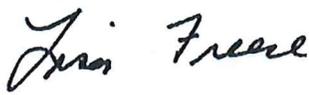


AGENDA # 7.5  
**SCOTT COUNTY, MINNESOTA**  
**REQUEST FOR BOARD ACTION**  
**MEETING DATE: SEPTEMBER 17, 2019**

<b>ORIGINATING DIVISION:</b>	Transportation Services	<b>CONSENT AGENDA:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>ORIGINATING DEPARTMENT:</b>	Program Delivery		
<b>PRESENTER:</b>	Lisa Freese-8008	<b>ATTACHMENTS:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>PROJECT:</b>		<b>TIME REQUESTED:</b>	NA
<b>ACTION REQUESTED:</b>	Adopt Resolution No. 2019-138; Approving the Findings of Fact and Conclusions for the CP 42-19 Environmental Assessment Worksheet and Negative Declaration on the Need for an Environment Impact Statement		
<b>CONTRACT/POLICY/GRANT:</b>	<input type="checkbox"/> County Attorney Review <input type="checkbox"/> Risk Management Review	<b>FISCAL:</b>	<input type="checkbox"/> Finance Review <input type="checkbox"/> Budget Change
<b>ORGANIZATIONAL VALUES:</b>			
<input type="checkbox"/> Stewardship: Ensuring the responsible and stable investment of taxpayer dollars and communicating its value to the public <input type="checkbox"/> Partnership: Aligning existing resources, volunteers and programs to achieve shared goals <input checked="" type="checkbox"/> Leadership: Anticipating changes and managing challenges based on reliable information and citizen input <input type="checkbox"/> Commitment: Developing a high quality workforce that is dedicated to advancing a safe, healthy and livable community <input checked="" type="checkbox"/> Customer Service: Creating a customer experience that is respectful, responsive and solution-oriented <input type="checkbox"/> Innovation: Exploring and adopting new technologies and processes with the goal of improving service and reducing the long term cost of service delivery			
<b>DEPARTMENT/DIVISION HEAD SIGNATURE:</b>		<b>COUNTY ADMINISTRATOR SIGNATURE:</b>	
			
<b>Approved:</b>	JU/TW 5ayes	<b>DISTRIBUTION/FILING INSTRUCTIONS:</b>	
<b>Denied:</b>			
<b>Tabled:</b>			
<b>Other:</b>			
<b>Deputy Clerk :</b>	Tracy A. Cewenka		
<b>Date:</b>	9-17-2019		

**Background/Justification:**

The purpose of this agenda item is to adopt Resolution No. 2019-138; Approving the Findings of Fact and Conclusions for the CP 42-19 Environmental Assessment Worksheet and Negative Declaration on the Need for an Environment Impact Statement.

As the 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 1.4 miles of Scott County Highway (CH) 42, a two-lane rural section of roadway to a four-lane urban roadway with turn lanes, expanded shoulders, stormwater ponds, and multi-use trails along both sides of the roadway.

Stormwater infrastructure will also be included on a portion of the project with the installation of curb and gutter along the roadway and the construction of three new stormwater basins. The project is located between CH 17 (Marschall Road) and CH 83 and is anticipated to be constructed in spring of 2020 and require one full construction season.

Copies of the EAW were distributed to agencies on the current Minnesota Environmental Quality Board (EQB) distribution list. A notice of availability was published in the EQB Monitor on July 8, 2019. This notice included a description of the project, information on where copies of the EAW were available, and invited the public to provide comments.

The EAW comment period was from July 8 to August 7, 2019. Three written comment letters were received during the comment period. All comments received were considered in determining the potential for significant environmental impacts. We did not receive substantive comments that identified unknown environmental impacts. Minnesota Environmental Quality Board (EQB) Rules require that the County Board make a positive or negative finding on the need for an EIS.

