeding components present an opportunity to support pollinators.

**Recommendation for the Subsequent NEPA Document:**

Consider planting native pollinator-friendly species in areas that would be disturbed by construction. Coordinate species selection with state and local experts.

**34-G-04-15 Station Area Development and Environmental Stewardship**

Where there is local support and appropriate siting, EPA recognizes that rail stations can offer a valuable opportunity to create new inter-modal community hubs, generate economic development, and improve pedestrian and bicycle access to the surrounding area. Transit-Oriented Development (TOD) planning, which could help shape the areas surrounding the stations, can have long-term environmental benefits to air and water quality. After project funding is secured and project design advances, we encourage MnDOT and the Wisconsin Department of Transportation to consider the following recommendations.

**Recommendations for Post-NEPA Project Development:**

- Where there is local interest, form or use existing partnerships with community groups and local and regional planning organizations to fully take advantage of station-area planning opportunities. Consider using such partnerships to: (1) engage residents in station and station-area planning visioning activities to inform station and parking design, and (2) incorporate plans for multi-modal connectivity, complete streets, and creating stations as unique neighborhood destinations.
- If the City of Duluth engages in future station area planning, we encourage coordination with EPA’s Brownfields Program. EPA has brownfields cleanup and assessment projects near the proposed Duluth Station. Contact Rosita Clarke at [Clarke.Rosita@epa.gov](mailto:Clarke.Rosita@epa.gov) or 312-886-7251.
- Promote affordable housing as part of future TOD plans in communities with environmental justice concerns.
- Consider opportunities for green building in station designs, such as: planning for net-zero energy use, obtaining Leadership in Energy and Environmental Design certification, incorporating green infrastructure for stormwater management, and incorporating on-site renewable energy sources.

- Consider the potential benefits of structured parking with context sensitive designs, such as reducing stormwater runoff and facilitating transit-oriented, pedestrian friendly development around stations.
- We encourage MnDOT, local governments, and interested community organizations to consider EPA resources that support sustainable community development around station areas. Grant and technical opportunities are periodically available at:  
<https://www.epa.gov/smartgrowth>

**U.S. Environmental Protection Agency**  
**Construction Emission Control Checklist**

**Mobile and Stationary Source Diesel Controls**

Purchase or solicit bids that require the use of vehicles that are equipped with zero-emission technologies or the most advanced emission control systems available. Commit to the best available emissions control technologies for project equipment in order to meet the following standards.

- On-Highway Vehicles: On-highway vehicles project should meet, or exceed, the U.S. EPA exhaust emissions standards for model year 2010 and newer heavy-duty, on-highway compression-ignition engines (e.g., long-haul trucks, refuse haulers, shuttle buses, etc.).<sup>7</sup>
- Non-road Vehicles and Equipment: Non-road vehicles and equipment should meet, or exceed, the U.S. EPA Tier 4 exhaust emissions standards for heavy-duty, non-road compression-ignition engines (e.g., construction equipment, non-road trucks, etc.).<sup>8</sup>
- Locomotives: Locomotives servicing infrastructure sites should meet, or exceed, the EPA Tier 4 exhaust emissions standards for line-haul and switch locomotive engines where possible.<sup>9</sup>
- Low Emission Equipment Exemptions: The equipment specifications outlined above should be met unless: 1) a piece of specialized equipment is not available for purchase or lease within the United States; or 2) the relevant project contractor has been awarded funds to retrofit existing equipment, or purchase/lease new equipment, but the funds are not yet available.

Consider requiring the following best practices through the construction contacting or oversight process:

- Use onsite renewable electricity generation and/or grid-based electricity rather than diesel-powered generators or other equipment.
- Use ultra-low sulfur diesel fuel (15 ppm maximum) in construction vehicles and equipment.
- Use catalytic converters to reduce carbon monoxide, aldehydes, and hydrocarbons in diesel fumes. These devices must be used with low sulfur fuels.
- Use electric starting aids such as block heaters with older vehicles to warm the engine.
- Regularly maintain diesel engines to keep exhaust emissions low. Follow the manufacturer's recommended maintenance schedule and procedures. Smoke color can signal the need for maintenance (e.g., blue/black smoke indicates that an engine requires servicing or tuning).
- Retrofit engines with an exhaust filtration device to capture diesel particulate matter before it enters the construction site.

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<sup>7</sup> <http://www.epa.gov/otaq/standards/heavy-duty/hdci-exhaust.htm>

<sup>8</sup> <http://www.epa.gov/otaq/standards/nonroad/nonroadci.htm>

<sup>9</sup> <http://www.epa.gov/otaq/standards/nonroad/locomotives.htm>

- Repower older vehicles and/or equipment with diesel- or alternatively-fueled engines certified to meet newer, more stringent emissions standards (e.g., plug-in hybrid-electric vehicles, battery-electric vehicles, fuel cell electric vehicles, advanced technology locomotives, etc.).
- Retire older vehicles, given the significant contribution of vehicle emissions to the poor air quality conditions. Implement programs to encourage the voluntary removal from use and the marketplace of pre-2010 model year on-highway vehicles (e.g., scrappage rebates) and replace them with newer vehicles that meet or exceed the latest U.S. EPA exhaust emissions standards.

### **Fugitive Dust Source Controls**

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative, where appropriate. This applies to both inactive and active sites, during workdays, weekends, holidays, and windy conditions.
- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

### **Occupational Health**

- Reduce exposure through work practices and training, such as turning off engines when vehicles are stopped for more than a few minutes, training diesel-equipment operators to perform routine inspection, and maintaining filtration devices.
- Position the exhaust pipe so that diesel fumes are directed away from the operator and nearby workers, reducing the fume concentration to which personnel are exposed.
- Use enclosed, climate-controlled cabs pressurized and equipped with high-efficiency particulate air (HEPA) filters to reduce the operators' exposure to diesel fumes. Pressurization ensures that air moves from inside to outside. HEPA filters ensure that any incoming air is filtered first.
- Use respirators, which are only an interim measure to control exposure to diesel emissions. In most cases, an N95 respirator is adequate. Workers must be trained and fit-tested before they wear respirators. Depending on the type of work being conducted, and if oil is present, concentrations of particulates present will determine the efficiency and type of mask and respirator. Personnel familiar with the selection, care, and use of respirators must perform the fit testing. Respirators must bear a NIOSH approval number.

## Environmental Protection Agency

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Issue	Response
<p>The EPA submitted comments on the administrative draft Tier 2 EA on March 30, 2017. On April 5, 2017 FRA held a conference call with EPA staff to discuss FRA's approach to addressing comments in the Tier 2 EA, indicating that due to lack of funding, many of the detailed evaluations would be more appropriately completed when the NLX Project is funded and moves into final design and construction. As appropriate and necessary, MnDOT will supplement environmental documentation to fully address EPA's comments and recommendations.</p>							
34-A-04-5	Westlake	Kenneth	Environmental Protection Agency	34	Letter	Wetlands	<p>Wetland impacts are described to the extent practical at this stage of project development. Because wetland delineations are valid for a limited time, full delineations along the entire corridor were deferred to final design. The Tier 2 EA presents conservative estimates of impacts, and Table 6 in Appendix J includes the wetland impact information available at this stage of the project. Additional analysis of wetlands, including functional assessments and impacts, will be conducted as needed when funding is available to advance the project to final design and construction. As design is refined, impacts will be avoided and minimized to the extent practicable and more detailed explanations of wetland impacts and additional mapping will be developed.</p> <p>The 92 acres of wetland impacts described in the Tier 2 EA are direct impacts. Indirect impacts will be considered during final design and permitting, but would be minimized by the use of an existing railroad corridor.</p> <p>The selection of an alternative that uses an existing railroad corridor substantially reduces potential for impacting undisturbed areas. The corridor level alternative analysis is described in the Tier 1 EA. As part of the Section 404 permitting process, Section 404(b)(1) documentation will be developed to supplement the analysis of alternatives presented in the Tier 1 EA and Tier 2 EA and provide additional information on avoidance, minimization and mitigation identified during final design. MnDOT will consider suggested minimization measures. when the NLX Project is funded and moves into final design and construction MnDOT will supplement the environmental documentation, if determined necessary by the lead federal agency.</p> <p>As stated in the Tier 2 EA, Section 4.5.4, FRA and MnDOT will obtain Section 401 water quality certification, Minnesota WCA permits, MnDNR public waters permits and WDNR wetland permits prior to construction. In addition, Section 4.5.4 notes "MnDOT would continue to coordinate with BWSR, MnDNR, WDNR and USACE to determine the most effective mitigation options during future design activities. Any agreements relative to wetland mitigation on BNSF right of way would be addressed during negotiations between BNSF and MnDOT." This coordination will include confirmation that the mitigation complies with the 2008 Federal Mitigation Rule, or the latest rule, and USACE's St. Paul District Policy for Wetland Compensatory Mitigation in Minnesota; identification of mitigation ratios; mitigation for indirect impacts, if needed; and type of mitigation used – bank credits or new construction. Information regarding the availability of wetland bank credits would not be relevant at this time, as the credits available today will change by the time the project has been advanced to a point where a Section 404 permit application would be submitted.</p> <p>As appropriate and necessary, MnDOT will supplement the findings of the Tier 2 EA when the NLX Project is funded and moves into final design and construction.</p>
34-B-04-6	Westlake	Kenneth	Environmental Protection Agency	34	Letter	Surface Water	<p>Three new bridges over water are planned in the corridor, and 12 culverts on mapped surface waters are planned to be extended (see Tier 2 EA, Table 4-31). No culverts are planned for replacement. The means and methods for bridge and culvert improvements will be developed as the project advances into final design. Available information is presented in Tier 2 EA Table 4-26. This information will be supplemented in final design and impacts minimized to the extent practicable. The best management practices recommended will be evaluated for implementation during final design, and "green infrastructure" will be considered and implemented where practicable. If needed, mitigation will be identified during final design and included as part of permit applications. Best management practices will be modified as necessary to avoid degradation of water quality in 303(d) listed waters.</p> <p>Areas where track and bridge improvements are required that could result in impacts on shorelands will be evaluated further during final design to avoid or minimize these impacts. Where construction is anticipated adjacent to a surface water, the</p>

