# FINDINGS OF FACT And CONCLUSIONS

# **Trunk Highway 22 Flood Mitigation Project**

State Project No. 4012-36

Prepared by: Minnesota Department of Transportation



February 2015

## TABLE OF CONTENTS

Table o	of Contents	i
1.0	ADMINISTRATIVE BACKGROUND	. 1
2.0	FINDINGS OF FACT	. 1
3.0	DECISION REGARDING NEED FOR ENVIRONMENTAL IMPACT STATEMENT	. 2
	Type, Extent, and Reversibility of Impacts Cumulative Potential Effects of Related or Reasonably Foreseeable Future Projects Extent to Which the Environmental Effects are Subject to Mitigation by Ongoing Public Regulatory Authority Extent to Which Environmental Effects can be Anticipated and Controlled as a Result of Other Environmental Studies	.2 .5 .5
Table '	1 – Agency Approvals and Permits	. 5
4.0	CONCLUSIONS	.6

#### APPENDIX A

EA/EAW Comments and Responses

EQB Notice of Availability

Public Hearing Certificate of Compliance

Legal Notice and Affidavit of Publication

Local Media News Article

#### APPENDIX B

Highway 22 Flood Mitigation Project – Preliminary Layout

# FINDINGS OF FACT AND CONCLUSIONS

## TRUNK HIGHWAY 22 FLOOD MITIGATION PROJECT

Located in: City of Saint Peter, Nicollet County

## **1.0 ADMINISTRATIVE BACKGROUND**

The Minnesota Department of Transportation is the Responsible Governmental Unit and project proposer for the Highway 22 Flood Mitigation Project. A combined Federal Environmental Assessment and State Environmental Assessment Worksheet (EA/EAW) has been prepared for this project in accordance with Minnesota Rules Chapter 4410 and the National Environmental Policy Act (42 USC 4321 et. seq.). The EA/EAW was developed to assess the impacts of the project and other circumstances in order to determine if an Environmental Impact Statement (EIS) is indicated.

The EA/EAW was filed with the Minnesota Environmental Quality Board (EQB) and circulated for review and comments to the required EAW distribution list. A "Notice of Availability" was published in the *EQB Monitor* on December 22, 2014. A press release was distributed to the *Saint Peter Herald* and a legal notice was published in the *Saint Peter Herald* on December 18, 2014 (see Appendix A). A notice was also published on the project web page at http://www.dot.state.mn.us/d7/projects/floodmitigation/index.html. These notices provided a brief description of the project and information on where copies of the EA/EAW were available and invited the public to provide comments that would be used in determining the need for an EIS on the proposed project. Due to inclement weather the public hearing on the project was rescheduled from January 8, 2015 to January 15, 2015 at the Saint Peter Community Center. Public address announcements were sent to local media outlets announcing the rescheduling of the public hearing/open house meeting.

The EA/EAW was made available for public review at the Saint Peter City Hall, Mankato Regional Library, and MnDOT District 7 Offices. Comments were received through Wednesday, January 21, 2015. A total of three comments were received during the EA/EAW comment period. No agency comments were received. All comments received during the EA/EAW comment period were considered in determining the potential for significant environmental impacts. Comments received during the comment period, and responses to the comments are provided in Appendix A. Additional information pertaining to the publication of the EA/EAW and the public open house meeting is located in Appendix A.

## 2.0 FINDINGS OF FACT

#### **Project Description**

The proposed project is a flood mitigation project involving the reconstruction of a 0.59 mile segment of Highway 22 in the City of Saint Peter. The project stretches from the south side of the Highway 22 Bridge over the Minnesota River to the intersection of US Highway 169. The purpose of the project is to raise the roadway above the 100-year flood elevation of the Minnesota River to reduce the frequency and duration of road closures during high water

events. The project improvements include raising Highway 22 (driving surface) by approximately 3.5 feet to an elevation of 764.5. A single span overflow bridge structure (approximately 55' wide by 105' long) is planned along Highway 22, which has been designed to compensate for the decrease in flowable area in the floodplain.

Construction of the Highway 22 Flood Mitigation Project improvements will consist of removing the existing bituminous surface and roadbed material and placing additional fill material on the roadbed and embankments, and paving. The highway will remain a 2-lane rural highway section that will include 12-foot driving lanes, 8'-10' outside shoulders, recoverable 1:5 in-slopes that break to 1:3 at the clear zone. The rural highway section includes adjacent grass drainage ditches that will collect, infiltrate, and convey roadway runoff.

