



US Army Corps
of Engineers
St Paul District

APPLICANT:

**Mr. Jon Roeschlein
Bois de Sioux
Watershed District**

Public Notice

ISSUED: September 16, 2014

EXPIRES: October 17, 2014

REFER TO: 2010-04199-RQM

SECTION: 404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge dredged or fill material into the Mustinka River (also known as JD 14), Traverse County Ditch 35, Traverse County Ditch 24 and adjacent wetlands for the construction of the Redpath Flood Damage Reduction Project (Redpath).

2. SPECIFIC INFORMATION

APPLICANT'S ADDRESS:

704 South Hwy 75
Wheaton, Minnesota 56296-1304

AGENT:

Mr. Timothy E. Bayerl

AGENT'S ADDRESS:

Widseth Smith Nolting & Associates
610 Fillmore Street
Alexandria, Minnesota 56308

PROJECT LOCATION:

Grant County, Minnesota:

Sections 15, 16, 21, 22, 23, 24, 25, 26, 27, 28 Township 128N Range 45W

Traverse County, Minnesota:

Sections 19, 20, 30 Township 128N Range 44W

DESCRIPTION OF PROJECT: The Redpath Project is a multipurpose floodwater storage impoundment along the Mustinka River/Judicial Ditch 14 in Grant and Traverse Counties. The project includes three storage pools for flood control and a re-meandered by-pass channel. Water quality and wildlife habitat improvements are also incorporated. Pool Three is anticipated to remain in agricultural use, Pool Two and Pool One will be managed for natural resource enhancement use, in addition to their flood storage utility. The overall project footprint is 2,536 acres, including the interior of the impoundment structure.

PURPOSE OF THE PROJECT: The purpose of the project is to reduce severity of peak flow discharges in the Mustinka River watershed in support of this subwatershed's target of 20,000 acre feet of early-season flood storage and localized flood Damage reduction, as well as contribution to the Bois de Sioux's watershed goal of 105,000 acre feet of gate controlled storage, and to provide secondary local natural resource enhancement in the Mustinka River watershed.

QUANTITY, TYPE, AND AREA OF FILL: The project would place fill material into approximately 30.47 acres of waters of the United States, including approximately 0.85 acres of the Mustinka River

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(Judicial Ditch 14), and 29.62 acres of wetlands for construction berms and placement of control structures. Quantity and type of wetlands to be filled include: approximately 21.02 acres of seasonally flooded basin (Type 1), 0.28 acres of fresh wet meadow (Type 2), 2.01 acres of planted (CRP) wet prairie (Type 2), 6.31 acres of shallow marsh (Type 3).

DESCRIPTION OF DREDGING OR EXCAVATION:

Approximately 2.28 acres of seasonally flooded basin (Type 1 farmed wetland) would be excavated to a depth greater than 6.5 feet and potentially converted to deepwater habitat. Approximately 22.83 acres of wetland would be excavated to a depth less than 6.5 feet including approximately 18.96 acres of seasonally flooded basin (Type 1, farmed wetland), 1.71 fresh wet meadow (Type2), 1.45 acres of planted (CRP) wet prairie (Type 2), and 0.71 acres of shallow marsh (Type 3) wetland. The purpose of the excavation is to excavate fill material for the construction of the berms.

DESCRIPTION OF INUNDATION:

Wetlands within the project area would be periodically subjected to inundation by floodwater due to operation of the impoundment structure. Wetlands within, and beyond, the project area are currently subjected to inundation by floodwater when the Mustinka River (JD 14) overflows its banks and local roads obstruct the flow of floodwater. Currently wetland inundation persists until floodwater overtops and washes out local roads.

The Engineer's report for the Redpath project describes possible Natural Resource Enhancements from operation of the impoundment structure. Water levels in pool one will fluctuate naturally with the water level in the Mustinka River (JD 14) and can be directed into Pool Two to establish and maintain desired moist soil conditions, pool levels, or other natural resources benefits. Following the harvest of crops in Pool Three, water can be drained from Pool Two to Pool Three to provide flooded crop residue for waterfowl and exposed mud flats for shorebirds in Pool Two. During late fall or winter, the water from Pools Two and Three will be drained in preparation for the spring flood. However, if drought conditions prevail and there is little potential for spring runoff, water may be retained in Pool Two for use by waterfowl the following spring or summer.