Fiscal Impact:

None

**BOARD OF COUNTY COMMISSIONERS  
SCOTT COUNTY, MINNESOTA**

<b>Date:</b>	September 17, 2019
<b>Resolution No.:</b>	2019-138
<b>Motion by Commissioner:</b>	Ulrich
<b>Seconded by Commissioner:</b>	Wolf

**RESOLUTION NO.2019-138; APPROVING THE FINDINGS OF FACT AND CONCLUSIONS  
FOR CP 42-19 ENVIRONMENTAL ASSESSMENT WORKSHEET AND NEGATIVE  
DECLARATION ON THE NEED FOR AN ENVIRONMENT IMPACT STATEMENT**

WHEREAS, Scott County was required to complete an Environmental Assessment Worksheet (EAW) for the CP 42-19 road reconstruction project; and

WHEREAS, Scott County submitted an EAW to the Environmental Quality Board (EQB) Monitor on July 8, 2019 and received comments until August 7, 2019; and

WHEREAS, Scott County received three comment letters on the project; and

WHEREAS, staff has completed a Response to Comments and Findings of Fact and Conclusions addressing the comments; and

WHEREAS, based on the criteria in Minnesota Rules part 4410.1700, the project does not have the potential for significant environmental effects.

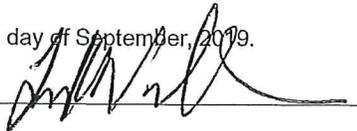
NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners in and for the County of Scott, Minnesota, hereby adopts the Findings of Fact and Conclusions for CP 42-19 and a negative declaration on the need for an Environmental Impact Statement.

<b>COMMISSIONERS</b>	<b>VOTE</b>			
Weckman Brekke	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Wolf	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Beard	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Beer	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Ulrich	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

**State of Minnesota)  
County of Scott )**

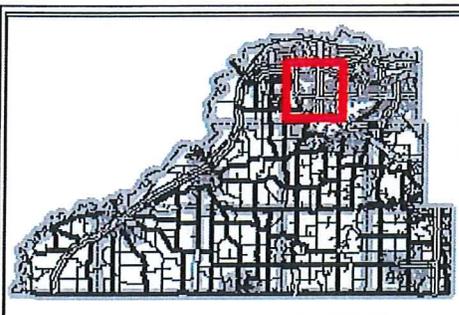
I, Lezlie A. Vermillion, duly appointed qualified County Administrator for the County of Scott, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Scott County, Minnesota, at their session held on the 17<sup>th</sup> day of September, 2019 now on file in my office, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal at Shakopee, Minnesota, this 17th day of September, 2019.

