

County Highway 27 Reconstruction

Findings of Fact and Conclusions

Prepared for:



Prepared by:

Kimley»Horn

May 2018

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Administrative Background

As the designated Responsible Governmental Unit (RGU), Scott County has prepared an Environmental Assessment Worksheet (EAW), in accordance with Minnesota Rules Chapter 4410, for the proposed expansion of 1.5 miles of Scott County Highway (CH) 27, a two-lane rural section of roadway to a four-lane urban roadway with turn lanes, center median, paved shoulders, stormwater infrastructure (i.e. curb and gutter), and multi-use trails along both sides of the roadway. The project is located between County State Aid Highway (CSAH) 21 and CSAH 44. The project will also include modifications to local road access, modifications to a trail loop in Cleary Lake Regional Park, and stormwater infrastructure. The project is anticipated to be constructed in Spring of 2021 and require one construction season.

Copies of the EAW were distributed to agencies on the current Minnesota Environmental Quality Board distribution list. A notice of availability was published in the *EQB Monitor* on March 5, 2018. This notice included a description of the project, information on where copies of the EAW were available, and invited the public to provide comments. A press release with the noticing information was sent to local newspapers within the project vicinity, including the Shakopee Valley News, the Savage Pacer, and the Prior Lake American.

The EAW was made available electronically on Scott County's website at <https://www.scottcountymn.gov/591/CH-27-Reconstruction>. Hard copies were available at the following locations:

- Prior Lake Library, 16210 Eagle Creek Avenue SE, Prior Lake, MN 55372
- Savage Library, 13090 Alabama Avenue S, Savage, MN 55378
- Hennepin County Library – Minneapolis Central, 300 Nicollet Mall, Minneapolis, MN 55401

A public open house was held on November 14, 2017 from 5:00 to 7:00 p.m. at the Cleary Lake Regional Park Visitor Center. The open house was advertised via a project newsletter.

The EAW comment period extended from March 5 to April 4, 2018. Six written comment letters were received during the comment period. All comments received were considered in determining the potential for significant environmental impacts. Comments and responses to comments are included in Appendix A.

Based on the information in the record, which is composed of the EAW for the proposed project, the comments submitted during the public comment period, the responses to comments, and other supporting documents, Scott County makes the following Findings of Fact and Conclusions.

Findings of Fact

Project Description

The proposed project will reconstruct approximately 1.5 miles of CH 27 from a two-lane rural roadway to a four-lane divided urban roadway in Credit River Township. The roadway will include turn lanes, paved shoulders, stormwater infrastructure (i.e. curb and gutter), and multi-use trails on both sides of CH 27. The proposed project will meet current Scott County design standards and the regional comprehensive plans.

The project will result in slight alignment shifts to accommodate widening while minimizing property impacts. As a result, this project is anticipated to result in some right-of-way acquisition and has the potential for up to three total property takes between 170th Street and CSAH 44, where structures are generally closer to the existing road alignment. Any acquisition and relocation will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

To improve access management and spacing along CH 27 and be consistent with the highway functional classification under the County's Access Management Policy, two side streets will be realigned and two street accesses will be removed. 170th Street will be realigned north to form a connection with 169th Street. Access to CH 27 will be closed at Creekwood Road and rerouted to 165th Street, Cleary Place and Faricy Lane will be connected, resulting in connection to CH 27 via 170th or Casey Parkway. The access at 174th Street and many of the existing driveways will be modified to a right in/right out only access.

Stormwater infrastructure will be included as part of the project, including the installation of curb and gutter along the roadway and the construction of six new stormwater Best Management Practices (BMPs), including four infiltration areas and two wet detention basins.

Based on preliminary design plans an estimated 14.6 acres of right-of-way (ROW) will be acquired from 21 parcels. The project is anticipated to be constructed in Spring of 2021 and require one construction season.

Corrections to the EAW or Changes to the Project since the EAW was Published

There have been no changes to the proposed project design since the EAW was published.