# Environmental Protection Agency

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Issue	Response
							unit of government regulating shoreland management (County, municipality or township) would be consulted to coordinate permitting during final design activities. As appropriate and necessary, MnDOT will supplement the findings of the Tier 2 EA when the NLX Project is funded and moves into final design and construction.
34-C-04-6	Westlake	Kenneth	Environmental Protection Agency	34	Letter	Surface Water (Flooding)	The impacts on floodplains would be minimized through the use of an existing railroad corridor for the proposed NLX Project. During final design, floodplain impacts will be minimized to the extent practicable to avoid worsening flooding in the project area and the need for any floodplain mitigation will be reassessed and permits obtained for the NLX project. In addition, stormwater management plans will be developed for the new stations and maintenance and/or layover facilities. As stated in the Tier 2 EA "Final design would comply with Executive Order 11988 and local permitting requirements related to floodplain management and flood protection (see Section 5.2.3)." Long- and short-term impacts on floodplains would be avoided through the final design process to the extent practicable, implementation of best management practices, and, if necessary, floodplain mitigation. Therefore, the NLX Project would not result in substantial changes to floodplain values, flood flows or flood elevations and would not have adverse effects on floodplains, flood flows or flood levels, and would not result in a significant floodplain encroachment as defined in federal regulations." As appropriate and necessary, MnDOT will supplement the findings of the Tier 2 EA when the NLX Project is funded and moves into final design and construction.
34-D-04-8	Westlake	Kenneth	Environmental Protection Agency	34	Letter	Air Quality	Construction emissions in any one location along the NLX project would be 2 to 3 weeks in duration with the exception of the new stations and maintenance and/or layover facilities that would require up to one construction season. As stated in the Tier 2 EA Section 4.8.3.3, "because construction emissions are intermittent by nature and tend to be distributed across the concentration site, any impacts are not nearly as persistent or concentrated at any one location as with a stationary emissions source." In addition, "if residences, daycares, schools, playgrounds or other sensitive receptors are near an NLX Project construction site, fugitive dust control measures would be implemented to optimize dust control near these receptors to minimize health risk." As stated in the Tier 2 EA Section 4.8.4 "As required under federal rules, all locomotive diesel fuel and construction equipment diesel fuel would be ultra-low sulfur diesel, with a sulfur content not to exceed 15 parts per million by weight." In addition, construction contractors will implement applicable measures from the provided Diesel Emissions Control checklist. As appropriate and necessary, MnDOT will supplement the findings of the Tier 2 EA when the NLX Project is funded and moves into final design and construction.
34-E-04-9	Westlake	Kenneth	Environmental Protection Agency	34	Letter	Noise and Vibration	The noise impact analysis follows FRA's guidance for assessing noise and vibration impacts for NEPA documents (Transit Noise and Vibration Impact Assessment Manual, <a href="https://www.fra.dot.gov/Page/P0216">https://www.fra.dot.gov/Page/P0216</a> ). The Tier 2 EA discusses impacts as moderate or severe, based on the guidance. Section 4.9.4.1 of the Tier 2 EA notes the majority of noise impact is associated with horn blowing, which can be mitigated with local communities applying for Quiet Zones through FRA's Office of Safety. Potential mitigation options for residual noise impacts are also discussed Section 4.9.4.1 of the Tier 2 EA. When the NLX Project is funded for final design and construction, and before any final decision is made regarding noise mitigation at a residential building in Minneapolis and Freedom Park in Braham, MnDOT will conduct a site-specific 24-hour existing noise measurement to determine more precise noise conditions and if residual noise can be mitigated. The residual severe noise impact at Freedom Park in Braham could potentially be mitigated with a noise barrier, but may not be feasible due to its proximity to the track. MnDOT has and will continue coordination with local communities regarding the NLX Project, including potential noise impacts and the ability for communities to apply for Quiet Zone designations as noted in Section 4.9.4.1. The grade crossing improvements, which include installing gates and flashers will help position communities to apply for Quiet Zones. Section 5 of the Tier 2 EA provides detailed discussion of past and ongoing outreach that will continue as the project advances into design.
34-F-04-4	Westlake	Kenneth	Environmental Protection Agency	34	Letter	Threatened and Endangered Species	As stated in the Tier 2 EA Section 4.4.5, "Tier 2 evaluation resulted in "may affect, not likely to adversely affect" determinations for the Canada lynx and gray wolf; no adverse modification of designated critical habitat for the Canada lynx, gray wolf and piping plover; no effect determination for other federal species and no jeopardy determination pending for the rusty patched bumble bee. Impacts on state-listed mammals are expected to be minor. There is potential that Blanding's

# Environmental Protection Agency

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							<p>turtles (Minnesota) or wood turtles (Minnesota and Wisconsin) may be affected during the operation of the NLX Project by increased train frequencies and higher speeds along the existing tracks. WDNR advised during review of the Tier 1 EA that slender spike-rush (endangered), arrow-leaved sweet-coltsfoot (threatened) and seaside crowfoot (threatened) are likely to be present in the NLX study area.”</p> <p>On April 12, 2017, FRA received confirmation that the NLX Project is not within the High Potential Zone for the rusty patched bumble and consultation for this species is complete. On June 8, 2017, USFWS concurred with findings for the Canada lynx, gray wolf and northern long-eared bat.</p> <p>While there would be a loss of native prairie and forested areas, impacts on native prairies and forested areas are not expected to be significant as the impacts are associated with narrow bands of native prairie and forest along the edge of the existing railroad corridor. These identified areas of impact will be further evaluated during final design and minimized to the extent practicable.</p> <p>Coordination with MnDNR, WDNR and USFWS is ongoing and documented in Chapter 5 of the Tier 2 EA and written correspondence is included in Appendix I. Coordination with these agencies will continue through final design, permitting and construction.</p> <p>As appropriate and necessary, MnDOT will supplement the findings of the Tier 2 EA when the NLX Project is funded and moves into final design and construction.</p>
34-G-04-15	Westlake	Kenneth	Environmental Protection Agency	34	Letter	Socio-economics	<p>MnDOT will continue its ongoing local coordination with regard to station and facility site development. As listed in the Tier 2 EA Section 5.2., part of MnDOT’s ongoing coordination requires follow up with local communities for permit approvals, which will include consideration of many of the suggested recommendations, including green building design, context sensitive design and stormwater management. The stations are all designed to accommodate all transportation modes, including safe pedestrian movement.</p> <p>MnDOT supports local community effort to lead station area planning, and encourages local commitments to affordable housing and coordination with EPA regarding sustainable design and brownfield development.</p>

May 23, 2017

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Document No.: THR-101138188

Francis Loetterle  
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**SUBJECT: PUBLIC COMMENTS TO THE *TIER 2 PROJECT LEVEL ENVIRONMENTAL ASSESSMENT* FOR THE NORTHERN LIGHTS EXPRESS PASSENGER RAIL PROJECT FROM MINNEAPOLIS TO DULUTH, MINNESOTA**

Dear Mr. Loetterle:

The Minnesota Department of Agriculture (MDA) would like to thank you for the opportunity to review and comment on the Minnesota Department of Transportation's (MnDOT) *Tier 2 Project Level Environmental Assessment* (Tier 2 EA) for the Northern Lights Express (NLX) Passenger Rail Project from Minneapolis to Duluth, Minnesota.

Although specific comments on the Tier 2 EA are provided below, the MDA would like to provide additional information regarding the former Kettle River Company Creosote Plant (KRCCP) Site located in Sandstone, Minnesota, immediately adjacent to and including a portion of the area proposed for the NLX Project's Sandstone Maintenance Facility.

**23-A-04-10** The former KRCCP operated from approximately 1905 to 1918, and was located south of Highway 23, north of Highway 123 and west of BNSF Railway's tracks and right-of-way property. Historical documents indicate that the KRCCP used creosote, a wood preservative, to preserve paving blocks, timbers and railroad ties at the KRCCP Site and adjacent properties, including the NLX Project's proposed construction area of the Sandstone Maintenance Facility. Because the Kettle River Company is no longer in business, the KRCCP Site was added to the Minnesota Permanent List of Priorities (PLP) in 2002 and is a state-funded project under the oversight of the MDA.

**23-B-04-10** Since 2002 the MDA has conducted soil, sediment, groundwater and surface water monitoring and sampling at the KRCCP Site and at nearby properties to evaluate impacts associated with the former creosote plant. The investigations have identified creosote related compounds including polynuclear aromatic hydrocarbons (PAHs) and volatile organic compounds (VOCs) in soil and groundwater at the KRCCP Site and at off-site locations. Remedial actions, comprised of excavation and disposal of creosote-impacted soil and materials, have been conducted at the KRCCP Site since 2005 and remain on-going.

23-C-04-10 The MDA believes that the KRCCP's operations were conducted on multiple properties in Sandstone, including BNSF Railway's right-of-way property and a portion of the area proposed for the NLX Project's Sandstone Maintenance Facility. Soil borings and monitoring wells completed by the MDA at the KRCCP Site, and at adjacent properties including the BNSF Railway's right-of-way property, indicate that creosote related contamination associated with the former operations of the KRCCP is present in soil and groundwater.

23-D-04-10 Based on the extensive and on-going investigation activities, the MDA believes that creosote related contamination is present in soil and/or groundwater in areas that are proposed to be utilized for the Sandstone Maintenance Facility. As part of the investigation of the KRCCP Site, the MDA is in the process of obtaining access from BNSF Railway to complete additional soil borings and permanent groundwater monitoring wells on BNSF Railway's property to assess the identified creosote contamination.

23-E-05 The MDA's Project File for the KRCCP Site is RWA253112 and the Project Manager is Tom Reppe (651.201.6394; Thomas.Reppe@state.mn.us). The MDA recommends that you contact the Data Management Unit of the Pesticide and Fertilizer Management Division at 651.201.6145 to request relevant information on the KRCCP Site for the NLX Project. Additional information on the KRCCP Site can also be found at:

<http://www.mda.state.mn.us/chemicals/spills/incidentresponse/kettlriver.aspx>

23-F-05 Minnesota state law requires that you immediately report any contamination that is encountered to the Minnesota Duty Officer at 651.649.5451 or 1.800.422.0798. Furthermore, state law requires that persons properly manage contaminated soil or water that they uncover or disturb, even if they are not the party responsible for the contamination. For the construction of the NLX Project's Sandstone Maintenance Facility, the MDA recommends that you consider entering the MDA's Agricultural Voluntary Investigation and Cleanup Program (AgVIC) to receive necessary technical assistance in managing any contamination that is encountered. Information regarding the MDA's AgVIC Program may be obtained by contacting Tom Reppe, MDA Project Manager, or at:

<http://www.mda.state.mn.us/chemicals/spills/incidentresponse/agvic.aspx>

Regarding matters for which the MDA has regulatory authority and responsibility, the MDA provides the following specific comments to the Tier 2 EA for your consideration:

#### 4.10 Contaminated Properties and Regulated Waste

The Tier 2 EA states that: "The Tier 1 EA performed a desktop analysis using the MPCA "What's in My Neighborhood?" (WIMN) database and WDNR [Remediation and Redevelopment] RR Sites Map to identify potentially contaminated sites within 500 feet of new dedicated track or siding extensions for the NLX Project (based on the rail infrastructure improvements proposed at the time of the Tier 1 EA analysis)."

23-G-04-10 Although the Tier 2 EA included a review of the MPCA's WIMN database to identify potentially contaminated properties within 500 feet of the NLX Project, the MPCA's WIMN database does not include properties contaminated with agricultural chemicals. The MDA has lead state regulatory authority for agricultural chemicals pursuant to Minnesota Statutes, Chapters 18B.03, 18C.111 and 115B.02, Subd. 4 (2016). The MDA's "What's in My Neighborhood? – Agricultural" (WIMN-Ag) database provides locations and information on properties contaminated with agricultural chemicals, and is available at:

<http://www.mda.state.mn.us/chemicals/spills/incidentresponse/neighborhood.aspx>

23-H-04-10 In addition to the KRCCP Site described above, the MDA staff is aware of at least one additional property contaminated with agricultural chemicals that may be affected by the proposed activities of the NLX Project. Therefore, MDA staff suggest that: 1) references to the MPCA's WIMN, and the information provided by that database for the NLX Project, specifically state that the MPCA's WIMN database only provided information pertaining to contaminated properties regulated by the MPCA; and, 2) a review of the MDA's WIMN-Ag database be conducted to identify properties contaminated with agricultural chemicals within 500 feet of the NLX Project.

The Tier 2 EA also states that: "The Tier 2 EA summarizes findings from a Limited Phase I Environmental Site Assessment (ESA) prepared for the NLX Project. The Limited Phase I ESA provides a more in-depth evaluation of potential contamination issues than the database reviews used in the Tier 1 EA by including a regulatory database search, site reconnaissance and historical review."

Review of the Limited Phase I ESA by MDA staff indicates that section 3.1.7 *Summary of Sites of Concern for Sandstone Maintenance Facility* states: "A review of the data provided in the EDR report found seven Sites of Concern, including five petroleum sites, for the Sandstone Maintenance Facility. However, no Sites of Concern were found within the proposed construction limits of the facility." In addition, *Table 3-5: Sites of Concern for Sandstone Maintenance Facility* indicates that the KRCCP Site, located at 202 Highway 23 South, Sandstone, Minnesota was removed from the State's PLP in June 2011.

23-I-04-10 As described above, the KRCCP Site is an active, PLP (state superfund) site, which is under the regulatory authority and direction of the MDA. The KRCCP Site has not been removed from the PLP, and release(s) of creosote and associated impacts to soil and groundwater are being actively investigated and remediated by the MDA. At this time, the MDA cannot convey an end date to the necessary investigation and remediation activities of the KRCCP Site.