  
\_\_\_\_\_

County Administrator

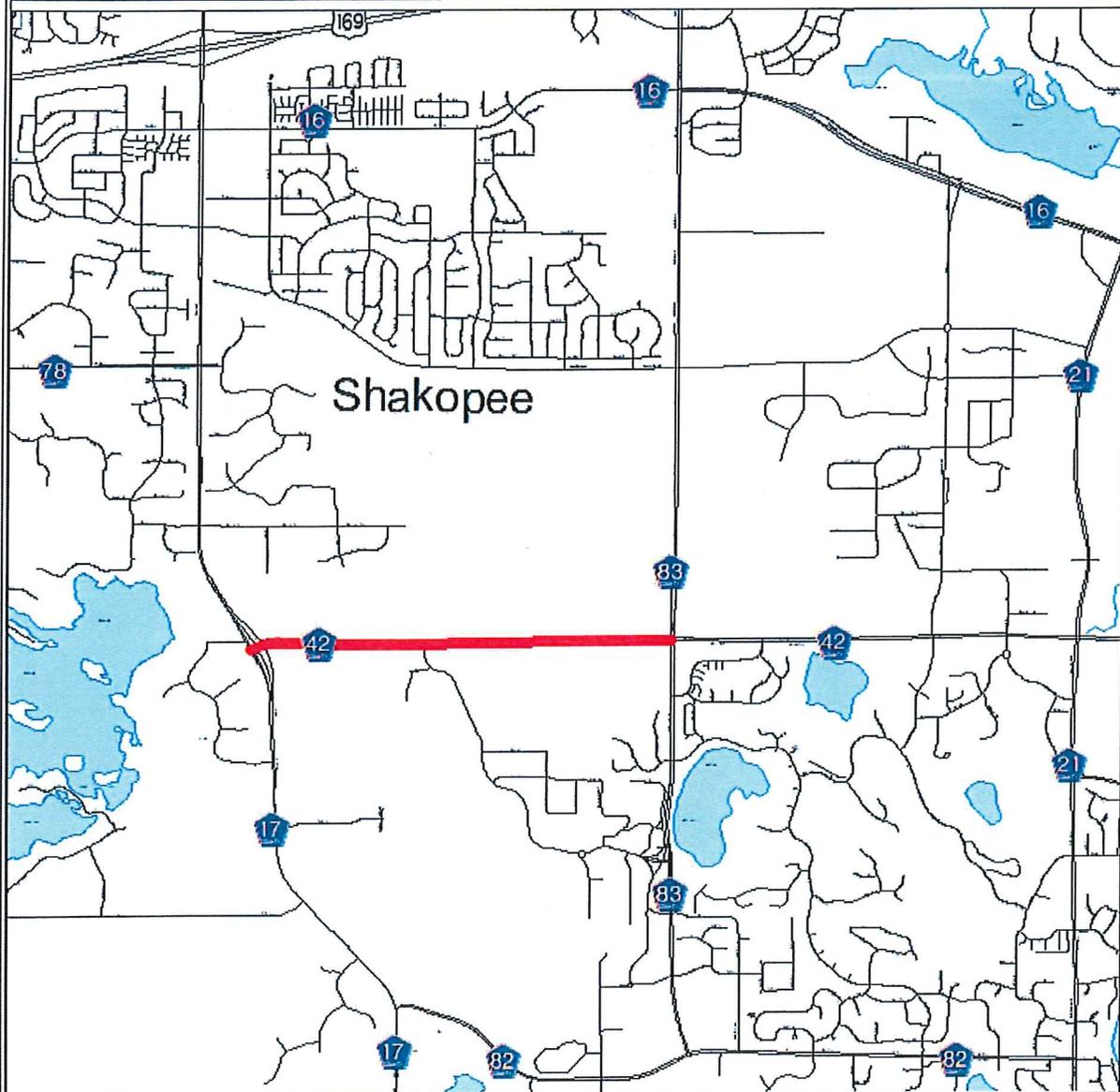
Administrator's Designee



# SCOTT COUNTY

2019 RBA CP 42-19

**Environmental Assessment Worksheet  
and Negative Declaration on the Need for  
an Environment Impact Statement**



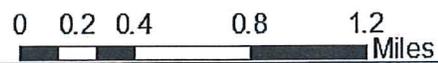
This drawing is based on a map prepared by a surveyor and is not intended to be used as such. The drawing is a compilation of records, information, and data known to the City of Shakopee and the Scott County Board of Commissioners. No warranty is made for accuracy. Scott County is not responsible for any inaccuracies or omissions. If you have any questions, please contact the Scott County Surveyor's Office.



Date: 9/4/2019

Scale: R.F.:

1 inch = 500 ft.



RECORD OF DECISION  
FINDINGS OF FACT AND CONCLUSIONS, RESPONSES TO COMMENTS

Date: September 3, 2019  
RE: Determination of Need for an Environmental Impact Statement (EIS)  
Project: CH 42 Improvements Project  
Location: Cities of Prior Lake and Shakopee

FINDINGS OF FACT:

1. Scott County is proposing to reconstruct approximately 1.4 miles of CH 42 from a two-lane rural roadway to a four-lane divided highway in cities of Prior Lake and Shakopee.
2. The project falls within the mandatory Environmental Assessment Worksheet (EAW) category of Minnesota Rules part 4410.4300, Subp. 22- Highway Projects.
3. Scott County is serving as the Responsible Government Unit (RGU) and the project proposer.
4. The EAW was prepared using the form approved by the Minnesota Environmental Quality Board in accordance with Minnesota Rules Part 4410.1300; and
5. The EAW is incorporated by reference in this Record of Decision; and
6. The EAW was published in the EQB on July 8<sup>th</sup>, 2019. A copy of the EAW was sent to all persons on the EQB Distribution List. Hard copies of the EAW were also available for public viewing at the City of Prior Lake and City of Shakopee public libraries, the Scott County project website, and available upon request.
7. The 30-day public review and comment period opened on July 8, 2019 and ended on August 7, 2019. Three written comments were received from the following agencies: Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, and Minnesota Department of Transportation. No other comments were received.