Based on comments received, a few minor corrections to the EAW are noted here. These changes are incorporated into the EAW by reference:

- Cleary Lake is a DNR Public Water (# 22P) and has an associated Shoreland Zone. The project area south of approximately Flemming Road falls within this zone. The stormwater management proposed for the new impervious surface created by the project is in compliance with the shoreland zone requirements. Grading for the realigned trail will also be designed to meet the erosion control and stabilization requirements within the zone.
- Credit River Township, as the Local Government Unit, approved the wetland types and boundaries identified in the delineation in a Notice of Decision in February of 2018. The USACE typically approves delineations as part of the permitting process which will be conducted during final design of the project.

Agency and Public Comments on the EAW

Scott County received six written comment letters during the comment period from the State Archeologist, Minnesota Department of Natural Resources, Minnesota Department of Transportation, Minnesota Pollution Control Agency, Metropolitan Council, and the US Army Corps of Engineers. No written comments were received at the public open house.

Consistent with state environmental review rules, written responses have been prepared for all substantive comments submitted during the 30-day EAW comment period and are included in Appendix A.

Decision Regarding Need for an Environmental Impact Statement

Scott County finds that the analysis completed for the EAW and the additional information considered in this Findings of Fact and Conclusions document are adequate to determine whether the project has the potential for significant environmental effects based on consideration of the four criteria identified in Minnesota Rules, part 4410.1700, subpart 7 (described in the four sections that follow).

1. Type, Extent, and Reversibility of Impacts

Scott County finds that the analysis completed for the EAW is adequate to determine whether the project has the potential for significant environmental effects. The EAW described the type and extent of impacts to the natural and built environment anticipated to result from the proposed project. This document provides corrections, changes, and new information since the EAW was published. The proposed design for the project includes features to mitigate the identified impacts. Based on the EAW analysis and mitigation commitments, the proposed project is not anticipated to result in substantial impacts. As the project design advances, the construction limits will be refined. Impacts reported in the EAW were considered to be the worst-case scenario.

Below are the findings regarding potential environmental impacts of the proposed project and the design features included to avoid, minimize, and mitigate these impacts. No impacts were identified to land use, geology, soils, topography/land forms, historic properties, visual, air, noise, transportation, or cumulative.

Table 1: Summary of Impacts and Mitigation

Resource Impacted (Section of EAW)	Impacts	Mitigation/Recommendations
Parks (Section 9)	The project is anticipated to require approximately 2 acres of right-of-way acquisition from the Cleary Lake Regional Park. In addition, approximately 1.5 acres of temporary easements are anticipated due to realignment of the existing park trail.	In order to mitigate permanent right-of-way acquisition, the County will provide compensation to the Three Rivers Park District to be used for acquiring park land at the District's discretion. The realigned trail will provide for a connection to proposed trails on either side of the proposed CH 27 and allow for a future trail connection between Cleary Lake Regional Park and Murphy-Hanrahan Regional park as identified in local and regional comprehensive planning; the realignment will be a temporary impact.

Resource Impacted (Section of EAW)	Impacts	Mitigation/Recommendations
Water quality: surface water runoff (Section 11)	The project will have a net increase of 9.34 acres of impervious surfaces across the entire project area. The project is required to treat stormwater runoff prior to discharging offsite.	Six BMPs will be constructed; four infiltration areas and two wet detention basins. Each BMP is designed to meet or exceed the required water quality and volume control according to the NPDES and the Nationwide Urban Runoff Program (NURP) criteria. A Stormwater Pollution Prevention Plan (SWPPP) will be developed for this project. All areas disturbed during construction would be revegetated in accordance with the SWPPP and related permitting requirements.
Wetlands (Section 11)	Approximately 2 acres of wetland impact and 0.09 acres of stream/channel impact are proposed as part of preliminary design. Coordination with wetland agencies will be initiated by Scott County to obtain necessary permits from DNR, Army Corps, and Credit River Township.	Approximately 1.5 acres of wetland impact will require mitigation at a 2 to 1 ratio via credits from an approved wetland bank. Scott County will not conduct work in the stream channel between March 15 and June 15 to allow for fish migration or spawning.
Solid wastes, hazardous wastes, storage tanks (Section 12)	Toxic or hazardous substances may be used during project construction (petroleum products such as diesel fuel, hydraulic fluid, and chemical products such as sealants).	Builder/contractors are responsible for proper management and disposal of any wastes generated during construction. During construction of the project any toxic or hazardous materials will be properly used, sorted and disposed of when finished.