#### 4.10.2.1 Regulatory Database Results

The Tier 2 EA states that: "An environmental records search of federal, state and local files for the proposed stations, maintenance and layover facilities and new bridges (Fridley only) was conducted... The Sites of Concern for each Key Location are detailed in the Limited Phase I ESA (see Appendix K, Table 3-2 through Table 3-8 for descriptions and Attachment A for their mapped locations)."

The environmental record searches for the Key Locations of the NLX Project provide information regarding each of those specific locations. However, based on the experience of MDA staff, federal, state and local databases of environmental records also contain sites that are outside of the defined search radii of the Key Locations, and therefore, were not identified in the Limited Phase I ESA or the Tier 2 EA.

23-J-04-10

For example, MDA staff are aware of an active MDA investigation of a property located in Askov, Minnesota that is contaminated with agricultural chemicals (MDA Project File JJP101052552), which, as displayed in Appendix D, Detailed Figures of the Tier 2 EA, is the location of the proposed at-grade crossing 103 of the NLX Project. This agricultural chemical investigation was not identified in the environmental records searches conducted for the Key Locations.

23-K-04-10

In addition, a review by MDA staff of the Environmental Data Resources, Inc.'s (EDR) record searches included in the Limited Phase I ESA (*Appendix K, Attachment B, Parts 1 through 4*) noted that information from the MDA's spills database (MN AGSPILLS) was only reported for the identified Target Properties (TP) (Key Locations), and that information from MN AGSPILLS was not requested (NR) for the various search radii of the Target Properties.

Because the address of a Target Property used in an environmental records search is unique, the search of that specific address may not identify sites included in the MN AGSPILLS, or other databases, that are located on the Target Property, but which are addressed uniquely different.

23-L-04-10

For example, the EDR record search of the Sandstone Maintenance Facility (*Appendix K, Attachment B, Part 4*) lists the Target Property address of 206 Main Street, Sandstone, Minnesota. However, the KRCCP Site, which is addressed as 202 Highway 23 South, Sandstone, Minnesota was not identified as being on the Target Property even though the KRCCP Site includes a portion of the proposed Sandstone Maintenance Facility.

23-M-04-10

#### **4.10.2.2 Historical Data Review, Sandstone Maintenance Facility**

The Tier 2 EA states that: "The 1914 fire insurance map indicated that a large creosote plant was located near this Key Location, but the plant could not be located on other historical data." The creosote plant identified in the 1914 fire insurance map has been verified by the MDA to be the KRCCP, addressed as 202 Highway 23 South, Sandstone, Minnesota, which as discussed above is an active, state superfund site being investigated under the regulatory authority and direction of the MDA.

23-N-04-10

#### **Appendix B, Facilities Site Evaluation and Design Technical Memorandum, 5.2.1 MN 23 Maintenance and/or Layover Facility Site Evaluation, Environmental Resources**

The Tier 2 EA indicates that the KRCCP Site is located north of the proposed maintenance facility site in Sandstone, and that according to city staff, the KRCCP Site has been cleared by the MDA, and that the status of the site will be determined during Tier 2 Project Level Environmental Assessment.

23-O-04-10 A review of the Tier 2 EA by MDA staff indicates that the proposed Sandstone Maintenance Facility is located on a portion of the properties formerly occupied by the KRCCP. The KRCCP Site is located immediately west of the BNSF Railway's tracks and right-of-way property, and between Highway 23 to the north and Highway 123 to the south.

23-P-04-10 As discussed above, on-going investigations and remediation activities conducted by the MDA have identified creosote and creosote-related impacts in soil and groundwater at the KRCCP Site and adjacent properties, including the BNSF Railway's tracks and right-of-way property.

23-Q-04-10 The MDA respectfully affirms that the KRCCP Site has not been cleared or closed, as indicated in the Tier 2 EA. The KRCCP Site, including the adjacent properties, is part of an open investigation of a release(s) of agricultural chemicals (creosote) to the environment that requires on-going investigations and remediation activities, including, but not limited to soil and groundwater sampling, soil remediation, and continued long-term monitoring and assessment.

23-R-05 We appreciate the opportunity to review and provide comments on the Tier 2 EA. Please be aware that this letter does not provide approval by the MDA of any or all of the proposed or future activities included in the Tier 2 EA. In addition, please note that it is the responsibility of the proposers of the NLX Project to obtain any and all required permits and approvals for those activities under the regulatory authority of the MDA.

If you have any questions concerning our review of the Tier 2 EA, please contact Tom Reppe, MDA Project Manager, at 651.201.6394 or Rich Rippley, MDA Hydrologist, at 651.201.6370

Sincerely,



Cathleen A. Villas-Horns, P.G., Supervisor  
Incident Response Unit  
Pesticide and Fertilizer Management Division

cc: Tom Reppe, MDA Incident Response Unit (e)  
Rich Rippley, MDA Incident Response Unit (e)

## Minnesota Department of Agriculture

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Theme	Response
23-A-04-10 23-B-04-10 23-C-04-10 23-D-04-10	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	FRA and MnDOT appreciate the updated information regarding the KRCCP site; the information in the government database reviewed for the project was not up to date and lacked the details provided by MDA at the time the Limited Phase I ESA was completed (February 2017). The additional details are included in the Finding of No Significant Impact (FONSI) about the site status and the type and general extent of contamination present based on the information provided in your letter. MnDOT's conclusion that subsequent Phase I and Phase II ESAs will be required prior to property acquisition or construction at the Sandstone site remains unchanged; however MnDOT is aware that a detailed file review at the MDA will be a key component of subsequent investigation. Enrollment in the MDA AgVIC program would be likely if it is determined that construction of the Sandstone maintenance site would encounter contaminated soil and/or groundwater, or if acquisition of property from any portion of the KRCCP site.
23-E-05	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	File reviews were not included in the scope of the Limited Phase I ESA. A detailed file review will be conducted as a part of future full ASTM Phase I ESAs as the final design advances and funding is secured for the NLX Project.
23-F-05	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	Reporting requirements to the State Duty Officer will be included in the construction contingency plan and/or other documents directing the procedural requirements for identifying and responding to contaminated media encountered during construction. Enrollment in the MDA AgVIC program would be likely if it is determined that construction of the Sandstone maintenance site would likely encounter contaminated soil and/or groundwater, or if there is acquisition of property from any portion of the KRCCP site.
23-G-04-10 23-H-04-10	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	The database identified in the Limited Phase I ESA does distinguish that it is the MPCA's WIMN. The recommendation relating to review of MDA's WIMN will be incorporated into the full ASTM Phase I ESAs that will be conducted in later stages of project development.
23-I-04-10	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	It is now noted that investigation is still ongoing, and not considered complete as stated in the Limited Phase I ESA. Contaminants of concern have been identified. Coordination with MDA will occur if development within the delineated KRCCP site occurs.
23-J-04-10 23-K-04-10	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	Computerized database searches (i.e. EDR Report) of federal, state, and local records were limited to Key Locations based on the size of the project corridor, the likelihood to disturb contaminated media during construction (i.e. areas of proposed ground disturbance activities), and the current stage of development (i.e. planning level). Though additional areas of contamination may exist along the corridor, substantial ground disturbance and/or development in these areas is considered minimal. Any contaminated media encountered in such areas as at-grade crossings, where signal footings may be placed, would be adequately addressed in a Materials Management Plan during construction.
23-L-04-10 23-M-04-10	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	Comment noted. This is a common issue with the use of database searches as the information provided by third-party vendors for database searches is limited by the quality of site location information available in databases.
23-N-04-10	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	Comment noted. A review of the fire insurance map of the KRCCP site did not contain enough geographic markers (i.e. street names) to properly locate the footprint of the site. The cross reference with the governmental database search placed the site just outside the proposed Sandstone Maintenance Facility footprint.
23-O-04-10 23-P-04-10 23-Q-04-10	Villas-Horns	Cathleen	MDA	23	Letter	Contaminated Properties	FRA and MnDOT appreciate the updated information regarding the KRCCP site. The recommendations in the Limited Phase I ESA for further detailed Phase I and II ESAs at this site still remain. Additional details and updated status of the investigation will be incorporated into future reports; as will the consideration for enrollment in the AgVIC program to properly address contaminated media. If contaminated properties cannot be avoided, the Phase II ESA results will be used to initiate liability protection processes with the appropriate regulatory agencies; environmental construction monitoring and a Contaminated Materials Management Plan, approved by MPCs and WDNR, will be implemented during construction; and, MnDOT and/or BNSF will implement standard construction BMPs to avoid spills that could contaminate soil, surface water and groundwater.
23-R-05	Villas-Horns	Cathleen	MDA	23	Letter	Public and Agency Involvement	Comment noted. Ongoing coordination with MDA will continue as the final design advances and funding is secured for the NLX Project and permits and approvals are procured.



## Minnesota Department of Natural Resources

### NE Region 2

NE Regional Director: Lori Dowling - Hanson  
1201 East Highway 2, Grand Rapids, MN 55744

### Central Region 3

Central Region Director: Keith Parker  
1200 Warner Road, Saint Paul, MN 55404

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May 24, 2017

Correspondence # ERDB 20130245

Francis Loetterle, Project Manager  
Minnesota Department of Transportation  
395 John Ireland Boulevard, MS 470  
Saint Paul, MN 55155-1800  
[nlx.dot@state.mn.us](mailto:nlx.dot@state.mn.us)

**RE: Notice of Application: Northern Lights Express Passenger Rail Project from Minneapolis to Duluth, Minnesota Tier 2 Project Level Environmental Assessment; State Project Number: TCP-NLX-128  
Federal Project Number: FR-HSR-0070-11-01-00**

Dear Mr. Loetterle,

Recognizing as stated in the EA Cover Letter:

*"The Federal Railroad Administration (FRA) is the lead federal agency for the National Environmental Policy Act (NEPA) process. The Minnesota Department of Transportation (MnDOT), in cooperation with the Wisconsin Department of Transportation (WisDOT), assisted FRA in the development of this Tier 2 Project Level (Tier 2) Environmental Assessment (EA). This Tier 2 EA was prepared in compliance with NEPA to fulfill the requirements of 42 United States Code (USC) 4331 et seq. and FRA's Procedures for Considering Environmental Impacts (64 Federal Register [FR] 28545). Further, the Tier 2 EA was prepared as part of the Minnesota and Wisconsin state environmental review processes to fulfill the requirements of Minnesota Statutes (Minn. Stat.) 116D and Wisconsin Administrative Code Chapter Trans 400.*

*At the Minnesota state level, this document serves as an Environmental Assessment Worksheet (EAW) (see Appendix A of this Tier 2 EA). Minnesota Administrative Rules 4410.1300 allow the EA to take the place of the state EAW, provided that the EA addresses the environmental effects identified in the EAW. For purposes of the EAW, MnDOT is the Responsible Governmental Unit."*

The Minnesota Department of Natural Resources (MDNR) reviewed the Northern Lights Express Passenger Rail Project from Minneapolis to Duluth, Minnesota Tier 2 Project Level Environmental Assessment and provide the following comments.

## Specific Route Items

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The following comments are organized by specific route items and general comments. We ask that you please apply the suggestions presented in the General Comments for Rail Operation and Construction document (email attachment) to this project to minimize potential impacts to Minnesota's natural resources.