CONCLUSIONS

Based on the criteria in Minnesota Rules, part 4410.1700, the project does not have the potential for significant environmental effects. An Environmental Impact Statement (EIS) is not required for the proposed CH 42 Improvements project. The RGU makes a Negative Declaration and does not require the preparation of an Environmental Impact Statement (EIS).

RESPONSE TO COMMENTS:

The following comments were received on the EAW. Consistent with state environmental review rules, written responses have been prepared for all substantive comments submitted during the 30-day EAW comment period and the comment letters are below.

RECORD OF DECISION  
 FINDINGS OF FACT AND CONCLUSIONS, RESPONSES TO COMMENTS

Table 1. Comments and Responses to EAW

Entity	Responder	Comment	Response
MPCA	Karen Kromar	<p>A: The EAW does not describe specific erosion and sediment control best management practices (BMPs) to be utilized to protect area surface waters during the construction. Surface waters include numerous wetlands and O'Dowd Lake which has a construction-related impairment. The National Pollutant Discharge Elimination System/State Disposal System General Construction Stormwater permit (CSW permit) requires additional protections consisting of redundant (double) down gradient sediment control BMPs if construction encroaches within 50 feet of wetland buffers. Construction activities must avoid disturbance of the 50 foot buffer unless unavoidable to complete construction.</p>	<p>Scott County will prepare a Storm Water Pollution Prevention Plan (SWPPP) consistent with the requirements for managing water quality in and downstream of the project area. Specific management practices will be coordinated with the MPCA and SMSC and included in the SWPPP for the NPDES Construction Stormwater permit (CSW).</p>
		<p>B: Because O'Dowd Lake has a construction-related impairment, disturbed soils on portions of the Project site where stormwater ultimately flows to the lake must follow the CSW Permit's requirement for additional BMPs. This means that areas where soil disturbance will not resume for 7 days must be stabilized within 7 days, even if construction is not complete in that area.</p>	<p>O'Dowd Lake is an impaired water within one mile of the project site, however, site drainage from the site is not directed to Lake O'Dowd (not a receiving water for this project). The specific management practices as noted for mitigating construction-related impairment will be included in the SWPPP for other surface water wetlands within 50 feet of the project.</p>
		<p>C: The type of permanent stormwater treatment is unclear. The EAW states filtration basins will be constructed for the Project that meet NURP criteria. However, the map in Appendix A has them labeled as <i>infiltration</i> basins. The CSW Permit requires a <i>volume reduction practice</i> unless prohibited due to one of the reasons in the permit. Infiltration or other practice that keeps stormwater on the site and not discharged is a volume reduction practice.</p>	<p>Three filtration basins will be constructed to treat stormwater runoff from the project. Soil borings obtained during the project development indicated that in-situ soils are not conducive to infiltration.</p>

RECORD OF DECISION  
 FINDINGS OF FACT AND CONCLUSIONS, RESPONSES TO COMMENTS

Entity	Responder	Comment	Response
MPCA (continued)	Karen Kromar (continued)	<p>Filtration basins (basins with underdrains) and wet sediment basins or NURP ponds are not volume reduction practices. Soil borings and appropriate testing will be required in the location of the basins to determine whether infiltration is prohibited for one of the reasons specified in the CSW Permit.</p>	<p>See Response above.</p>
		<p>D: Also, the EAW states that the Project is located in a Drinking Water Supply Management Area (DWSMA). If the DWSMA is in an Emergency Response Area or has a moderate or a high to very high vulnerability, infiltration may be prohibited. Please see part 16.19 of the CSW Permit for more information. Questions regarding Construction Stormwater Permit requirements should be directed to Roberta Getman at 507-206-2629 or <a href="mailto:Roberta.Getman@state.mn.us">Roberta.Getman@state.mn.us</a>.</p>	<p>Comment noted. The project is in a low vulnerability area. Soil borings will be conducted in any proposed infiltration locations to confirm soil compatibility.</p>
DNR	Rebecca Horton	<p>A: Construction dewatering of storm water, pond water, or ground water, that is required for grading, utilities, storm water sewers, and storm water ponds, that exceeds a volume of 10,000 gallons per day, or one million gallons per year, is required to have a DNR Water Appropriation Permit. The diversion of stream water for the purpose of placing a culvert in volumes that exceed 10,000 gallons per day, or one million gallons per year, would also require a DNR Water Appropriation Permit.</p>	<p>Dewatering is not anticipated as part of this project, however provisions for dewatering will be included in the plans. A DNR Water Appropriation Permit will be the responsibility of the contractor to obtain and follow.</p>
		<p>B: Records from this area indicate that there is a layer of till that exists at a depth of approximately 45 feet and shallower layers of clay. Till is often impermeable, as a result it is likely that perched water tables will be encountered locally during the reconstruction of County Road 42. This should be kept in mind while planning for the project and permitting needs.</p>	<p>Thank you for your comment.</p>
		<p>C: We recommend that storm water ponds be used as a source for irrigation of future developments. We recommend this be considered during project design.</p>	<p>Thank you for your comment.</p>