Resource Impacted (Section of EAW)	Impacts	Mitigation/Recommendations
Fish, wildlife and ecologically sensitive resources (Section 13)	<p>Blanding's turtles, a state threatened species, may be found in the project area.</p> <p>The northern long-eared bat (<i>Myotis septentrionalis</i>), a federally threatened species, may be found in the project area.</p> <p>The wetland complex associated with DNR wetland 172w in the construction limits is within a designated Regionally Significant Ecological Area (RSEA).</p>	<p>Measures outlined in the Blanding's turtle fact sheet will be implemented to the extent possible. These measures will be identified in the specifications for the project.</p> <p>Tree removal will be coordinated during the federal permit process and will occur outside of the April to October timeframe; therefore, no impacts to the northern long-eared bat are anticipated.</p> <p>The overall RSEA is not expected to be adversely affected due to small impact area and low quality fringe area being impacted.</p>
Archaeological, historical, architectural resources (Section 14)	An Archaeological Survey has been recommended by the state archaeologist.	Scott County is in the process of hiring a qualified archaeologist to evaluate the need for an archaeological survey. The findings of that evaluation will be coordinated with the Office of the State Archaeologist.

2. Cumulative Potential Effects of Related or Anticipated Future Projects

In accordance with Minnesota Rules, part 4410.1700, subpart 7, item B; cumulative potential effects of related or anticipated future projects were identified and included in Section 19 of the EAW. The primary actions that have potential for cumulative impacts with this project are those actions that have potential to affect wetlands, stormwater and traffic. A number of projects were identified and evaluated in the EAW, however, there were no potential for cumulative impacts identified as a result of this project in conjunction with other past, present or reasonably foreseeable future projects.

3. 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 process. Permits and approvals that have been obtained or may be required prior to project construction are shown in Table 2.

Table 2: Permits and Approvals Required

Unit of Government	Type of Application	Status		
		To be requested	Requested	Complete
LOCAL				
Local Governmental Unit (Credit River Township)	Wetland Conservation Act Wetland Replacement Plan	X		
Scott County	EIS Need Decision		X	
Metropolitan Council	Park Conversion Approval	X		
STATE				
Minnesota Department of Natural Resources (DNR)	Groundwater Appropriation Permit, if necessary	X		
DNR	Public Waters Work Permit	X		
Minnesota Pollution Control Agency (MPCA)	National Pollutant Discharge Elimination Permit (NPDES)	X		
MPCA	Section 401 Certification (may be covered under USACE permit)	X		
FEDERAL				
US Army Corps of Engineers (USACE)	Section 404 Permit	X		

4. *Extent to which Environmental Effects can be Anticipated and Controlled as a Result of Other Environmental Studies*

Scott County has extensive experience in roadway construction projects. Many similar projects have been designed and constructed throughout the county. All design and construction staff are very familiar with the project area. No problems are anticipated that County staff has not encountered and successfully solved many times previously in similar projects in or near the project area. The County finds that the environmental effects of the project can be anticipated and controlled as a result of environmental review and experience on similar projects.

Conclusions

1. All requirements for environmental review of the proposed project have been met.
2. The EAW and the permit development processes related to the project have generated information that 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. Mitigation measures are incorporate into project design and have been or will be coordinated with state and federal agencies during the permit process.
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 CH 27 Reconstruction project.