### Public Water Stream Crossings Wetlands

Work in MN DNR Public Waters (PW) may require individual or general permits (example General Permit 2004-0001). Potential impacts to Public Waters listed on pages 4-78 through 4-91 are not clearly described, impacts to Minnesota public waters shown include streams, rivers, lakes and wetlands due to crossings of these waters, or impacts to waters bordering track expansions. Filling and reshaping wetland and stream banks can affect the flood plain, hydrologic function, course, and cross sections of these waterbodies. Connectivity of waterbodies can be effected if culverts or bridges are replaced with undersized crossings. Depending on the crossing and the waterbody, a bridge span may be preferable to a culvert or box culvert due to concerns with proper sizing, sediment transport, and fish passage. In general, past field experience has identified that a large majority of culverts through the RR grade are barriers to fish and sediment movement. Project proposed modifications to these structures might make fish passage or sediment transport more difficult than current conditions. Under protected water rules, these structures may need to be entirely replaced. This can be addressed in PW permitting, however should be considered by the applicant in advance as an anticipated need/cost. Certain waters (such as the Snake River M-50-44) don't have special designations, and are of high value in the region for high water quality and scenic value.

### NHIS

The Minnesota Natural Heritage Information System (NHIS) has been queried by the MnDOT 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. Please reference that information with the following:

- Blanding's/Wood Turtles – As noted in previous comment letters, please consider using wildlife friendly erosion mesh (see attached general comments) where needed in construction and operational activities to prevent entanglement. Also please incorporate railroad track escape options for turtles, especially in counties with Blanding's and/or Wood turtles. Mounds have been used in New York and can be created with gravel/crushed rock between tracks at prescribed intervals to provide escapes for turtles; preventing them from being trapped and overheating. In Japan, turtle tunnels have been used and provide safe passage for turtles under the rails. Ensuring these structures are located in places like switch points where turtle can be trapped is crucial to successful implementation. In research conducted on railroad crossings created for the Spotted Turtles, 17 additional species (reptiles, amphibians, birds, and mammals) were also observed using the crossings (<http://escholarship.org/uc/item/6087h4st>). We encourage this project to consider using a technique that will maximize the number of species protected; decreasing the impacts of habitat fragmentation and mortality. Please contact our MN DNR non-game specialists or regional environmental assessment ecologists to assist in this design and implementation.

The 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. Some plants have very small growing seasons for surveys; knowing this in

Francis Loetterle

May 24, 2017

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advance can be helpful for the Company and review process. Development in or near forested areas will also need to consider potential impacts to possible occurring northern long-eared bat (roosts or hibernacula). (See general comment recommendations below)

\*If you have further concerns please communicate with Lisa Joyal concerning these species to see if surveys are required. For more information on the Natural Heritage Information System and Rare Features Database, and to request a full detailed NHIS review, please contact the following: <http://www.dnr.state.mn.us/nhnrp/nhis.html> [http://files.dnr.state.mn.us/eco/nhnrp/nhis\\_data\\_request.pdf](http://files.dnr.state.mn.us/eco/nhnrp/nhis_data_request.pdf)

DNR Rare Species Guide: Provides information on the biology, habitat use, and conservation measures of rare species [www.dnr.state.mn.us/rsg/index.html](http://www.dnr.state.mn.us/rsg/index.html)

MBS Sites of Biodiversity Significance

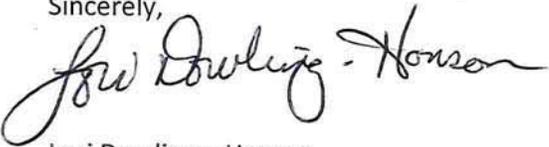
[http://www.dnr.state.mn.us/eco/mcbs/biodiversity\\_guidelines.html](http://www.dnr.state.mn.us/eco/mcbs/biodiversity_guidelines.html)

DNR Native Plant Communities

<http://www.dnr.state.mn.us/npc/index.html>

Thank you for the opportunity to review the document. We look forward to receiving responses to our comments. Please contact our agency's Regional Environmental Assessment Ecologists for any questions: they can be reached at **Region 3** Becky Horton (651) 259-5755/ [becky.horton@state.mn.us](mailto:becky.horton@state.mn.us) or **Region 2** Margi Coyle (218) 328-8826/ [margi.coyle@state.mn.us](mailto:margi.coyle@state.mn.us)

Sincerely,



Lori Dowling – Hanson  
NE Regional Director



Keith Parker  
Central Region Director

CC:

*Randall Doneen*

*Kate Fairman*

*Lisa Joyal*

*Mike Peloquin*

*Liz Harper*

*Darrell Schindler*

*Becky Horton*

*Margi Coyle*

Minnesota Department of Natural Resources  
NE Region 2 – NE Regional Director  
1201 East Highway 2, Grand Rapids, MN 55744

## General Comments Rail Construction and Operation

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The following recommendations and resources can be used by planners and partners to ensure minimal impact to Minnesota's Natural Resources.

### *Project Placement*

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#### **Soils, Topography, & Water**

Soil erosion and compaction can occur along rails and during construction; interfering with water infiltration, vegetative growth, increasing erosion, creating gullies, decreasing soil /bank stability, and compromising aquatic ecosystems and species via turbidity. The soil characteristics determine the risk to erosion, rutting, and compaction. The project application identifies and describes the water sources along the rail, including those of concern such as wetlands and streams. During storm events there is a possibility for increased sediment transport, soil saturation, and surface runoff that may lead to a greater chance of rutting, erosion, and more impacts. In some cases these events may compromise temporary and permanent erosion prevention structures and measures, causing harm to vegetation and aquatic life.

**Recommendations:** 1) Incorporate temporary and permanent Best Management Practices (BMPs) into the rail design to minimize erosion. 3) The Natural Resources Conservation Service (NRCS) has developed methods for estimating the erosion potential of soils "hazards of erosion" on unsurfaced roads and trails, and has defined the potential suitability for using natural soil surfaces for OHM trail and forest haul roads. These can be used along with BMPs being used and measures taken to further reduce the impacts during rail construction, maintenance, and operation. 4) **Erosion prevention and sediment control** along public waters: In all cases, erosion prevention and sediment control methods that have been determined to be the most effective and practical means of preventing or reducing sediment from leaving the worksite shall be installed in areas as is in accordance to the public waters permits; work in conjunction with DNR fisheries and hydrology staff to obtain proper permits and appropriate measures. 5) During construction use of Category 3 or 4 erosion control is recommended to be limited to 'bio-netting' or 'naturalnetting' types (category 3N or 4N), and specifically not allow plastic mesh netting. This is from 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) <sup>5</sup> Monitoring of these areas over time can also help to reduce risks. Note: Some Projects will require Public waters permits and National Pollutant Discharge Elimination System storm water permits.

#### **Contamination/Hazardous Materials/Wastes**

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There is a potential for hazardous material contamination of soils during construction and use. Via erosion, sediment and pollutants can be transported to water sources decreasing water quality, and negatively impacting aquatic ecosystems. Extensive erosion can compromise vegetative buffers, transporting sediments and pollutants to water resources such as lakes, streams, wetlands, and aquifers.

**Recommendation:** During construction, in the event a leak or spill occurs, the materials should be contained and cleaned up according to approved guidelines and standards. Although there is a small risk of spillage, it should be acknowledged some soils with high sand content or in wet areas will allow more rapid infiltration of petroleum products to the groundwater or impact surface waters. Additional, caution is warranted when working in excessively drained areas. To ensure fuel spills do not contaminate waterways, construction- and maintenance-related refueling should occur several hundred feet away from streams, wetlands, and steeply sloping areas. Construction workers should be trained in emergency spill remediation measures and have spill kits on site.

38-G-04-10

## **Vegetation & Plant Communities**

Vegetation can be compromised by disturbance, trampling, rutting, soil compaction, erosion, and wind (edge effect). Construction and off road disturbance can alter species composition, diversity, structure, and habitats. Fugitive dust and emissions can contaminate soil and vegetation. The dust and contaminants can disperse away from the source causing a reduction in photosynthesis, impacting vegetative growth, altering species composition. The disturbed environment causes a decline in endemic species and provides more suitable habitat for invasive species; resulting in a decline in biodiversity. Vehicle emission by-products, such as polycyclic aromatic hydrocarbons, aldehydes, carbon monoxide, nitrogen oxides, ozone, and sulfur oxides, can also contaminate soil and vegetation and in-turn affect other species inhabiting the contaminated areas, such as pollinators and herbivores.

## **Fish & Wildlife Communities**

### **Fish and Aquatic species**

Pollutants (soil, particulates, and chemicals) either spilled or transport via erosion to aquatic habitats decrease water quality and impact the health, survival, reproduction, and species composition of aquatic species; resulting in a degradation of the aquatic ecosystem.

### **Water Crossings**

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**Recommendation:** Use best management practices and minimize impact to wildlife; including aquatic terrestrial species and sensitive vegetation. The following can be used provide guidance on construction and design. [http://files.dnr.state.mn.us/waters/watermgmt\\_section/pwpermits/gp\\_2004\\_0001\\_chapter1.pdf](http://files.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_chapter1.pdf)

38-H-04-3

Both existing and proposed stream crossings should be designed to protect instream hydrology, and fisheries passage and habitat. Bridges are preferred, with close attention paid to trout streams. Bridges are a better alternative for stream crossings because they have less impact on the floodplain and stream's characteristic behavior. Bridges should be designed to minimize the environmental effects on the floodplain at stream crossings, with a capacity that exceeds most major flood events. Other potential implications from climate change, such as early thaw and increase spring runoff, may impact logging and road activities; increasing the potential for erosion problems such as rutting and culvert blow outs.

38-I-04-6

If a culvert is needed MDNR recommends considering a geomorphic approach for design such as MESBOAC. MESBOAC stands for:

- 1) Match culvert width to bankfull stream width.
- 2) Extend culvert length through the side slope toe of the road.
- 3) Set culvert slope the same as stream slope.
- 4) Bury the culvert.

- 5) Offset multiple culverts.
- 6) Align the culvert with the stream channel.
- 7) Consider headcuts and cutoffs.

WORK EXCLUSION DATES FOR FISH SPAWNING AND MOVEMENT: Work within Public Waters may be restricted due to fish spawning and migration concerns. Dates of fish spawning and migration vary by species and location throughout the state. Specific dates for each DNR Region may be found on page 3 of Chapter 1 of the manual: Best Practices for Meeting DNR General Waters Work Permit GP2004-0001. [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). Work in the water is not allowed within these dates.

## Wildlife

Wildlife may be disturbed by human activity: noise and vibrations associated with construction and rail use. While a narrow band of habitat is directly altered by the project, effects on wildlife are possible from rail construction, traffic generated by regular rail use, maintenance, and usage for other natural resource management purposes. Habitat use such as breeding, foraging, and nesting ranges can change as a result of project implementation. Assuming present distribution and behavior of wildlife represent adjustments that occurred prior to project development, further adjustments may occur from increased human activity along the corridor. Disturbance factors that influence species behavior could cause displacement of some wildlife species. Some species are less tolerant to human intrusion and/or are more sensitive to noise. The consequence of an increase in intra-specific competition could increase stress among some individuals. If the project is implemented, it is noted that the surrounding vegetation would generally provide ample cover and suitable escape habitat for many common wildlife species. Leafy vegetation, which is typically present throughout the operating season, helps to moderate sound propagation and associated wildlife disturbances. However, as noted above impacts to this vegetation can compromise this effect.

Noise, vibrations, and human disturbance can effect species. Physiological impacts can result from noise and vibrations. Destruction of nests, burrows, and direct injury or mortality from vehicle strikes can also occur. Behavioral alterations to species distribution, dispersal, and other patterns (compounded by habitat fragmentation) can lead to local declines in populations by impacting survivorship and productivity.

### ***Habitat Fragmentation***

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Habitat fragmentation is caused by humans when native vegetation is cleared for human activities. Habitats which were once continuous become divided into separate fragments. Fragmentation effects to wildlife habitat include a decrease in total habitat area, amount of interior habitat, biodiversity, and connectivity; also an increase in amount of habitat edge, risk to invasive species, and isolation of certain habitats. Reduction in habitat connectivity can disrupt behavior and movement of species, alter population dynamics, reduce the chance of recolonization in extirpated island habitats, and decrease genetic diversity. Continued habitat fragmentation can be avoided and minimized to a large extent by using existing corridors, which is a project feature identified in the proposal. Rail widths can be kept at the minimum allowable for safe travel and sufficient access for maintenance equipment. Vegetation should only be cleared or height reduced when necessary. This would allow the existing overhead canopy to remain relatively intact.