RECORD OF DECISION  
FINDINGS OF FACT AND CONCLUSIONS, RESPONSES TO COMMENTS

Entity	Responder	Comment	Response
MNDOT	David Elvin	A: MnDOT has reviewed the June 2019 EAW for the County Highway 42 project and has no comments. Thank you for including MnDOT in the review process, and please feel free to contact me with questions.	Thank you for reviewing the EAW.

# Comment Letters



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

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

August 7, 2019

Toni Winiecki  
County Engineer  
Scott County  
600 County Trail East  
Jordan, MN 55352

Re: County Highway 42 Improvement Project Environmental Assessment Worksheet

Dear Toni Winiecki:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for County Highway 42 Improvement Project (Project) in Scott County, Minnesota. The Project consists of a 1.4-mile expansion of the highway. 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 EAW does not describe specific erosion and sediment control best management practices (BMPs) to be utilized to protect area surface waters during the construction. Surface waters include numerous wetlands and O'Dowd Lake which has a construction-related impairment. The National Pollutant Discharge Elimination System/State Disposal System General Construction Stormwater permit (CSW Permit) requires additional protections consisting of redundant (double) down gradient sediment control BMPs if construction encroaches within 50 feet of wetland buffers. Construction activities must avoid disturbance of the 50 foot buffer unless unavoidable to complete the construction.
- B • Because O'Dowd Lake has a construction-related impairment, disturbed soils on portions of the Project site where stormwater ultimately flows to the lake must follow the CSW Permit's requirement for additional BMPs. This means that areas where soil disturbance will not resume for 7 days must be stabilized within 7 days, even if construction is not complete in that area.
- C • The type of permanent stormwater treatment is unclear. The EAW states filtration basins will be constructed for the Project that meet NURP criteria. However, the map in Appendix A has them labeled as *infiltration* basins. The CSW Permit requires a *volume reduction practice* unless prohibited due to one of the reasons in the permit. Infiltration or other practice that keeps stormwater on the site and not discharged is a volume reduction practice. Filtration basins (basins with underdrains) and wet sediment basins or NURP ponds are not volume reduction practices. Soil borings and appropriate testing will be required in the location of the basins to determine whether infiltration is prohibited for one of the reasons specified in the CSW Permit.

- D
- Also, the EAW states that the Project is located in a Drinking Water Supply Management Area (DWSMA). If the DWSMA is in an Emergency Response Area or has a moderate or a high to very high vulnerability, infiltration may be prohibited. Please see part 16.19 of the CSW Permit for more information. Questions regarding Construction Stormwater Permit requirements should be directed to Roberta Getman at 507-206-2629 or [Roberta.Getman@state.mn.us](mailto:Roberta.Getman@state.mn.us).

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](mailto: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  
Roberta Getman, MPCA, Rochester  
Suzanne Hanson, MPCA, Duluth

Dear Tony Winiacki,

The Minnesota Department of Natural Resources (DNR) has reviewed the Environmental Assessment Worksheet (EAW) for the County Highway 42 Improvement Project. Regarding matters for which the DNR has regulatory responsibility or other interests, we offer the following comments for your consideration.