For Scott County

Signature 
Title COUNTY ENGINEER

Date 6-8-18

Appendix A

Comments and Responses



March 5, 2018

Tony Winiacki
County Engineer
600 County Trail East
Jordan, MN 55352
twiniacki@co.scot.mn.us

RE: County Highway (CH) 27 Reconstruction Project from CSAH 21 to CSAH 44, Scott County

Dear Mr. Winiacki:

A Thank you for the opportunity to comment on the proposed County Highway 27 reconstruction project. Although no recorded archaeological sites exist within the footprint of the proposed project, the landscape has a high potential for unrecorded archaeological sites, and the area has numerous recorded significant archaeological sites. Thus, I recommend that a qualified archaeologist assess the potential within the project corridor and either conduct an archaeological survey or demonstrate that the Area of Potential Effect has been disturbed to a depth that potential archaeological sites have been destroyed. The Minnesota Historic Preservation Office maintains a list of qualified archaeologists at: <http://www.mnhs.org/shpo/preservation-directory>.

The Office of the State Archaeologist reviewed this project under the Minnesota Field Archaeology Act (MS 138.31 - .41), the Private Cemeteries Act (MS 307.08), and the Minnesota Environmental Policy Act (MS 116D).

Sincerely,

A handwritten signature in black ink, appearing to read 'Amanda Gronhøvd'.

Amanda Gronhøvd
State Archaeologist
200 Tower Avenue
Fort Snelling History Center
St. Paul, MN 55111
Amanda.Gronhøvd@State.MN.US
612-725-2411

Response to Comment A

Scott County is in the process of hiring a qualified archaeologist to evaluate the need for an archaeological survey. The findings of that evaluation will be coordinated with the Office of the State Archaeologist.



Minnesota Department of Natural Resources
Ecological and Water Resource
1200 Warner Road
St. Paul, MN 55106

April 4, 2018

Transmitted Electronically

Tony Winiacki
County Engineer
600 County Trail East
Jordan, MN 55353

Re: County Highway 27 Reconstruction EAW

Dear Tony Winiacki,

The Minnesota Department of Natural Resources (DNR) has reviewed the Environmental Assessment Worksheet (EAW) for the County Highway (CH) 27 Reconstruction Project from CSAH 21 to CSAH 44. We offer the following comments for your consideration.

- A | **Page 7, Zoning:** The EAW states that there are no shoreland districts within the project area. This is incorrect, a portion of the project is within the shoreland district of Cleary Lake. The EAW should note this, and discuss compatibility with this zoning in sections 9 b and c.
- B | **Page 10, Surface Water:** Cleary Lake should be included in the list of Minnesota DNR Public Waters.
- C | **Page 13, Water Appropriation:** It is good to see in the EAW that the Proposer is aware of the potential requirement for a DNR Water Appropriation Permit. As stated in the EAW, construction dewatering that exceeds a volume of 10,000 gallons per day, or one million gallons per year, needs to be approved under a DNR Water Appropriation Permit. Examples of when this project may require this type of permit include: during excavation of storm water ponds, installation of storm sewer, or installation of utilities or bridge crossings.
- D | **Page 14, Other Surface Waters:** As noted, impacts to the unnamed public watercourse located north of Creekwood Road will need to be coordinated with the DNR and will require a Public Waters Work Permit. In addition, impacts to DNR Public Water Wetland 70-176 would also require a Public Waters Work Permit from the DNR. The project proposer will need to look into alternatives to impacting the public water wetland, such as bridging, in order to minimize fill impacts and whether the wetland could be expanded in other areas as an alternative to wetland banking in order to maintain wetland habitat on site. In addition, if culverts are proposed to be replaced, DNR may ask for a design that allows for wildlife crossing, such as offset culverts.
- E | **Page 21, Fish, Wildlife, Plant Communities, and Sensitive Ecological Resources (Rare Features):** As stated in the EAW, and in the DNR correspondence letter in Appendix B, a population of Blanding's turtles, a state-listed threatened species, is known to occur in the area of the proposed project. This population may be impacted by the project due to direct fatalities or habitat disturbance/destruction due to dewatering, excavation, fill, or other construction activities associated with the project. The EAW should identify the specific measure that will be taken to avoid and minimize impacts to this rare species. As stated in the EAW, project proposers will need to continue to coordinate with the DNR regarding project design and minimization efforts. Potential impacts will

need to be addressed before any DNR water permits can be issued. In addition to the DNR letter in Appendix B, I've attached the Blanding's turtle Fact Sheet and Flyer that should be included as part of the EAW record.