## Sensitive Ecological Resources (Rare Features & Invasives)

### Forest Clearing

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 and July. 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). 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.

38-M-04-4

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)

### Invasive Species

Invasive species can thrive in disturbed habitats and outcompete endemic species, resulting in a decline of biodiversity and habitat quality. Soil disturbances, additional fill, and seed dispersal by human and animal activities along the corridor can increase abundance of the current plants, and create potential for new infestations. Proposed wetland crossings are susceptible to introduction of Reed Canary Grass, which can decrease species diversity in large areas. Water crossings can be a source for the introduction of aquatic invasive species and serve as a corridor for the spread of terrestrial invasives. MDNR Invasives Information: <http://www.dnr.state.mn.us/invasives/index.html>;  
[http://www.dnr.state.mn.us/invasives/terrestrial/prevent\\_the\\_spread.html](http://www.dnr.state.mn.us/invasives/terrestrial/prevent_the_spread.html).

**Recommendation:** Invasive species (EAW page 23. Item 13 c) should be addressed for construction and operation of the entire proposed project. The proposer should commit to completion of an invasive species control plan that provides an inventory of current invasives on the corridor and other project sites, treatment for current and future infestations, monitoring, including measures to minimize impact on pollinators and species diversity. An invasive species control plan should be in place prior to any construction to prevent their spread, and provide for monitoring and control during operation. Parking areas should be signed for invasive species, boot brushes provided where possible and appropriate, and vehicle wash areas established to prevent new introductions or transport of existing invasives off-site. Invasive species control on routes that cross multiple ownerships and waterways can be challenging. Please reference: Operational Order #113 it describes MDNR policies for invasive species management and control.  
[http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder\\_113.pdf](http://files.dnr.state.mn.us/assistance/grants/habitat/heritage/oporder_113.pdf).

38-N-04-3

*Aquatic invasive species Equipment decontamination:* All equipment intended for use at a project site must be free of prohibited invasive species and aquatic plants prior to being transported into or within the state and placed into state waters. All equipment used in designated infested waters, shall be inspected by the Permittee or their authorized agent and adequately decontaminated prior to being transported from the worksite. The DNR is available to train inspectors and/or assist in these inspections. For more information refer to the "Best Practices for Preventing the Spread of Aquatic Invasive Species" at [http://files.dnr.state.mn.us/publications/ewr/invasives/ais/best\\_practices\\_for\\_prevention\\_ais.pdf](http://files.dnr.state.mn.us/publications/ewr/invasives/ais/best_practices_for_prevention_ais.pdf). Contact your regional Invasive Species Specialist for assistance at [www.mndnr.gov/invasives/contacts.html](http://www.mndnr.gov/invasives/contacts.html). A list of designated infested waters is available at [http://files.dnr.state.mn.us/eco/invasives/infested\\_waters.pdf](http://files.dnr.state.mn.us/eco/invasives/infested_waters.pdf). A list of prohibited invasive species is available at [www.mndnr.gov/eco/invasives/laws.html#prohibited](http://www.mndnr.gov/eco/invasives/laws.html#prohibited).

38-O-04-3

*Restoration of vegetation:* On areas of disturbed soil adjacent to Public Waters, final vegetation plans should include native species suitable to the local habitat. This may include trees, shrubs, grasses, and/or forbs. Also see MnDOTs "Native Seed Mix Design for Roadsides" at <http://www.dot.state.mn.us/environment/erosion/pdf/native-seed-mix-dm.pdf>.

38-P-04-6

*Temporary fill:* If approved, temporary fill shall be free of organic material or any material that may cause siltation, pollute the waterbody, or transfer invasive species.

38-Q-04-3

### **Cumulative potential effects**

*Please consider the cumulative impacts of this project on the natural resources and in conjunction with climate change; and minimize these impacts when and where possible.*

38-R-04-18

## Minnesota Department of Natural Resources

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Theme	Response
38-A-04-5 38-B-02-4	Dowling-Hanson Parker	Lori Keith	MnDNR	38	Letter	Wetlands, Infrastructure Improvements	Three new bridges over water are planned in the corridor, and 12 culverts on mapped surface waters are planned to be extended (see Tier 2 EA, Table 4-31). No culverts are planned for replacement. When the NLX Project is funded for final design and construction, MnDOT will evaluate and update stream crossings in coordination with MnDNR, when the means and methods for bridge and culvert improvements are defined. Available information is presented in the Tier 2 EA, Table 4-26. This information will be supplemented in final design and impacts minimized to the extent practicable. The best management practices recommended will be evaluated for implementation during final design. Refinement of mitigation concepts will be developed during final design and included as part of permit applications.
38-C-04-4	Dowling-Hanson Parker	Lori Keith	MnDNR	38	Letter	Threatened and Endangered Species	The Tier 2 EA found that impacts on state-listed mammals are expected to be minor. There is potential that Blanding's turtles (Minnesota) or wood turtles (Minnesota and Wisconsin) may be affected during the operation of the NLX Project by increased train frequencies and higher speeds along the existing tracks. Tier 2 EA Section 4.4.4 identifies avoidance, minimization and mitigation measures. This section includes potential design measures to minimize impacts and the commitment for further coordination with MnDNR as the project advances into final design. On April 12, 2017, FRA received confirmation that the NLX Project is not within the High Potential Zone for the rusty patched bumble and consultation for this species is complete. On June 8, 2017, USFWS concurred with findings for the Canada lynx, gray wolf and northern long-eared bat. Coordination with MnDNR and WDNR is ongoing and documented in Section 5 of the Tier 2 EA and written correspondence is included in Appendix I. Coordination with these agencies will continue through final design, permitting and construction.
38-D-04-4	Dowling-Hanson Parker	Lori Keith	MnDNR	38	Letter	Threatened and Endangered Species	Tier 2 EA Section 4.4.4 identifies avoidance, minimization and mitigation measures. This section includes potential design measures to minimize impacts and the commitment for further coordination with MnDNR and the USFWS as the project advances into final design. Botanical and wildlife surveys would occur as appropriate after final design has been completed; surveys would be timed to match appropriate growing seasons. There are an estimated 193 acres of forested land within the NLX Project construction limits that may be impacted; some of these forested areas could provide roosting habitat for the Northern long-eared bat. Impacts on trees, vegetation and critical habitat would be refined as appropriate using the survey results and would be addressed through consultation with USFWS.
38-E-04-6	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Surface Water	Tier 2 EA Section 4.6.4 identifies avoidance, minimization and mitigation measures for surface water impacts. This section includes potential design measures to minimize impacts and the commitment for further coordination with MnDNR as the project advances into final design. Construction mitigation measures for surface waters including land cover will include minimum design standards for work in public waters to accommodate fish spawning and migration, and the development of a construction stormwater pollution prevention plan (SWPPP) for Minnesota and Stormwater Management Plan (SWMP) for Wisconsin. The SWPPP and SWMP will describe structural and non-structural practices to reduce pollutants in stormwater discharges from construction sites. Operations mitigation measures will include permanent treatment of stormwater runoff from new impervious area as required by the NPDES construction stormwater permits from MPCA and the maintenance of permanent BMPs.
38-F-04-6	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Surface Water	Tier 2 EA Section 4.6.4 identifies avoidance, minimization and mitigation measures. This section includes potential design measures to minimize impacts and the commitment for further coordination with MnDNR as the project advances into final design. Best management practices are identified in general terms; consideration of specific best management practices, such as bio-netting or natural-netting will take place during final design activities. MnDOT understands that the project may require both MnDNR public waters permits and NPDES stormwater permits.
38-G-04-10	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Contaminated Properties and Regulated Waste	Tier 2 EA Sections 4.7.4 and 4.10.4 indicate that spill prevention, control and countermeasures will be developed to avoid impacts from leaks or spills that could potentially occur during construction.

# Minnesota Department of Natural Resources

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Theme	Response
38-H-04-3	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Vegetation Wildlife	Section 4.3.4 of the Tier 2 EA identifies mitigation measures, which include potential design measures to minimize impacts and the commitment for ongoing coordination with MnDNR to implement recommendations as the project advances into final design. The reference information cited by the MnDNR regarding species protection is anticipated to be part of future project permit conditions. Note that some of the guidance in this document was prepared by MnDOT. MnDOT will continue to coordinate with the MnDNR on the need for surveys for native prairie, stream and river crossings, and threatened and endangered species; survey protocols for threatened and endangered species; and implementation of mitigation strategies to minimize impacts on aquatic terrestrial species and sensitive vegetation.
38-I-04-6	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Surface Water	As currently planned, the project will have limited effects on water resources. As described above in response to comments 38A and 38B, existing culverts will not be altered unless additional track infrastructure is needed; in those cases, culverts will be extended. Three new bridges over water resources are planned; design of those bridges will be completed in a manner that would minimize impacts to habitat and floodplains. All other bridges over water will be subject to deck modifications only with no work in the water. Appropriate netting or other protection will be implemented to avoid construction material falling into the water.
38-J-04-3	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Vegetation and Wildlife	Section 4.3.4 of the Tier 2 EA identifies commitment to work within the exclusion dates to avoid impacts to fish spawning and migration. Construction will occur during periods of low flow, and BMPs will be employed to protect stream banks and to prevent silt from entering streams following the guidance presented in the "Work Exclusion Dates to Allow for Fish Spawning and Migration." In addition, MnDOT will continue to coordinate with MnDNR as the project advances into final design.
38-K-04-3	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Vegetation and Wildlife	Impacts on wildlife from the operation of the NLX Service are anticipated to be limited. About 10 to 16 freight trains currently traverse the corridor each day, between Coon Rapids and Superior, Wisconsin; these trains are usually 6,000-7,000 feet long and take 3-6 minutes to pass through a given area. The addition of up to eight passenger trains, which are 650 feet long and would take less than 10 seconds to pass a given point, would not substantially alter the effects on wildlife. Additional roadway traffic will be focused near stations, which are in developed areas.
38-L-04-3	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Vegetation and Wildlife	Rail spacing and vegetation maintenance will be subject to operating agreements between MnDOT and the BNSF. Considerations for limiting vegetation clearing would be discussed with the BNSF.
38-M-04-4	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Threatened and Endangered Species	The USFWS has been contacted regarding potential impacts to the Northern long-eared bat and impact and mitigation considerations are based on the Final 4(d) rule. Section 4.4.3.1 discusses the approach for conducting surveys for the presence of bats and bat habitat, and includes a commitment for continued coordination with the USFWS. On June 8, 2017, USFWS concurred with findings northern long-eared bat.
38-N-04-3 38-O-04-3	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Vegetation and Wildlife	Section 4.3.4 of the Tier 2 EA identifies avoidance, minimization and mitigation measures on invasive species during construction and operations. The FONSI includes suggested mitigation measures. As the project advances into final design MnDOT will coordinate with MnDNR on mitigation measures. The potential spread of invasive species will be avoided or minimized through construction practices focused on good housekeeping, such as decontamination of equipment on site, use of weed-free mulch and other best management practices (BMPs) explained in Best Practices for Meeting DNR General Public Waters Work Permit GP2007-0001 at <a href="http://files.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_introduction.pdf">http://files.dnr.state.mn.us/waters/watermgmt_section/pwpermits/gp_2004_0001_introduction.pdf</a> (MnDNR and MnDOT, 2014). Construction practices will adhere to BMPs in Minnesota and Wisconsin to limit the spread of invasive species during construction. BMPs will be developed and provided to contractors through MPCA and WDNR National Pollutant Discharge Elimination System (NPDES) permit requirements, MnDNR Public Waters Work Permit requirements, education, monitoring and construction specifications.