While the width of pavement at the Highway 22/US Highway 169 intersection is not proposed to be expanded, the striping and lane configurations will be modified to accommodate a dual right turn from westbound Highway 22 to northbound US Highway 169. The existing traffic signal system and street lighting will remain unchanged.

The existing bridge approach panels for the Highway 22 Bridge over the Minnesota River will also be replaced as part of this project. No other work on the river bridge is proposed.

It is anticipated the material excavated during the project will be reused for aggregate or other purposes where appropriate and in accordance with best management practices (BMPs) established in MnDOT's Standard Specifications for Construction. BMPs will also be used to control construction-related runoff and sedimentation.

Appendix B contains an exhibit illustrating the preliminary layout of the Highway 22 Flood Mitigation Project improvements. A complete description of the project was also included in Section III.C.2 of the EA/EAW.

## Corrections to the EA/EAW or Project Changes Since the EA/EAW was Published

Since the EA/EAW was published, the following project items have changed or been updated:

- No substantial roadway design changes have occurred since the publication of the EA/EAW. A copy of the preliminary layout is presented in Appendix B.
- Additional coordination with the Minnesota Department of Natural Resources and National Park Service has occurred, which is related to the Section 6(f) conversion process for impacts to Riverside Park. A Project Description and Environmental Screening Form (PD-ESF) has been completed and submitted for review and approval.

#### 3.0 DECISION REGARDING NEED FOR ENVIRONMENTAL IMPACT STATEMENT

An EIS is not necessary for the proposed project based on the following criteria:

## Type, Extent, and Reversibility of Impacts

MnDOT finds that the analysis completed for the EA/EAW and the additional analysis and coordination that has occurred since publication of the EA/EAW is adequate to determine

whether the project has the potential for significant environmental effects. The EA/EAW described the type and extent of impacts anticipated to result from the proposed project. This Findings of Fact and Conclusions (FOF&C) document provides clarifications and additional information since the EA/EAW was published. Following are the findings regarding potential environmental impacts of the proposed project and the design features included to avoid, minimize, and mitigate these impacts:

#### Parkland Impacts

Within the project area, the proposed improvements will require the conversion of approximately 2.76 acres of Riverside Parkland to permanent right-of-way. The Riverside Park area is owned by the City of St. Peter and considered a Section 4(f) resource under the FHWA regulations in 23 CFR 774. Also, Land and Water Conservation (LAWCON) funds were applied to Riverside Park, making it eligible for protection under Section 6(f) regulations. As mitigation for the conversion of the 2.76 acres of parkland to transportation right-of-way, MnDOT must provide replacement land of at least equal value and usefulness to the City. MnDOT is in the process of completing this transfer of land with the City of St. Peter, the Minnesota Department of Natural Resources, and the National Park Service.

An additional 0.05 acres of temporary easement will be needed in order to reconstruct a short segment of the park access road so that the grade is suitable for park users. This temporary occupancy will not constitute a Section 4(f) use because it meets the conditions listed in 23 CFR 774.13(d). The agency with jurisdiction over the Section 4(f) resource, the City of St. Peter, has concurred that the proposed reconstruction of the park road will not result in permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of Riverside Park, on either a permanent or temporary basis.

#### Right-of-way Impacts

No commercial or residential relocations are anticipated and no right-of-way beyond the impacts to Riverside Park are proposed.

#### Fish, Wildlife, and Ecologically Sensitive Resources

Portions of the landscape adjacent to the highway corridor remain undeveloped and consist of forested areas, wetlands, and floodplain areas that provide habitat for a variety of wildlife species. Riverside Park is found immediately north and south of the project corridor and the extent of impacts to the parkland have been described above. MnDOT has been in coordination with the City of Saint Peter, Minnesota Department of Natural Resources, US Army Corps of Engineers, US Fish and Wildlife Service, and other resource agencies to discuss potential project impacts, avoidance, minimization, and mitigation measures as it relates to natural and ecologically sensitive resources in the project area.

Areas disturbed by construction of the project improvements will be re-vegetated using seed mixes that are comprised of native plant species. Water quality treatment in the form of grass side slopes, grass swales, and infiltration areas have been incorporated into the highway section to collect, convey, and treat surface water prior to discharging to receiving water bodies (wetlands and the Minnesota River). MnDOT has also coordinated with resource agencies regarding wetland impacts. These efforts and others are intended to minimize and mitigate potential impacts to fish, wildlife, and ecologically sensitive resources present in the study area.