F In addition, where applicable, we recommend that the proposer consider planting the roadside with native pollinators, which could provide additional habitat for bees and butterflies, and require less maintenance such as mowing and applying pesticides to control weeds. The Xerces Society has published a document that may be useful. The website is included below.

On behalf of the DNR, thank you for consideration of these comments.

Sincerely,

/s/ Rebecca Horton
Region Environmental Assessment Ecologist

CC: Lisa Joyal, Joe Richter, Jennie Skancke

Website:

http://www.xerces.org/wp-content/uploads/2010/05/roadside-guidelines_xerces-society1.pdf

Response to Comment A

Thank you for catching our omission. Cleary Lake does have a shoreland zone associated with it, which extends 1,000 feet from the ordinary high water mark of the lake. Therefore, the project area south of approximately Flemming Road falls within this zone. The stormwater management proposed for the new impervious surface created by the project is in compliance with the shoreland zone requirements. Grading for the realigned trail will be also be designed to meet the erosion control and stabilization requirements within the zone.

Response to Comment B

Cleary Lake is a DNR public water (number 22p) and should have been included in the EAW. The project, however, results in no impacts to Cleary Lake.

Response to Comment C

Thank you for your comment.

Response to Comment D

Comments noted. Scott County will coordinate with the DNR area hydrologist to obtain the necessary public waters work permit for impacts to DNR wetland 176w and the unnamed stream.

Response to Comment E

The DNR fact sheet and flyer regarding Blanding's turtle have been added to this Findings document. As stated in the EAW, Scott County will coordinate with the DNR as it works through final design and will work toward avoiding and minimizing potential impacts to Blanding's turtles.

Response to Comment F

Thank you for your comment.

Minnesota Department of Transportation

Stolte, Aaron

From: Pansch, Joshua (DOT) <josh.pansch@state.mn.us>
Sent: Tuesday, March 6, 2018 4:47 PM
To: twiniecki@co.scott.mn.us
Cc: Stolte, Aaron; Sherman, Tod (DOT); Scheffing, Karen (DOT); Wiltgen, Jennifer (DOT); Pansch, Joshua (DOT)
Subject: RE: Scott County EAW - CH 27 Reconstruction Project
Categories: External

Hello Tony,

Thank you for including us in this Environmental Assessment Worksheet review. We appreciate the work being done to improve safety along County Highway 27, increased multimodal accessibility and improvements to mobility.

A | The Minnesota Department of Transportation (MnDOT) has reviewed the project and has no additional comments, as the proposed project should have little or no impact on MnDOT's highway system. If there are future changes please keep us involved.

Thank you

Josh Pansch, Senior Planner
MnDOT Metro District
1500 W. County Road B-2
Roseville, MN 55113
(651) 234-7795
josh.pansch@state.mn.us

From: Stolte, Aaron [<mailto:Aaron.Stolte@kimley-horn.com>]
Sent: Friday, March 2, 2018 11:02 AM
Cc: rronning@co.scott.mn.us; twiniecki@co.scott.mn.us
Subject: Scott County EAW - CH 27 Reconstruction Project

Dear agency/organization representative,

On behalf of Scott County, please find the attached Environmental Assessment Worksheet (EAW) for the County Highway (CH) 27 Reconstruction project.

As the designated Responsible Governmental Unit (RGU), Scott County has prepared an EAW for the proposed expansion of 1.5 miles of CH 27, a two-lane rural section of roadway to a four-lane urban roadway with turn lanes, center median, paved shoulders, stormwater infrastructure (i.e., curb and gutter), and multi-use trails along both sides of the roadway. The project is located between County State Aid Highway (CSAH) 21 and CSAH 44. The project will also include modifications to local road access, modifications to a trail loop in Cleary Lake Regional Park, and stormwater infrastructure. The project is anticipated to be constructed in Spring of 2021 and require one construction season.