Water resources:

- A | • Construction dewatering of storm water, pond water, or ground water, that is required for grading, utilities, storm water sewers, and storm water ponds, that exceeds a volume of 10,000 gallons per day, or one million gallons per year, is required to have a DNR Water Appropriation Permit. The diversion of stream water for the purpose of placing a culvert in volumes that exceed 10,000 gallons per day, or one million gallons per year, would also require a DNR Water Appropriation Permit.
- B | • Records from this area indicate that there is a layer of till that exists at a depth of approximately 45 feet and shallower layers of clay. Till is often impermeable, as a result it is likely that perched water tables will be encountered locally during the reconstruction of County Road 42. This should be kept in mind while planning for the project and permitting needs.
- C | • We recommend that storm water ponds be used as a source for irrigation of future developments. We recommend this be considered during project design.

For questions on these comments, please contact appropriations hydrologist Joe Richter ([joe.richter@state.mn.us](mailto:joe.richter@state.mn.us)).

On behalf of the DNR, thank you for the opportunity to comment.

Becky

**Rebecca Horton**

Region Environmental Assessment Ecologist | Ecological and Water Resources

**Minnesota Department of Natural Resources**

1200 Warner Road

St. Paul, MN 55404

Phone: 651-259-5755

Fax: 651-772-7977

Email: [becky.horton@state.mn.us](mailto:becky.horton@state.mn.us)

[mndnr.gov](http://mndnr.gov)

**From:** [Roberts, Rebecca](#)  
**To:** [Payne, Ashley](#)  
**Cc:** [Dammel, Rachel](#)  
**Subject:** FW: [External]MnDOT Review: EAW for County Highway 42 #EAW19-007  
**Date:** Friday, July 12, 2019 8:59:42 AM  
**Attachments:** [image001.png](#)

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Rebecca Roberts | [Kimley-Horn](#) | 612 503 8528

**From:** Winiecki, Tony <[TWiniecki@co.scott.mn.us](mailto:TWiniecki@co.scott.mn.us)>  
**Sent:** Friday, July 12, 2019 8:59 AM  
**To:** Elvin, David (DOT) <[David.Elvin@state.mn.us](mailto:David.Elvin@state.mn.us)>  
**Cc:** Sherman, Tod (DOT) <[tod.sherman@state.mn.us](mailto:tod.sherman@state.mn.us)>; Wiltgen, Jennifer (DOT) <[jennifer.wiltgen@state.mn.us](mailto:jennifer.wiltgen@state.mn.us)>; Dresel, Julie (DOT) <[julie.dresel@state.mn.us](mailto:julie.dresel@state.mn.us)>; Langenbach, Diane (DOT) <[diane.langenbach@state.mn.us](mailto:diane.langenbach@state.mn.us)>; Roberts, Rebecca <[Rebecca.Roberts@kimley-horn.com](mailto:Rebecca.Roberts@kimley-horn.com)>; Jenson, Craig <[CJenson@co.scott.mn.us](mailto:CJenson@co.scott.mn.us)>  
**Subject:** RE: [External]MnDOT Review: EAW for County Highway 42 #EAW19-007

Got it and thank you.

Tony

**From:** Elvin, David (DOT) [<mailto:David.Elvin@state.mn.us>]  
**Sent:** Friday, July 12, 2019 8:57 AM  
**To:** Winiecki, Tony  
**Cc:** Sherman, Tod (DOT); Wiltgen, Jennifer (DOT); Dresel, Julie (DOT); Langenbach, Diane (DOT); [Rebecca.Roberts@kimley-horn.com](mailto:Rebecca.Roberts@kimley-horn.com)  
**Subject:** [External]MnDOT Review: EAW for County Highway 42 #EAW19-007

Dear Tony—

A | MnDOT has reviewed the June 2019 EAW for the County Highway 42 project and has no comments. Thank you for including MnDOT in the review process, and please feel free to contact me with questions.

Best regards,

*David Elvin, AICP | Principal Planner*  
*Metro District Planning, Program Management, and Transit*  
1500 West County Road B-2, Roseville MN 55113  
651-234-7795