VEGETATION IN AFFECTED AREA:

The affected area is mostly in agricultural production and includes farmed wetlands and ditches. The typical vegetation in these farmed areas is row crops including corn, wheat, sugar beets and soybeans. The farmed wetlands in the project area generally consist of water stressed row crops or areas with sparse or no vegetation. Ditches near roadsides are typically dominated by Reed Canary Grass or other weedy species. Wetlands within CRP areas are generally wetlands dominated by Reed Canary Grass, however, approximately 2.01 acres of wetland in CRP were identified by the applicant as wet prairie and are likely a result of CRP plantings.

The applicant provided the following summary of the vegetation in the area:

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Over 21 acres of the existing wetlands that will be impacted by fill are within road ditches and County ditches. The vegetation within these ditches varies from monoculture stands of cattail or reed canary grass to diverse stands that include sedges and native grasses. The ditches, however, are subject to overspray of chemicals from the adjacent fields as evidenced by sections with only annual weed growth.

The remaining wetlands are in agricultural fields and field ditches. Some of these areas are in conservation programs which tend to be located in areas of old meander channels of the Mustinka River. The wetlands in conservation plantings exhibit some diversity in vegetation and provide habitat for wildlife. Some of the other wetlands are monocultures of reed canary grass. The wetlands in the production agriculture fields tend to be ditched and cultivated on an annual basis. They are also sprayed with herbicide and on a frequent basis.

SOURCE OF FILL MATERIAL:

On site, fill material is proposed to be used in the construction of the project.

SURROUNDING LAND USE:

The impoundment site is generally located in agricultural cropland and is surrounded by agricultural cropland. Primary production is corn, wheat, sugar beets and soybeans.

DESCRIPTION OF STRUCTURES:

This project will construct an off channel, multi-purpose impoundment. Project features include relocation of Traverse County Ditch 35 (TCD 35), and creation of a By-pass Corridor. The impoundment itself is a diked containment, bounded by the By-pass Corridor along its north side and TCD 35 along the south and west side, and includes a diked inlet channel to bring water into the impoundment.

The impoundment will be located along the south bank of the Mustinka River (Judicial Ditch 14). During periods of high water, it is designed to receive waters in excess of channel capacity and store that water until the flood even is over. The total storage capacity of the impoundment is 24,000 acre feet, which is equivalent to 2.2 inches of runoff from the 203 square mile upstream drainage area. The gate controlled portion of this storage is 18,900 acre-feet. Dikes will be raised on the north, west, and south sides to contain the water within the impoundment area. The maximum height of the dike would be 32 feet where it crosses the Mustinka River (JD 14). In non-channel areas, the maximum height would be 19 feet.

TCD 35 runs along the south side of the proposed project area adjacent to the existing east-west road. Construction of the south dike of the impoundment will require relocation of existing TCD 35 because the dike will be centered on the section line to maintain the current alignment of the existing road. TCD 35 is currently in a state of disrepair and not functioning as it was designed. It will be reconstructed to its original capacity and function. The ditch will be moved to accommodate the impoundment dike and discharge into the sediment pond to be constructed immediately west of the impoundment.

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The sediment basin serves two purposes. First, it will provide soil materials for construction of impoundment dikes. Secondly, it will provide for removal of sediment from the flow of TCD 35.

The By-pass Corridor along the north side of the project will carry the portion of flow from Judicial Ditch 14 (JD 14) that does not flow into the impoundment. JD 14 flows will automatically be split with a portion being directed into the impoundment and a portion being directed to the by-pass. During periods of low flow, all of the water will bypass the impoundment. As flows increase, a greater proportion will enter the impoundment and flows to the bypass channel will be limited to about 500cfs.

The inlet to the By-pass Corridor will be 12'x14' box culvert. The inlet to the impoundment will be two 16'x10' box culverts and one 16'x11' box culvert. The By-pass Corridor will include an excavated floodway with a meandering channel within the floodway. The meander channel will be 4' deep, have a bottom of 10' along the upper half and a 12' bottom along the lower half, and have 1:1 side slopes and the design grade will approximate the JD 14 design grade at both the upper and lower end. The excavated floodway will have a bottom width of 240 feet. Stream crossings at each section line along the By-pass Corridor downstream of the inlet will be 12'x6' box culverts.

THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE:

The potentially toxic materials anticipated to be used at the project site would include herbicides typically used in wetland mitigation areas and materials typical of construction areas such as diesel fuel and gasoline.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT:

The applicant has indicated that a Stormwater Pollution Prevention Plan would be developed for the project.

MITIGATION:

The following mitigation statement was provided by the applicant:

“The Bois de Sioux Watershed District plans to mitigate for the adverse impacts to wetlands by creating an onsite mitigation area. The project will impact approximately 29.6 acres of delineated wetlands by placement of fill to construct the embankments. Additionally there are 2.3 acres of wetland in Pool 1 that will be excavated and may be converted to deepwater habitats. The proposed compensatory mitigation site is intended to compensate fully for the adverse impacts to wetlands in the project. The compensatory mitigation is commensurate with the impacts to the degraded wetlands found on site. The Bois de Sioux Watershed District will be responsible for the mitigation site. It will establish a real estate instrument to protect the mitigation site so the wetlands will continue to exist in perpetuity. The district will provide financial assurances that the mitigation plan is completed whether thru bonding or other instrument”.

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The proposed mitigation would restore, and place under perpetual conservation easement, approximately 32.2 acres of wetland and approximately 12,591 lineal foot of segment of re-meandered Mustinka River (Judicial Ditch 14) within the by-pass channel. The mitigation site is only one segment of the stream restoration proposed for this project. Additionally, many of the wetland impacts are to existing road ditches that will be reconstructed and are anticipated to develop wetland characteristics similar to the existing ditches.

Although proposed as a secondary purpose of the project, and not considered compensatory mitigation per se, the impoundment structure, most notably in pool 1, will create many acres of wetlands within the project area as a natural resource enhancement and will re-meander large portions of the Mustinka River (Judicial Ditch 14) outside of the proposed compensatory mitigation area.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, Brainerd Field Office 10867 East Gull Lake Drive Northwest, Brainerd, Minnesota 56401

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Robert Maroney at the Brainerd office of the Corps, telephone number (651) 290-5766.

To receive Public Notices by e-mail, go to: http://mvp-extstp.mvp.usace.army.mil/list_server/ and add your information in the New Registration Box.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

No federally-listed species were identified by the applicant or are known to exist in the permit area. The Natural Heritage Database was checked and one sighting of the Poweshiek Skipperling (a federally proposed species) was depicted by that database. Informal conversation with United States Fish and Wildlife personnel indicated that the Poweshiek Skipperling sighting was dated 1981 and the species is considered to be extirpated from Grant and Traverse Counties and that the project area is located south of known occurrences of Western Prairie Fringed Orchid.

The Northern Long-eared Bat (a proposed species) may occur within Grant and Traverse Counties. There are few trees for summer roosting habitat and no known suitable hibernacula within the project area. The St. Paul District has determined that the project will not jeopardize the Northern Long-eared Bat. No critical habitat is currently proposed for the Northern Long-eared Bat. No forested habitat is anticipated to be cleared for this project although a relatively small number of trees exist on the site and will be removed.

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This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. JURISDICTION.

This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under Sections 9 & 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 08-02. We have made an initial determination that the aquatic resources that would be impacted by the proposed project are regulated by the Corps of Engineers under Section 404 of the Clean Water Act and/or Section(s) 9 & 10 of the Rivers and Harbors Act. As requested by the applicant, the Corps will prepare a preliminary jurisdictional determination prior to making a permit decision.

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED:

<u>Unit of government</u>	<u>Type of application</u>	<u>Status</u>
Dept. of Natural Resources	Joint Dam Safety	Application Pending
MPCA	NPDES Const. Stormwater Permit	To Be Applied For
Redpath and Gorton Townships	TWP Road Alteration	To Be Applied For
Traverse County	Zoning and Conditional Use Permit	To Be Applied For
Grant and Traverse County	Road Alteration	To Be Applied For
Grant and Traverse County	Wetland Cons. Act Approval	Application Submitted
Bois de Sioux Watershed District	Project Approval and funding	Preliminary hearing held
Dept. of Natural Resources	Flood Damage Reduction Grant	Partial Funding approved
Red River Watershed Mgmt. Board	Flood Control Grant	Step 2 approval

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District

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has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

Any comments relative to MPCA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency, Resource Management and Assistance Division,
Attention: 401 Certification, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194.