Copies of the EAW are being distributed to agencies on the current Minnesota Environmental Quality Board distribution list. The EAW can be accessed electronically, starting Monday March 5th, on Scott County's website at <https://www.scottcountymn.gov/591/CH-27-Reconstruction>. It will also be available in hard copy at the following locations:

- Prior Lake Library, 16210 Eagle Creek Avenue SE, Prior Lake, MN 55372
- Savage Library, 13090 Alabama Avenue S, Savage, MN 55378
- Hennepin County Library – Minneapolis Central, 300 Nicollet Mall, Minneapolis, MN 55401

Written (mail or email) comments on the EAW will be accepted until April 4, 2018 and should be directed to:

Tony Winiacki
County Engineer
Scott County
600 County Trail East
Jordan, MN 55352
twiniacki@co.scott.mn.us

Kimley»Horn

Aaron Stolte

Kimley-Horn | 2550 University Avenue West, Suite 238N, Saint Paul, MN 55114
Direct: 612-326-9510 | Mobile: 651-491-4798

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Response to Comment A

Thank you for reviewing the EAW.



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800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer



April 2, 2018

Tony Winiacki
County Engineer
Scott County
600 County Trail East
Jordan, MN 55352

Re: County Highway 27 Reconstruction Project Environmental Assessment Worksheet

Dear Tony Winiacki:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the County Highway 27 Reconstruction project (Project) in Scott County, Minnesota. The Project consists of expansion of 1.5 miles of highway from 2-lane rural to 4-lane urban. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility or other interests, the MPCA staff has the following comments for your consideration.

Water Resources (Item 11)

- A** | • The statement is made in the EAW that "A Notice of Application was submitted in December 2017 for delineation approval." Please clarify if the delineation was approved.
- B** | • No information was provided on the methods being used to replace the culvert or any other in-water work. A discussion about preventing total suspended solids from entering the water during construction would assist in understanding the risk of contamination to the water.

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 EAW, please contact me by email at Karen.kromar@state.mn.us or by telephone at 651-757-2508.

Sincerely,

Karen Kromar
Project Manager
Environmental Review Unit
Resource Management and Assistance Division

KK:bt

cc: Dan Card, MPCA, St. Paul
Jim Brist, MPCA, St. Paul
Teresa McDill, MPCA, St. Paul



Response to Comment A

Credit River Township, as the Local Government Unit, approved delineated wetland types and boundaries with a Notice of Decision in February of 2018. The USACE typically approves delineations as part of the permitting process which will be conducted during final design of the project.

Response to Comment B

The project is currently in preliminary design and detailed plans for the culvert crossing just north of Creekwood Road for the unnamed DNR stream have yet to be developed. As noted in the EAW, permits from the DNR and USACE will be obtained prior to construction which will address erosion control measures. Additionally, a SWPPP will be developed for this project. All areas disturbed during construction will be revegetated after construction. In accordance with the SWPPP and related permitting requirements, erosion control measures will mitigate the potential for Total Suspended Solids to leave the work area. Scott County recognizes this work will need to be coordinated with the DNR and that this work in the creek cannot be conducted between March 15 and June 15 to allow for fish migration or spawning.

March 29, 2018

Mr. Tony Winiecki
600 County Trail East
Jordan, MN 55352



RE: EAW - County Highway (CH) 27 Reconstruction Project from CSAH 21 and CSAH 44
Metropolitan Council Review File No. 21885-1
Metropolitan Council District 4

Dear Mr. Winiecki:

The Metropolitan Council received the EAW for the County Highway 27 reconstruction project on March 2, 2018. The proposed project is to expand 1.5 miles of Scott County Highway (CH 27), a two-lane rural section of a roadway to a four-lane urban roadway with turn lanes, center median, paved shoulders, stormwater infrastructure (i.e. curb and gutter), and multi-use trails along both sides of the roadway. The project is located between County State Aid Highway (CSAH 21 and CSAH 44). The project will also include modifications to local road access, modifications to a trail loop in Cleary Lake Regional Park, and stormwater infrastructure.