## Minnesota Department of Natural Resources

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Theme	Response
38-P-04-6	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Surface Water	Tier 2 EA Section 4.6.4 identifies avoidance, minimization and mitigation measures. State agency guidelines will be followed for vegetation restoration near streams, wetlands and waterbodies. During construction, soil stabilization techniques will be used to avoid and minimize impacts on surface waters. At a minimum, all soils will be temporarily or permanently stabilized within 14 days of construction temporarily or permanently ceasing in that area. In areas that are more sensitive or with more stringent regulatory requirements, such as within 1 mile of impaired streams, soils will be stabilized within 7 days of construction temporarily or permanently ceasing. For areas that are located within 200 feet of MnDNR public waters or designated trout streams, stabilization will be completed within 24 hours of construction temporarily or permanently ceasing. Such measures will be employed until the all disturbed areas have achieved final stabilization. Final stabilization will be conducted using approved seed mixes in accordance with MnDOT and MnDNR guidelines, and permit conditions.
38-Q-04-3	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Vegetation and Wildlife	Any temporary fill placed in wetlands or other surface waters will be subject to the requirements of USACE Section 404 permit and Minnesota Wetland Conservation Act approvals, as well as MnDNR Public Waters Work permits. It is assumed that a requirement for clean temporary fill will be incorporated into those permits.
38-R-18	Dowling-Hanson Parker	Lori Keith	MnDNR	38	MnDNR letter attachment	Indirect and Cumulative Effects	With regard to climate change, Tier 2 EA Section 4.8.3.2 indicates that implementation of the NLX project would result in a reduction in emission of greenhouse gases (expressed as carbon dioxide equivalents). Cumulative impacts on natural resources are discussed in Section 4.18.4 of the Tier 2 EA.



# Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

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May 24, 2017

Mr. Francis Loetterle  
 Project Manager  
 Minnesota Department of Transportation  
 395 John Ireland Boulevard, MS 470  
 Saint Paul, MN 55155-1800

Re: Northern Lights Express Passenger Rail Project Environmental Assessment

Dear Mr. Loetterle:

Thank you for the opportunity to review and comment on the Environmental Assessment (EA) for the Northern Lights Express Passenger Rail project (Project) extending from Minneapolis to Duluth, Minnesota. The Project consists of a higher speed passenger rail project providing rail service between Minneapolis and Duluth. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility and other interests, the MPCA staff has the following comments for your consideration.

**Section 4.5 Wetlands**

The Project proposer has yet to complete the wetland delineation for the Project. The delineation will provide more specifics as to the type and extent of wetland impacts and is needed to effectively determine Clean Water Act Section 401 Water Quality requirements. However, many impacts are currently known:

- Five new bridges will need to be constructed. The EA does not provide a detailed description of what best management practices (BMPs) will be used to prevent/limit Total Suspended Solids from entering the water outside of the immediate construction zone. Two of the new bridge locations also have "sites of concern" for hazardous materials associated with them (page 375, part 4.10.2.1). If additional BMPs are needed, the EA should describe what BMPs will be used to prevent any of the hazardous materials from entering the streams during and after construction.
- Please take note that mitigation for permanent stream and wetland impacts should occur in the same watershed as the impacts. Exceptions can be made, but only in severe circumstances.
- The preferred route will cross six Minnesota trout streams. The EA does not describe what extra precautions will be taken to ensure the quality of these streams.
- Page 270, Section 4.5.1.1. Although the U.S. Army Corp of Engineers (USACE) administers the Clean Water Act and the Board of Water and Soil Resources (BWSR) administers the Wetland Conservation Act, the MPCA has authority to require mitigation for any wetland/surface water impacts. When reviewing the wetland delineation, please include all waters delineated and list separately any waters not considered jurisdictional by the USACE or BWSR. The MPCA may require mitigation for these waters.
- For questions regarding wetland delineation, please contact Jim Brist at 651-757-2245.

## **Section 4.6 Surface Water**

### Stormwater

- The EA provides only very general information and no details on how surface waters and water crossings will be protected during the construction. The Project proposer will need to address these issues when preparing the Stormwater Pollution Prevention Plan (SWPPP). In addition, the SWPPP will likely require MPCA review before prior to obtaining permit coverage. Questions regarding Construction Stormwater Permit requirements should be directed to Roberta Getman at 507-206-2629. Questions regarding SWPPPs should be directed to Todd Smith at 651-757-2732.

35-F-04-6

### Impaired Waters

- The EA correctly indicates there are impaired waters, trout waters, and other reasons for resource concern in the Project area. Specific to the Nemadji watershed, a draft Total Maximum Daily Load (TMDL) has been completed and has been public noticed. The Draft Nemadji River Watershed TMDL report is nearing its final review and submittal to the U.S. Environmental Protection Agency for approval. A companion document, the Draft Nemadji Watershed Restoration and Protection Strategies (WRAPS) report has also been finalized and has completed the final public notice process. For questions, please contact Karen Evens at 218-302-6644. These documents are available at: <https://www.pca.state.mn.us/water/watersheds/nemadji-river>

Both documents describe the highly sensitive nature of the watershed soils and geology and this relationship to suspended solid or sediment related impairments. Both documents call out the need for careful planning of project work, and significant effort in careful mitigation and management of projects that disturb the clay soils. BMPs used to mitigate clay soil disturbance need exceptional effort, well beyond the more standard or routine approaches used as general approaches statewide. The Project proposer should review both documents to better understand the issues associated with work in the watershed and commit to a workplan for project management that is the least impacting in this clay based geology.

35-G-04-12

Likewise, much effort has been made to evaluate culverts in trout waters. It is not clear that culvert extensions are the best solution for the proposed crossing improvements. Culverts that have been evaluated, thus far, show a number of problems relative to water resources. Many are undersized for the current climate change storm and meltwater events the region is experiencing. Many are set incorrectly, not accurately following the stream grade or orientation. This in turn impedes fish migration, reduces the available habitat for fish, and can physically harm fish. Structurally, inadequate culverts have been found to disrupt baseflows at critical seasons of the year, create backwater or upstream flooding hazards, and contribute to unnecessary channel scour and bank erosion. It would be worthwhile to evaluate the proposed culvert improvement work in the context of these culvert problems and ensure that culvert "improvements" truly reflect improvement for all the services our water resources provide.

35-H-04-6

35-I-04-6

35-J-04-6

Mr. Francis Loetterle

Page 3

May 24, 2017

We appreciate the opportunity to review this Project. Please provide your specific responses to our comments and notice of decision on the need for an Environmental Impact Statement. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EA, please contact me at 651-757-2508.

Sincerely,



Karen Kromar  
Planner Principal  
Environmental Review Unit  
Resource Management and Assistance Division

KK:bt

cc: Dan Card, MPCA, St. Paul  
Roberta Getman, MPCA, St. Paul  
Jim Brist, MPCA, St. Paul  
Karen Evens, MPCA, Duluth  
Todd Smith, MPCA, St. Paul  
Patrick Carey, MPCA, Duluth  
Teresa McDill, MPCA, St. Paul  
Ken Westlake, USEPA, Chicago

## Minnesota Pollution Control Agency

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Theme	Response
35-A-04-5	Kromar	Karen	MPCA	35	letter	Wetlands	Wetland impacts are described to the extent practical at this stage of project development. Because wetland delineations are valid for a limited time, full delineations along the entire corridor were deferred to final design. The Tier 2 EA presents conservative estimates of impacts, and Table 6 in Appendix J includes the wetland impact information available at this stage of the project. Additional analysis of wetlands, including functional assessments and impacts, will be conducted as needed when funding is available to advance the project to final design and construction. When the NLX Project is funded for final design and construction, impacts will be avoided and minimized to the extent practicable and more detailed explanations of wetland impacts and additional mapping will be developed. As stated in the Tier 2 EA Section 4.5.4, FRA and MnDOT will obtain Section 401 water quality certification, Minnesota WCA permits, MnDNR public waters permits and WDNR wetland permits prior to construction.
35-B-04-10	Kromar	Karen	MPCA	35	letter	Contaminated Properties/Surface Water	The means and methods for bridge improvements and new bridge construction will be developed when the NLX Project is funded for final design and construction. Available information is presented in Table 4-26 of the Tier 2 EA. This information will be supplemented in final design and impacts minimized to the extent practicable. The best management practices recommended will be evaluated for implementation during final design. Best management practices will be modified as necessary to prevent hazardous materials from entering surface waters. Detailed mitigation strategies will be identified during final design and included as part of permit applications.
35-C-04-5	Kromar	Karen	MPCA	35	letter	Wetlands/Surface Water	Wetland mitigation will be pursued in the watershed where the impact occurs. However, in the event that on-site mitigation is not practicable and wetland bank credits are not available in the impacted watershed, mitigation options in different watersheds will be considered.
35-D-04-6	Kromar	Karen	MPCA	35	letter	Surface Water	A stormwater pollution prevention plan will be developed during final project design and before construction begins. The plan will include best management practices that are designed to minimize impacts to all surface waters. Standard best management practices will be modified as necessary to protect designated trout streams.
35-E-04-5	Kromar	Karen	MPCA	35	letter	Wetlands	As the project progresses into the final design phase, wetland delineations will be conducted, and the appropriate permit applications will be developed. This will include determination of wetland jurisdiction in coordination with the USACE and the Wetlands Technical Evaluation Panel(s). Wetland permit applications will include impact summary tables, which will note the jurisdiction(s) under which each impact would be addressed. The MPCA, pursuant to the 401 water quality certification process, will receive permit application documents for review and approval.
35-F-04-6	Kromar	Karen	MPCA	35	letter	Surface Water	A stormwater pollution prevention plan will be developed during final design and before construction begins, and MnDOT and FRA anticipate that MPCA review and approval will be required. The plan will include best management practices that are designed to minimize impacts to all surface waters.
35-G-04-12	Kromar	Karen	MPCA	35	letter	Farmland and Soils	FRA and MnDOT appreciate the MPCA providing the additional information regarding the highly erodible clay soils in the Nemadji River watershed. Stormwater pollution prevention plans will be developed that consider the erodibility of soils and prescribe the appropriate best management practices for those soil types.

# Minnesota Pollution Control Agency

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Theme	Response
35-H-04-6 35-I-04-6 35-J-04-6	Kromar	Karen	MPCA	35	letter	Surface Water	<p>The NLX project does not replace existing culverts with bridges. In areas where new track will be added adjacent to existing track, existing culverts will be extended to maintain the existing drainage. MnDOT has endeavored to design a project that fits within the BNSF right-of-way, makes use of existing facilities to the greatest extent possible and limits new construction of track or other track upgrades to only those necessary to operate NLX safely and reliably while not interfering with freight traffic. Replacing culverts with bridges is not necessary for the completion of the track upgrades required to operate NLX and therefore is an additional expense that has not been budgeted for. The decision to replace culverts with bridges is a decision that needs to be made with the cooperation and consent of BNSF Railway as it is private property and the expense of doing so would have to be funded as part of a separate project where the purpose and need is explicitly related to the intended benefit.</p> <p>Conversion of culverts to bridges would also require closing the existing track for a sufficient period of time that the provision of a temporary parallel track (known in the industry as a 'shoo-fly') would be required to maintain rail operations. Provision of a temporary bypass at each culvert location has unknown impacts but would likely require temporary easements on property outside the BNSF right-of-way and would likely have impacts on several resource categories. Since neither the impact on the cultural or physical environment nor the impact on BNSF operations has been evaluated, consideration of the replacement of culverts with bridges would require reevaluation of numerous resource areas including surface water, wetlands, endangered species, vegetation, park/recreation facilities and so forth. In addition to the actual capital cost of the new bridges, additional costs would be associated with the provision of a temporary bypass track and the additional environmental review associated both with the permanent impact and the considerable temporary construction impact.</p> <p>MnDOT considers it reasonable to maintain the existing drainage pattern in those areas where an additional track is necessary by simply extending the existing culvert rather than creating an entirely new drainage pattern of unknown impact and consequence.</p>



May 22, 2017

Mr. Francis Loetterle  
Minnesota Department of Transportation  
395 John Ireland Blvd, MS 470  
Saint Paul, MN 55155-1800

RE: MN State Project No. TCP-NLX-12B / WHS # 12-0289 DG  
Northern Lights Express (NLX) service  
Minneapolis to Duluth through Douglas County, WI

Dear Mr. Loetterle:

22-A-04-11

We have reviewed the Tier 2 Project Level Environmental Assessment (EA) for the proposed NLX passenger rail service and only have a single comment. Please make it clear in Chapter 4.11 Cultural Resources that some archaeological sites are also burial sites, which are protected under Wis. Stats. § 157.70 and Wis. Admin. Code § HS 2.04. While there may not have been any identified within the project Area of Potential Effect at this phase of the planning, we highly recommend rechecking the Wisconsin Archaeological Site Inventory during later design phases.