#### Erosion and Sedimentation

Erosion and sedimentation of all exposed soils within the project corridor will be minimized by employing best management practices (BMPs) during construction. Ditches, dikes, silt fences, bale checks, and temporary seeding/mulching are some of the typical temporary erosion control measures that will be used during construction. Temporary and permanent erosion control plans will be identified in the final construction plans, as required by the National Pollutant Discharge Elimination System (NPDES) permit and Storm Water Pollution Prevention Plan (SWPPP). Erosion control measures will be in place and maintained throughout the entire construction period. Removal of erosion control measures will not occur until all disturbed areas have been stabilized.

In addition, at the start of the project, adequate practices to prevent sediment from entering the Minnesota River will be installed in accordance with the permit requirements. These practices will be maintained or improved as needed for the duration of the project. Erosion control practices defined in the Minnesota Pollution Control Agency's General Stormwater Permit for Construction Activity will be followed.

#### Water Quality/Stormwater Management

The proposed project is expected to create a slight reduction in impervious area. Roadway runoff will be controlled by a rural roadway section with grass side slopes, grass ditches, and infiltration areas.

The stormwater features are designed to meet the NPDES stormwater design standards. As a result of the proposed water quality treatment features and various best management practices on this proposed project, the water quality and quantity of the off-site drainage is expected to be improved to that of the existing condition.

## Wetlands

This project will have approximately 0.35 acres of wetland impacts. A wetland mitigation plan for replacement of the affected wetland areas will be developed consistent with the current Wetland Conservation Act (WCA) regulatory requirements. A wetland technical evaluation panel (TEP) meeting has been held to discuss the project and potential impacts to wetlands. The federal Section 404 permit approval and completion of the state WCA process is expected soon. The project is located in the USACE Bank Service Area (BSA) #9 and the Minnesota River – Mankato major watershed (#28). The preferred method of wetland mitigation is through the purchase of wetland bank credits. As of November 2014, there are no Corps-approved wetland bank credits in either major watershed #28 or in any other major watershed in BSA #9. There are 100 plus acres of wetland bank credits in Houston County, which is in BSA #8. The standard wetland replacement ratio for outside of BSA replacement is 2.5 under the Wetland Conservation Act and for the USACE Section 404 permit is either 2.25 for same-type credits or 2.5 for different wetland type credits. MnDOT is committed to mitigating wetland impacts in accordance with all local, state, and federal requirements.

## <u>Floodplain</u>

The proposed improvements will place additional fill material in the Minnesota River floodplain. The MnDOT Bridge Office and State Hydraulics Engineer analyzed the waterway and floodplain needs for this segment of the river in relation to the existing conditions and proposed Highway 22 improvements. Based on hydraulic modelling, it was determined that there would be no stage increase over the in place condition. As a result of

the modelling, MnDOT has included a single span overflow structure along Highway 22 in order to help alleviate roadway overtopping under a 100-year flood event.

There is also no change expected to the floodway elevation since the existing bridge and waterway opening will not be altered.

#### Cumulative Potential Effects of Related or Reasonably Foreseeable Future Projects

The area immediately adjacent to the project is generally open space (Riverside Park) with urban development found in the City of Saint Peter. No future development opportunities in the surrounding area have been identified. However, any future land use changes in the City of Saint Peter and/or Nicollet County will be regulated by local zoning and subdivision ordinances. Other infrastructure projects, including the US Highway 169 Flood Mitigation and Reconstruction Project in Nicollet County, has been considered in the assessment of cumulative potential effects. As described on pages 75 through 81 in the EA/EAW, there is a low potential for significant cumulative effects from the proposed project and other reasonably foreseeable future actions.

# Extent to Which the Environmental Effects are Subject to Mitigation by Ongoing Public Regulatory Authority

The mitigation of environmental impacts will be designed and implemented in coordination with regulatory agencies and will be subject to the plan approval and permitting processes. Permits and approvals that have been obtained or may be required prior to project construction include those listed in Table 1.