Council staff has conducted a review of this EAW to determine its adequacy and accuracy in addressing regional concerns and the potential for significant environmental impact. Staff have concluded that the EAW is incomplete or inaccurate and may have policy implications with the *2040 Regional Parks Policy Plan*. The document should be revised to provide the following information regarding the right of way acquisition and resubmitted to the Metropolitan Council before Scott County takes final action on the EAW.

Regional Parks (Lisa Barajas, 651-602-1895)

The EAW proposes to reconstruct Scott County Highway 27 between County State Aid Highways 21 and 44. Cleary Lake Regional Park is located on the southwest corner of the CH 27 / CSAH 21 intersection, adjacent to the southern end of the project area. The regional park is owned and operated by Three Rivers Park District and is governed by the Metropolitan Council's *2040 Regional Parks Policy Plan* (RPPP).

A

The EAW indicates that the project is anticipated to result in some right-of-way acquisition. It is unclear from the EAW text whether land will be taken from Cleary Lake Regional Park. However, from the aerial photo and project layout in Figure 3, it appears that the planned roadway impacts an existing trail within the regional park and a new trail is proposed to be constructed. The RPPP requires that any conversion of regional parkland to another use is subject to Metropolitan Council approval of an equally valuable land or facility exchange (System Protection Strategy 2). In addition, there may be restrictive covenants between the Metropolitan Council and Three Rivers Park District recorded on the property that prohibit the sale, lease, transfer, or granting of easements on the land without approval from the Metropolitan Council.

The EAW should be revised to indicate whether the project proposes to take land from Cleary Lake Regional Park. If regional parkland is needed for the project, the EAW should indicate whether there are restrictive covenants on the affected property and Section 8: Permits and

- A | Approvals Required should be revised to indicate that Metropolitan Council approval of a conversion of regional parkland is required.

Item 13.d – Fish, Wildlife, Plant Communities and Sensitive Ecological Resources (Rare Features) (*Jim Larsen, 651-602-1159*)

The EAW indicates that based upon the number of observed occurrences near the project area of Blanding's turtle (*Emydoidea blandingii*), a state-listed threatened species, it is assumed that an established population is present in the area and that the proposed project may have an impact on the population's established habitat and population. Extensive wetland areas are present on each side of the existing roadway corridor, and several new infiltration and stormwater management basins will also be constructed adjacent to the roadway. The prevalence of these water features in addition to the plan to revise the roadway from a rural to an urban cross-section raises the probability for an increase in wildlife impacts following completion of the project.

B

Council staff recommends incorporating into the project specifications, the requirement for utilization of sloping, surmountable curbs for both raised medians and outer pavement edge along the project corridor. The use of standard, near-vertical B424 or similar curbing for the new roadway can be expected to result in nearly full mortality of the area's turtle population by entrapping them within the roadway as they pass between adjacent wetland basins and habitat areas. This simple design change to use a more gently sloping curb will reduce the fauna mortality risk without impacts to storm water flow, driver and pedestrian safety, or maintenance activities and is consistent with recommended Minnesota Department of Natural Resources guidance presented in the EAW. We suggest the use of Minnesota Department of Transportation Curb and Gutter Design No. S524 or similar design profile.

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

Sincerely,



Lisa Beth Barajas, Manager
Local Planning Assistance

CC: Tod Sherman, Development Reviews Coordinator, MnDOT - Metro Division
Deb Barber, Metropolitan District 4
Angela Torres, Sector Representative
Russ Owen, Principal Reviewer, Metropolitan Council
Raya Esmaeili, Reviews Coordinator

Response to Comment A

The County has checked the title for the park and has confirmed that there are restrictions on the sale of the property. Therefore, the permit table has been updated as suggested, indicating the need for Council approval of the transaction.