Thank you for your continued coordination on this project.

Sincerely,

Kimberly Cook  
Wisconsin Historical Society  
State Historic Preservation Office

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## Wisconsin Historical Society

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Theme	Response
22-A-04-11	Cook	Kimberly	Wisconsin Historical Society	22	Letter	Cultural Resources	Appendix A, Errata to the Tier 2 EA, notes that Section 4.11.1 is updated to add a reference to Wis. Administrative Code, Subsection HS 2.04. The commitments in the FONSI are also updated to reflect that MnDOT will recheck the Wisconsin Archeological Site Inventory as the final design advances and funding is secured for the NLX Project.

May 24, 2017

Francis Loetterle  
Minnesota Department of Transportation  
395 John Ireland Blvd, MS 470  
St. Paul, MN 55155-1800

**RE: Northern Lights Express Passenger Rail  
Tier 2 Project Level Environment Assessment**  
Metropolitan Council Review No.21102-2  
Metropolitan Council District 2,7 and 9

Dear Francis Loetterle:

The Metropolitan Council received the EA for the Northern Lights Express EAW on April 20, 2017. The proposed project includes constructing the necessary infrastructure for, and operation of, an approximately 152-mile long, high speed intercity passenger rail service between Minneapolis and Duluth, Minnesota.

36-A-04-13 Council staff has conducted a review of this EA to determine its adequacy and accuracy in addressing regional concerns and the potential for significant environmental impact. The Council has serious concerns about the EA's evaluation of potential impacts on regional parks in the Twin Cities metropolitan area. The Council expects the project proposer to address the Regional Parks comments before finalizing the EA.

**Regional Parks** (*Jan Youngquist, 651-602-1029*)

The Metropolitan Council (Council) oversees planning for the metropolitan regional parks system, which is protected by the *2040 Regional Parks Policy Plan*. The Council has authority to review proposed development projects to determine whether they will have a substantial effect on the use of regional parks system facilities. As defined in the *2040 Regional Parks Policy Plan*, impacts on the use of regional parks system facilities include, but are not limited to: traffic, safety, noise, visual obstructions, impaired use of the facilities or interference with the operation and maintenance of the facilities. Proposed development projects that have a substantial effect on the regional parks system would not be in conformance with the Council's *2040 Regional Parks Policy Plan* and may be subject to a plan modification.

The proposed Northern Lights Express (NLX) will cross several regional parks system facilities along its route, including Central Mississippi Riverfront Regional Park (which includes West River Parkway, Nicollet Island, and BF Nelson Park), Mississippi River Regional Trail, Rice Creek West Regional Trail (which includes Locke Park), Coon Creek Regional Trail, Bunker Hills Regional Park, and the planned Central Anoka County Regional Trail.

36-B-04-13 The Environmental Assessment (EA) does not provide sufficient information for Council staff to make a determination of the impact the regional parks system, most notably, to Bunker Hills Regional Park. The NLX is proposed to follow the existing BNSF corridor through Bunker Hills Regional Park. The EA indicates that there will be 8 trains daily passing through the regional park at speeds of up to 90 miles per hour. Bunker Hills Regional Park is a 1,650-acre park located in Coon Rapids and Andover that provides both active and passive recreational opportunities

including camping, horseback riding, trails, a water park, archery, picnicking and cross country skiing. The regional park hosted more than 630,000 visits in 2015. Winter use of Bunker Hills Regional Park includes trails for cross-country skiing and skijoring (a combination of cross-country skiing and dog sledding where the person is on skis instead of a sled). These trails are within approximately 50 feet of the BNSF railroad corridor.

36-C-04-9 The Council's comment letter dated April 17, 2013 regarding the Tier 1 Environmental Assessment recommended that additional modeling to determine the noise impacts to Bunker Hills Regional Park be conducted prior to the Tier 2 Assessment. Section 2.2.1 of the draft Section 4(f) and Section 6(f) evaluation lists the parks that were identified within the 350-foot buffer of the NLX that were reviewed for potential constructive use related to noise. However, it appears that Central Mississippi Regional Park (including Nicollet Island and BF Nelson Park), Locke Park (as part of the Rice Creek West Regional Trail) and Bunker Hills Regional Park were not evaluated. The detailed maps included in Appendix B do not show any noise reference points located within any of these regional parks system facilities.

36-D-04-9 Section 4.1.13 of the draft Section 4(f) and Section 6(f) evaluation describes the Federal Railroad Administration noise impact criteria and the analysis that was conducted along the NLX route to determine constructive use. This section indicates that the campground at Bunker Hills Regional Park would be considered a Category 2 land use with nighttime noise sensitivity and deduces that because the campground is approximately 0.6 miles from the railroad track and trains would not travel through the area at night, a constructive use of Bunker Hills Regional Park does not apply. However, the FTA Transit Noise and Vibration Impact Assessment guidance manual indicates that some parks and recreational facilities are defined as a noise sensitive Land Use Category 3. The guidance manual states that parks used for passive recreation should be treated as noise-sensitive. Passive recreation areas are those that do not require intensive development, but rely on emphasizing the open space and natural resource aspects of a park. Passive recreation includes walking, running, horseback riding, and cross-country skiing, all of which are provided within close proximity of the NLX line at Bunker Hills Regional Park. The guidance manual also states that the noise sensitivity of parks should be determined on a case-by-case basis after carefully considering how each facility is used. By simply evaluating the campgrounds at Bunker Hills Regional Park, the analysis is incomplete.

36-E-04-9 Without an estimate of the projected noise level of the project within the regional park, it is unclear what the startle or surprise factor to people and dogs along the trails will be. Council staff reiterates its request that additional noise modeling be conducted to determine the noise impacts to Bunker Hills Regional Park. The analysis from the noise modeling will inform the Council's decision on whether there is a substantial effect on the regional parks system.

**Environmental Services** (Roger Janzig, 651-602-1119)

36-F-04-15 This project extends 152 miles from Minneapolis to Duluth. The construction of any new or updating of existing rails for the Northern Lights Express Passenger Rail System, may have an impact on multiple Metropolitan Council Interceptors in multiple locations. To assess the potential impacts to our interceptor system, prior to initiating any proposed project, preliminary plans should be sent to Scott Dentz, Interceptor Engineering Manager (651-602-4503) at the Metropolitan Council Environmental Services for review and comment.

**Item 13 – Fish, Wildlife, Plant Communities, and Sensitive Ecological Resources (rare features) – Identification of measures to be taken to avoid, minimize, or mitigate adverse effects** (Jim Larsen, 651-602-1159)

The document identifies many areas of expected direct aquatic and terrestrial impacts that will occur as a result of construction of the project as currently proposed. It will be imperative that

- 36-G-04-3 mitigation of these direct and indirect impacts be undertaken as indicated in the document;  
36-H-04-5 through wetland, floodplain, and habitat replacement and incorporation of best management  
36-I-04-6 practice impact avoidance techniques along the full length of the proposed project.

**Item 18 - Transportation/Transit** (*Russ Owen, 651-602-1724, Steve Mahowald 612-349-7775*)

- 36-J-03-3 The trains would bring more daily passenger trips to the downtown Minneapolis station known as the "Interchange" than does the current highway-dominated system with its dispersed travel pattern, so it is likely the project would result in more trips on the transit lines sharing this downtown facility. Not everyone coming in on the trains will walk or take a taxi or alternative transportation modes to their final destination.

- 36-K-03-2 The proposed train trip times would feature a round trip well-timed to serve the major work day in downtown Minneapolis and would also be useful to students commuting to major college and university campuses near downtown Minneapolis. The NLX service would make Cambridge and even Hinckley commuter cities to the Twin Cities.

- 36-L-03-2 The station at Foley Blvd. in Coon Rapids could attract commuters away from existing Route 850 Foley Blvd. Park & Ride Express bus line, depending on the fare level. The trains' travel time of 15 minutes from Foley Blvd. to Downtown Minneapolis is competitive with the Route 850 travel time of 20 to 25 minutes to the north end of downtown, allowing for the distance from the station to the center of downtown. The proposed schedule for the Northern Lights Express service would also attract business travelers between the Twin Cities and the Twin Ports.

- 36-M-03-1 There needs to be sufficient coordination with North Star/Metro Transit in any situation where tracks or stations are proposed to be shared.

This concludes the Council's review of the EA. The Council will not take formal action on the EA. If you have any questions or need further information, please contact Russ Owen, Principal Reviewer, at 651-602-1724.

Sincerely,



LisaBeth Barajas, Manager  
Local Planning Assistance

CC: Tod Sherman, Development Reviews Coordinator, MnDOT - Metro Division  
Lona Schreiber, Metropolitan Council District 2  
Gary Cunningham, Metropolitan District 7  
Edward Reynoso, Metropolitan District 9  
Eric Wojchik, and Michael Larson, Sector Representative and Principal Reviewer  
Russ Owen, Metropolitan Council  
Raya Esmacili, Reviews Coordinator

## Metropolitan Council

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Theme	Response
36-A-04-13	Barajas	LisaBeth	Metropolitan Council	36	letter	Parks and Recreation Areas	The Council's concerns are noted. See responses to subsequent comments.
36-B-04-13 36-C-04-9 36-D-04-9 36-E-04-9	Youngquist	Jan	Metropolitan Council	36	letter	Parks and Recreation Areas/Noise and Vibration	<p>Section 4.13 identifies and evaluates parks and recreational facilities. The noise analysis is based on FRA's guidance methodology, Transit Noise and Vibration Impact Assessment Manual, to select receptors representative of various land uses, including parks and recreational sites throughout the NLX Project corridor. The noise reference point in the Appendix D legend refers to the noise mile posts which are located on the centerline of the NLX track alignment. The locations where the noise and vibration impacts were assessed are identified by colored dots in Appendix D.</p> <p>All the parks were assessed as Land Use Category 3, which describes institutional land uses, including certain parks, with primarily daytime and evening use. The noise assessment is therefore based on a comparison of the project's noisiest hour (Leq) of transit operations to existing Leq noise levels. The existing Leq noise levels in the study corridor are controlled by freight, passenger trains and local traffic.</p> <p>Nicollet Island Park, Locke Lake Park and Bunker Hills Regional Park were evaluated as indicated with a yellow dot and "Park" on Pages 1, 2, 12 and 22 respectively in Appendix D. The yellow dot means that the NLX Project would not create a noise impact. Noise impacts identified at representative receivers reasonably allow prediction of noise levels at related land uses along the corridor. Therefore, since there would not be a noise impact at Nicollet Island Park there would not be an impact at BF Nelson Park. The noise receiver site for Bunker Hills Regional Park is located along the railroad on the southwest side of the park as shown on page 22 of Appendix D. Based on impact criteria for Land Use Category 3, there are no noise impacts to passive uses of the park.</p>
36-F-04-15	Janzig	Roger	Metropolitan Council	36	letter	Socioeconomics (utilities)	Section 4.15.3.2 in the Tier 2 EA identifies potential utilities impacts and the FONSI includes a commitment for further coordination as the NLX Project is funded for final design and construction.
36-G-04-3 36-H-04-5 36-I-04-6	Larsen	Jim	Metropolitan Council	36	letter	Vegetation and Wildlife, Threatened and Endangered Species, Wetlands	FRA and MnDOT agree that implementation of mitigation measures as identified in the Tier 2 EA for impacts to habitat, floodplains, wetlands and other biological resources is important. MnDOT will refine mitigation measures when the NLX Project is funded for final design and construction. See also responses to comments from the U.S. Environmental Protection Agency, the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources.
36-J-03-3 36-K-03-2 36-L-03-2	Owen Mahowald	Russ Steve	Metropolitan Council	36	letter	Traffic, Transit	The NLX Project serves a key need described in Section 1.4.1 in the Tier 2 EA, to improve intermodal connectivity. The NLX Project will be integrated with, and support multimodal connections to transit services and bicycle and pedestrian facilities at all stations. The NLX Project will provide opportunities for local transit connections and increase transit ridership.
36-M-03-1	Owen Mahowald	Russ Steve	Metropolitan Council	36	letter	Freight and Passenger Rail	Section 3.3.5 of the Tier 2 EA describes coordination activities that will continue as the when the NLX Project is funded for final design and construction. The FONSI confirms MnDOT will continue to discuss with BNSF Railway and ultimately agree to provide a set of infrastructure and signal improvements that will maintain freight service levels in conjunction with the provision of passenger rail service. MnDOT will also coordinate with Metro Transit, Amtrak and NSSR to maintain existing passenger rail services. MnDOT will ensure that the appropriate agreements are executed to allow operation of NLX on BNSF track and within the BNSF right of way as well as to utilize Target Field Station.