#### Extent to Which Environmental Effects can be Anticipated and Controlled as a Result of Other Environmental Studies

MnDOT has extensive experience in roadway construction. Many similar projects have been designed and constructed throughout the area encompassed by this governmental agency. All design and construction staff are very familiar with the project area. No problems are anticipated which the MnDOT staff have not encountered and successfully solved many times in similar projects in or near the project area. MnDOT finds that the environmental effects of the project can be anticipated and controlled as a result of the assessment of potential issues during the environmental review process and MnDOT's experience in addressing similar issues on previous projects.

Unit of Government	Type of Application/Permit	Status
Federal Agency		
Federal Highway Administration	Environmental Assessment Approval	Completed
	EIS Need Decision	To be completed
	Section 106 Determination	Complete
National Park Service	Section 6(f) LAWCON Conversion	In Process
U.S. Army Corps of Engineers	Section 404 Permit – General Permit (GP)	In Process
U.S. Fish & Wildlife Service	Endangered Species Act Section 7 Determination	Complete

## Table 1 – Agency Approvals and Permits

Unit of Government	Type of Application/Permit	Status
State Agency		
MnDOT	Environmental Assessment Approval	Completed
	EIS Need Decision	To be requested
	Minnesota Wetland Conservation Act	In Process
State Historic Preservation Office	Section 106 Consultation	Complete
MN Department of Natural	State Endangered Species Review	Completed
Resources	Water Appropriations Permit	To be requested by contractor, if needed
Minnesota Pollution Control Agency	National Pollutant Discharge Elimination System Construction Storm Water Phase II Permit	To be requested
	401 Water Quality Certification	In Process
Local Agency		
City of Saint Peter	Municipal Consent	Completed
	Temporary Occupancy Concurrence – Riverside Park	Completed

#### 4.0 CONCLUSIONS

- 1. All requirements for environmental review of the proposed project have been met.
- 2. The EA/EAW and the permit development processes related to the project have generated information which is adequate to determine whether the project has the potential for significant environmental effects.
- 3. Areas where potential environmental effects have been identified will be addressed during the final design of the project. Mitigation will be provided where impacts are expected to result from project construction, operation, or maintenance. Mitigative measures are incorporated into project design, and have been or will be coordinated with state and federal agencies during the permit processes.
- 4. Based on the criteria in Minnesota Rules part 4410.1700, the project does not have the potential for significant environmental effects.
- 5. An Environmental Impact Statement is not required for the proposed Trunk Highway 22 Flood Mitigation Project.

For Minnesota Department of Transportation

Lynn P. Clarkowski, PE Chief Environmental Officer Director, Office of Environmental Stewardship

Date

# APPENDIX A

EA/EAW COMMENTS & RESPONSES

EQB NOTICE OF AVAILABILITY

PUBLIC HEARING CERTIFICATE OF COMPLIANCE

LEGAL NOTICE AND AFFIDAVIT OF PUBLICATION

LOCAL MEDIA NEWS ARTICLE

#### Agency and Public Comments on the EA/EAW and MnDOT's Responses

Consistent with state environmental review rules, responses have been prepared for all substantive comments submitted during the comment period. Written responses have been provided for comments pertaining to analysis conducted for and documented in the EA/EAW. Comment responses were not provided for comments of general opinions or statements of preference.

#### Comments and Responses

Copies of comments submitted by the following individuals and governmental agencies are included on the following pages.

- Comment A: Jeannie and Evan Peterson
- Comment B: Lawrence Wiese
- Comment C: Rick Tuonala

	Comments - 4012-36 (TH 22) 01/14/2015 10:04 AM
Messa 2015 04:2 To co Subject	ge from Jeannie Peterson <jeanniecpeterson@gmail.com> on Tue, 13 J 1:36 +0000 :: "Tess, Zachary (DOT)" <zachary.tess@state.mn.us> :: Evan <evanopeterson@gmail.com> :: Flood Mitigation Project on Hwy 22</evanopeterson@gmail.com></zachary.tess@state.mn.us></jeanniecpeterson@gmail.com>
Hello Zacha	ary,
We write a Jan. 8th, c the Frisber potential c "S" curve l placement how this a potential t	s we were unable to attend the public information meeting last Thursday lue to the weather. With the placement of a second bridge on Hwy 22 nd e Golf Course, a concern of ours (we live on Rabbit Road) involves the of future flooding of low lying areas on Rabbit Road (particularly near the below the railroad tracks) due to the displacement of water from the of an additional bridge. Our concern lies in the forethought of what and dditional bridge may impact the river and its flow down stream and/or the o flood in other areas.
Also, notici question if Living as c (Frisbee G it ever flow question c	ng the record breaking high levels this past June, we would like to an additional bridge is needed in this area or possibly a large culvert. lose as we do, we didn't witness water ever being on the road in this are olf Course). It came close to the shoulder of the road, but I don't believ ved over the white lines on each side of the road. This brings us to the f the need of a bridge or possibly a rather large culvert?
Any inform	ation addressing these questions/concerns would be greatly appreciated
Much thanl Jeannie an	ks, d Evan Peterson