Impacts to Cleary Lake Regional Park are anticipated as part of this project are being coordinated with the Three Rivers Park District, who is a project partner. Impacts are unavoidable for the widening project given the need to avoid the Credit River Catholic Cemetery located across the road from Cleary Lake Regional Park. The project is anticipated to require approximately 2 acres of right-of-way acquisition from the park. In addition, approximately 1.5 acres of temporary easements are anticipated due to realignment of the existing park trail. The realigned trail will provide for a connection to proposed trails along the proposed CH 27 roadway and allow for a future trail connection between Cleary Lake Regional Park and Murphy-Hanrahan Regional park as identified in local and regional comprehensive planning. In order to mitigate permanent acquisition of parkland, the County is working with the Three Rivers Park District to determine an appropriate fee which could be used for acquiring park land at the District's discretion. Because the park has a restrictive covenant preventing the sale of parkland without Metropolitan Council approval, the parkland conversion agreement will also be coordinated with the Metropolitan Council.

Response to Comment B

As noted in the EAW, Scott County will coordinate with the DNR as it works through final design and will work toward avoiding and minimizing potential impacts to Blanding's turtles. Using S524 curb may require a wider clear zone resulting in greater wetland fill impacts; therefore, specific avoidance and mitigation measures for wetlands and rare species will be coordinated with the DNR. Feasibility of design elements, including surmountable curb, will be considered and evaluated during final design and permit coordination.



REPLY TO ATTENTION OF
REGULATORY BRANCH

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

March 13, 2018



Regulatory File No. MVP-2017-04269-JTB

Scott County Highway Department
c/o Randy Ronning
600 Country Trail East
Jordan, Minnesota 55352

Dear Mr. Ronning:

We have received the document entitled "CSAH 27 Reconstruction Project EAW" dated March 2, 2018. The purpose of this letter is to inform you that based on available information a Department of the Army (DA) permit may be required for your proposed activity. This letter also provides general information regarding the U.S. Army Corps of Engineers (Corps) regulatory program.

- A | If the proposal involves activity in navigable waters of the United States, it may be subject to the Corps of Engineers' jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Section 10 prohibits the construction, excavation, or deposition of materials in, over, or under navigable waters of the United States, or any work that would affect the course, location, condition, or capacity of those waters, unless the work has been authorized by a Department of the Army permit.
- B | If the proposal involves discharge of dredged or fill material into waters of the United States, it may be subject to the Corps of Engineers' jurisdiction under Section 404 of the Clean Water Act (CWA Section 404). Waters of the United States include navigable waters, their tributaries, and adjacent wetlands (33 CFR § 328.3). CWA Section 301(a) prohibits discharges of dredged or fill material into waters of the United States, unless the work has been authorized by a Department of the Army permit under Section 404. Information about the Corps permitting process can be obtained online at <http://www.mvp.usace.army.mil/regulatory>.
- C | The Corps evaluation of a Section 10 and/or a Section 404 permit application involves multiple analyses, including (1) evaluating the proposal's impacts in accordance with the National Environmental Policy Act (NEPA) (33 CFR part 325), (2) determining whether the proposal is contrary to the public interest (33 CFR § 320.4), and (3) in the case of a Section 404 permit, determining whether the proposal complies with the Section 404(b)(1) Guidelines (Guidelines) (40 CFR part 230).
- D | If the proposal requires a Section 404 permit application, the Guidelines specifically require that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences" (40 CFR § 230.10(a)). Time and money spent on the proposal prior to applying for a Section 404 permit cannot be factored into the Corps' decision whether there is a less damaging practicable alternative to the proposal.

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E | If an application for a Corps permit has not yet been submitted, the project proposer may request a pre-application consultation meeting with the Corps to obtain information regarding the data, studies or other information that will be necessary for the permit evaluation process. A pre-application consultation meeting is strongly recommended if the proposal has substantial impacts to waters of the United States, or if it is a large or controversial project.

If you have any questions, please contact me in our St. Paul office by phone at (651) 290-5446 or by email at Justin.T.Berndt@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,



Justin Berndt
Project Manager

Response to Comment A

As noted in the EAW, Scott County understands that a wetland permit will be required from the Army Corps of Engineers before the project can be constructed.

Response to Comment B

Comment noted.

Response to Comment C

Comment noted.

Response to Comment D

Comment noted.

Response to Comment E

The project is not expected to be controversial or result in substantial wetland impacts. Scott County will coordinate with the Army Corps and other wetland regulatory agencies during the final design phase of the project to obtain the necessary permits for construction.