Communication #19

**From:** Sally Hoy [mailto:shoy@braham.com]  
**Sent:** Thursday, May 18, 2017 2:51 PM  
**To:** MN\_DOT\_NLX <NLX.DOT@state.mn.us>  
**Subject:** NLX Tier II EA Comment

Mr. Francis Loetterle, Project Manager  
MN Dept of Transportation  
395 John Ireland Blvd, MN 470  
St. Paul, MN 55155-1800

Mr. Loetterle,

On behalf of the City of Braham, I want to express the City's continued concerns with the NLX project as it is being proposed. As we reviewed the information from the Tier II EA, it shows no fencing along Freedom Park in Braham, which creates extreme safety concerns for anyone in the downtown park—be it from flying rocks off the tracks or a child playing in the park and stepping onto the tracks with a train shooting through town at 90 mph, proposed now for 8 times during the day. The City of Braham had voiced these safety concerns at NLX meetings and during the comment period of the Tier I EA, while we also expressed our concerns over the negative economic impact the NLX will have on the Braham downtown area. The NLX planning team even told the City from the beginning that Braham would have the most negative impact of all the cities along the proposed NLX route, yet no consideration has been given to Braham, in spite of all the concerns that we have expressed. One would think that for a project of this magnitude, with such strong public opinion for and against it, you would want local support. Has MNDOT considered the amount of liability it will have in the event of someone in Freedom Park being killed by a train, or the number of deaths and injuries resulting from a 90 mph train derailling in the heart of our downtown and park area, when Braham had expressed these safety concerns repeatedly during the planning process? It could all be avoided with a short stop in Braham. The Tier II EA has reduced the train speeds in order to use most of the existing tracks along the route, so you have already reduced the incentive of people riding the train for a time-savings purpose, so why not design the NLX for convenience, comfort, and economic benefit for and between ALL the cities along the route? It would build public support in every direction, while substantially reducing all the safety concerns this project presents as currently proposed.

Respectfully,  
Sally A. Hoy  
Braham City Administrator

## City of Braham

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Issue	Response
19-A-02-7	Hoy	Sally	City of Braham	19	Email	Safety	Fencing will be provided in Braham between CSAH 4/8th Street SE/413th Avenue NE and a private grade crossing north of CR 54/Central Drive, and includes the area along Freedom Park. The NLX Project will operate in BNSF right of way, which will be maintained by BNSF. BNSF regularly inspects and maintains the track to maintain safe operating conditions. Flying debris may be associated with open freight rail cars, which would not occur with the NLX service. MnDOT will improve public grade crossings throughout the NLX Project corridor, including in the City of Braham, that will benefit public safety. Within the City of Braham, two crossings will be reconstructed with quad gates and one crossing will be reconstructed with a dual gate and median. Although NLX trains will operate at maximum track speed through communities as a general practice, MnDOT will consider slowing speeds on a case by case basis for special events at specific locations, and would coordinate with local communities for such events.
19-B-04-17	Hoy	Sally	City of Braham	19	Email	Economics	Section in 4.17.3.2 in EA discusses the economic benefit of the NLX Project construction and operation. Maintaining the NLX Project within an existing and historically active railroad corridor minimizes economic disruption. Within the City of Braham, two crossings will be reconstructed with quad gates and one crossing will be reconstructed with a dual gate and median. While improving safety for the business community and its patrons, the reconstructed crossings, as well as proposed fencing will avoid impacts to business access.
19-C-02-7	Hoy	Sally	City of Braham	19	Email	Safety	The BSNF track is inspected and maintained on a regular basis by qualified BNSF, state and federal staff according to FRA safety standards. The standards that the inspector uses to determine if there are problems that need correcting are not only specified by the railroad but are also mandated by the FRA. Inspectors use sophisticated track inspection equipment that can determine if the track meets FRA quality standards. Railroad, state and FRA inspectors inspect track by both driving/riding over the track and physically walking the track. The most recent FRA inspection (October 16, 2017) using a 'geometry car' determined that this track meets the criteria for mainline track (FRA Class 4). Other federal and state inspections occurred on March 23, 2017; April 11-12, 2017; and June 6, 2017. As part of the NLX Project, MnDOT will continue to work with the BNSF Railway and the FRA to upgrade the track to meet design and quality standards for high-speed mainline track (FRA Class 5) up to 90 mph.
19-E-02-6	Hoy	Sally	City of Braham	19	Email	Operations	Throughout the Tier 1 EA and Tier 2 EA processes, MnDOT went through a thorough cost-benefit analysis of NLX operating plans that balanced capital and operating costs and benefits related to travel cost savings, safety improvements and emissions savings for automobile travelers; operating cost savings, emissions savings and inventory savings for freight rail; grade crossing improvements; and economic development. The number and location of station stops is a critical factor considered in the trade-off between maintaining competitive travel time (fewer stops) and strong ridership (selecting station stops with the highest ridership potential) that is attracted by competitive travel time and costs. MnDOT determined that the selected six NLX stations throughout the corridor best serve the travel market and maintains economic feasibility of the service.

**Northern Lights Express Tier 2 Environmental Assessment****Staff Comments (5/16/17)**Overall Comments:

- Most of the comments and questions that were raised by the City of Minneapolis in the Tier 1 EA document have either been resolved or are addressed in this document.
- The City of Minneapolis recognizes the change from the original plans to require a layover facility southwest of Target Field. The original plans showed a layover facility within the northern half of the Linden Yards to be constructed by either the NLX project or the Minneapolis to Chicago High Speed Rail project (whichever project was constructed first).  
By storing the trains in Duluth and Sandstone, this expensive and controversial infrastructure can be avoided by the project.
- The platform widening at Target Field does not appear to impact the Cedar Lake Trail. If the trail were to be impacted it would need to be remediated by the project at the project's expense. The trail is a critical connection and must stay open during construction as it is one of the most used trails in the state.
- Based on the document no private property or easements will be needed within Minneapolis.
- While there are currently freight trains within the NLX alignment, the new passenger trains will increase the number and frequency of trains using the BNSF Wayzata Spur and the BNSF mainline. Noise and vibration mitigation may be required for homes and businesses near the line. Minneapolis has the closest proximity to operating trains anywhere in the corridor. Based on the noise and vibration tables (Table 4-146 and Table 4-147), there are 4 properties that are moderately impacted by noise and vibration. It is expected that the project will work with these property owners to mitigate any negative impacts as the result of this project regarding both construction and long-term operation of the corridor.

42-A-02-3

42-B-03-4

42-C-04-2

42-D-04-9

## City of Minneapolis

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Issue	Response
42-A-02-3			City of Minneapolis	42	Email	Layover/Maintenance Facilities	Comment noted. MnDOT determined that a layover facility in Duluth can adequately serve NLX operations.
42-B-03-4			City of Minneapolis	42	Email	Bicycle and Pedestrian Facilities	The NLX Project will not permanently impact the Cedar Lake Trail. Construction may require temporary closures, but may be avoided as the project advances into final design. The Tier 2 EA and FONSI indicate MnDOT will continue coordination with officials with jurisdiction, including the City of Minneapolis, to coordinate and mitigate potential temporary impacts should they occur.
42-C-04-2			City of Minneapolis	42	Email	Right of Way	No permanent property acquisitions or easements are anticipated in Minneapolis. Agreements are anticipated between the Metropolitan Council, BNSF and Hennepin County with respect to utilization of BNSF right of way and Target Field Station (See also Section 3.3.5 and Section 3.4.3 in the Tier 2 EA).
42-D-04-9			City of Minneapolis	42	Email	Noise and vibration	There are no vibration impacts in Minneapolis. Section 4.9.3.2 notes there is a residual noise impact at one multifamily residential building near Target Field Station. When the NLX Project is funded for final design and construction, and before any final decision is made regarding noise mitigation at the residential building, a site-specific 24-hour existing noise measurement would be conducted to determine more precise noise conditions and if residual noise can be mitigated.

**From:** Dean Michalko [mailto:Dean.Michalko@hennepin.us]  
**Sent:** Wednesday, May 24, 2017 4:20 PM  
**To:** Loetterle, Francis (DOT) <francis.loetterle@state.mn.us>  
**Cc:** Joseph R Gladke <Joseph.Gladke@hennepin.us>  
**Subject:** NLX - EA Comments

The following comments are submitted by Hennepin County and the Hennepin County Regional Railroad Authority in reference to the Environmental Assessment published for the Northern Lights Passenger Rail project:

- 41-A-02-6 - We would like to see additional consideration given to the first morning train leaving earlier from Minneapolis, somewhere around 6:00 am, and arriving Duluth around 8:30am. This would give Minneapolis users the opportunity to spend more time in Duluth and still return back to Minneapolis at a reasonable hour. Train storage near Minneapolis would probably be required to add this service.
- 41-B-03-2 - What impacts would the construction of the Target Field Station Platform Extension have on the existing Northstar Commuter Rail service, could this construction be done concurrent with the existing rail service? Have the impacts to the railroad signal infrastructure been investigated to see how this will handled during the construction of the platform extension?
- 41-C-02-6 - What is the assumed funding breakdown, by agency, for both the construction and operation of the project? Have any specific sources or programs been identified at this time?

Thank you for the opportunity to provide our input!

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## Hennepin County

Comment ID	Last Name	First Name	Organization	Communication Number	Comment Type	Issue	Response
41-A-02-6	Michalko	Dean	Hennepin County	41	email	Operations	As operations begin, MnDOT will evaluate refinements to the proposed train schedules and will continue coordination with BNSF, the Hennepin County Regional Rail Authority and Metropolitan Council to maximize a cost-effective service to the Minneapolis travel market.
41-B-03-2	Michalko	Dean	Hennepin County	41	email	Transit	When the NLX Project is funded for final design and construction, MnDOT will develop construction plans to maintain train schedules and manage signal infrastructure as part of platform construction and signal upgrades (See also Section 3.4.2.1 of the Tier 2 EA). MnDOT will continue coordination with Hennepin County and Metropolitan Council, and BNSF to finalize construction measures and agreements to avoid, minimize and mitigate impacts to existing rail services.
41-A-02-6	Michalko	Dean	Hennepin County	41	email	Operations	Section 2.3.2.3 of the Tier 2 EA discusses capital and operating costs, as well as the benefit cost analysis of the NLX Project. The benefit cost analysis concluded that the benefits of the NLX Project are greater than the anticipated cost. Funding is not yet identified for the final design and construction of the NLX Project, but anticipated to include state and federal sources.