#### **RESPONSES:**

- A1 As part of the early project scoping process, the MnDOT Bridge Office conducted a hydraulic modeling assessment of the Minnesota River and associated floodplain. The assessment determined that the proposed Highway 22 Flood Mitigation Project improvements would result in a "no stage increase" in flood elevations upstream or downstream over that of the in-place condition for the Minnesota River. This means that during the high water (flood) events, the elevation of the river at Rabbit Road is not anticipated to change due to the proposed improvements.
- A2 The MnDOT Bridge Hydraulics staff analyzed the cross sectional area needed (flowable area) during a 100year flood event in order to keep the Minnesota River from overtopping Highway 22. It was determined that following the grade raise of Highway 22, an additional 105 feet of flowable area was needed. MnDOT then compared the constructability and costs of adding a new bridge or a series of large culverts. It was determined that a single span bridge (55 feet by 105 feet) was more cost effective than a series of large box culverts. The location of the new bridge structure is shown on the preliminary layout (see Appendix B).

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A2

#### Comment B: Lawrence Wiese

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Find more inform	nation and sign up for email up www.dot.state.mn.u	pdates at the project us/d7/projects/flood	website: mitigatio	n/index.html
Comments may	also be mailed to Zachary Tess,	, MnDOT Project Mana	ger, at: 21	51 Bassett Drive, Mankato, MN 56001 or

#### **RESPONSES:**

**B1** The section of Highway 22 near Township Road 140/470<sup>th</sup> Street is outside the project area. MnDOT is aware of past drainage issues that have resulted in water overtopping the roadway. MnDOT is developing a separate project to address road closures due to flooding at the location described.

**B1** 

HWY 22 Flood Mitigation Project Saint Peter, MN
COMMENTS & FEEDBACK
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#### **RESPONSES:**

- C1 Pedestrian use is not prohibited on the existing shoulder of Highway 22; however, pedestrian crossings are currently prohibited at the Highway 22 intersection with Highway 169 allowing for the crossing maneuver to occur at the Highway 169/Jefferson Avenue intersection. MnDOT encourages the use of the existing trail for pedestrians within the project area. If a pedestrian or bicyclist is travelling along the Highway 22 shoulder, they will continue to have an adequate 10' shoulder width across the river bridge. The existing trail will not be tied into the Highway 22 shoulder.
- C2 The speed transition zone located south along US Highway 169 is outside the limits of the Highway 22 Flood Mitigation Project. However, MnDOT will continue to monitor travel speeds and safety conditions in the area to determine if changes are needed to address a safety concern.

#### **EQB Monitor Notice**

**Project Description:** The AUAR area is bordered on the east by Labeaux Ave. NE (CSAH 19) and residential development, on the north and south by agricultural land and residential development, and on the west by Gonz Lake. The AUAR area includes one parcel of land (PID 114-500-231100) located at 2381 Labeaux Ave NE, within the south ½ of Section 23, T120N, R24W.

RGU: City of St. Michael

Contact Person: Mr. Marc Weigle Community Development Director City of St. Michael 11800 Town Center Dr. NE Suite 300 St. Michael, MN 55376 <u>mweigle@ci.st-michael.mn.us</u>

#### EA/EAW Available

Comment Deadline: January 21, 2015

# **Project Title: TH 22 Flood Mitigation Project**

**Project Description:** Reconstruction of approximately 0.59 miles of Highway 22 as a rural twolane roadway above the 100-year flood elevation of the Minnesota River and construction of an overflow bridge structure (approximately 105' 6" long) to maintain the flowable area of the river and floodplain.

RGU: Minnesota Department of Transportation (MnDOT)

Contacts: Zachary Tess, PE MnDOT District 7 2151 Bassett Dr Mankato, MN 56001 507-304-6199 zachary.tess@state.mn.us

> Phil Frost FHWA 380 Jackson St, STE 500 St. Paul, MN 55101-4802 651-291-6110 phil.forst@dot.gov

# Project Title: Anoka County State Aid Highway 14/125th Avenue NE Reconstruction Project

**Project Description:** The County State Aid Highway 14/125th Avenue NE Reconstruction Project is approximately 1.5 miles long and extends from Radisson Road (County Road 52) to just east of Harpers Street NE in the City of Blaine, Anoka County. The project proposes to reconstruct the highway as a four-lane divided section with left and right turn lanes at key intersections. New traffic signals are proposed at Cloud Drive and Harpers Street. Minor

	DEPARTMENT OF TRANS	SPORTATION	
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Highway 22 Flood Mitigation Project Legal Notice and Affidavit of Publication

AFFIDAVIT OF PUBLICATION STATE OF MINNESOTA COUNTY OF NICOLLET Highway 22 Flood Mitigation ST PETER HERALD Project The Minnesota Department of **REBECCA ARNDT** Transportation has initiated a flood mitigation project that will MINNESOTA DEPT TRANSPORTATION consider improvements to Highway 22 from the south side 2151 BASSETT DRIVE MANKATO MN 56001 of the Minnesota River Bridge to the intersection of US Highway 169 in Saint Peter. REFERENCE: 53852 A combined Federal 3057687 HWY 22 FLOOD MITIGAT Environmental Assessment and State Environmental Assessment Worksheet (EA/EAW) has been I do solemnly swear that a copy of the notice, as per the clipping attached, was published in the regular and entire edition of the St. Peter prepared and will be available for public and agency review and comment beginning December 22, 2014. The EA/EAW Identifies Herald, a newspaper of general circulation, published in St. Peter, County of Nicollet, State of Minnesota, and not in any supplement. The newspaper has complied with all the requirements constituting qualifications as a legal newspaper, as provided by Minnesota statute 2210 42 State the project purpose and need, alternatives considered, and identifies potential social, economic, and environmental effects. The EA/EAW is available as provided by Minnesota statutes 331A.02, for review at the following locations: 331A.07, and all other applicable laws, as amended. The attached advertisement appeared in the issue(s) listed/below. cations; Saint Peter Library, 601 S. Washington Avenue, Saint Peter, MN 56082; Blue Earth County Library, 100 E. Main Street, Mankato MN 56002 Authorized Agent MnDOT District 7 Office 2014 Sworn to before mg this dav 0 Building Lobby, 2151 Bassett Drive, Mankato, MN 56001; Minneapolis Public Library, Technical & Science Division, Government Docs. 2nd Floor, Nicollet Minnesota County, 300 Nicollet Mall Minneapolis, MN 55401-1992; MnDOT Library, 395 John Ireland Boulevard, St. Paul, MN 55155. PUBLISHED ON: 12/18 To afford an opportunity for all DEBBIE ZIMMERMAN interested persons, agencies and Interested persons, agencies and groups to learn more about the project, a public informational meeting has been scheduled for Thursday, January 8, 2015 at the Saint Peter Community, Center -, Senior Room, 600 South 5th Street, Saint Peter MN 56082; The open house style meeting will be held form 420 to NOTARY PUBLIC - MINNESOTA My Commission Explices Jan. 81, 2015 145.00 TOTAL COST: FILED ON: 12/18/14 meeting will be held from 4:30 to 6:30. MnDOT representatives Lowest classified rate: \$15.80 per inch Maximum rate allowed by law: \$14.40 per inch will be present to answer questions. The deadline for submitting comments is Wednesday, January 21, 2015. All comments should be directed to. Zachary Tess, MnDOT Project Manager, 2151 Bassett Drive, Mankato, MN 56001, zachary.tess@state.mn.us To request this document in an alternative format, please contact the Affirmative Action Office at 651-366-4718 or call 1-800-657-3774 (Greater Minnesota). For Minnesota Relay, call 711 or 1-800-627-3529. You may also send an e-mail to ADArequest.dot@state.mn.us. (Please make.your request at least one week in advance). 3057687 SPH 12/18

#### Highway 22 Flood Mitigation Project Public Meeting Reschedule Article



# APPENDIX B

HIGHWAY 22 FLOOD MITIGATION PROJECT – PRELIMINARY LAYOUT



Page **17** Findings of Fact & Conclusions