7. HISTORICAL/ARCHAEOLOGICAL.

A Phase I survey was conducted by Dr. Richard Rothaus, Ph. D., and a no historic properties affected determination was suggested as a result of the Phase I investigation. The study was coordinated with St. Paul District Cultural Resources Management Staff. St. Paul District Cultural Resources Staff concurred with the no historic properties affected determination.

8. PUBLIC HEARING REQUESTS.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

9. PUBLIC INTEREST REVIEW.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs

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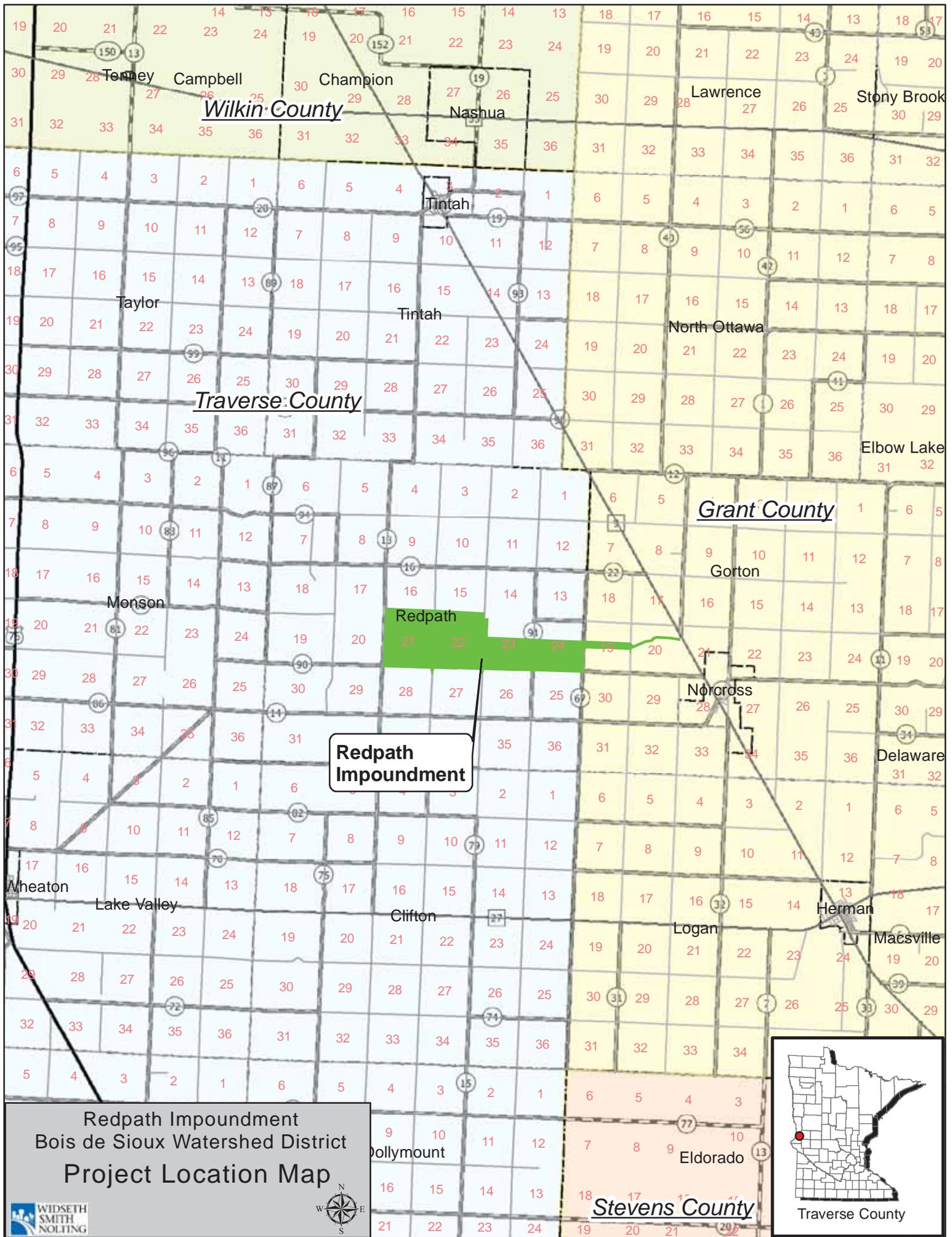
and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Mr. Ben Cox
Chief, Northwest Section

Enclosures: Drawings Labeled (2010-04199-RQM Page 1 of 4 to Page 4 of 4)

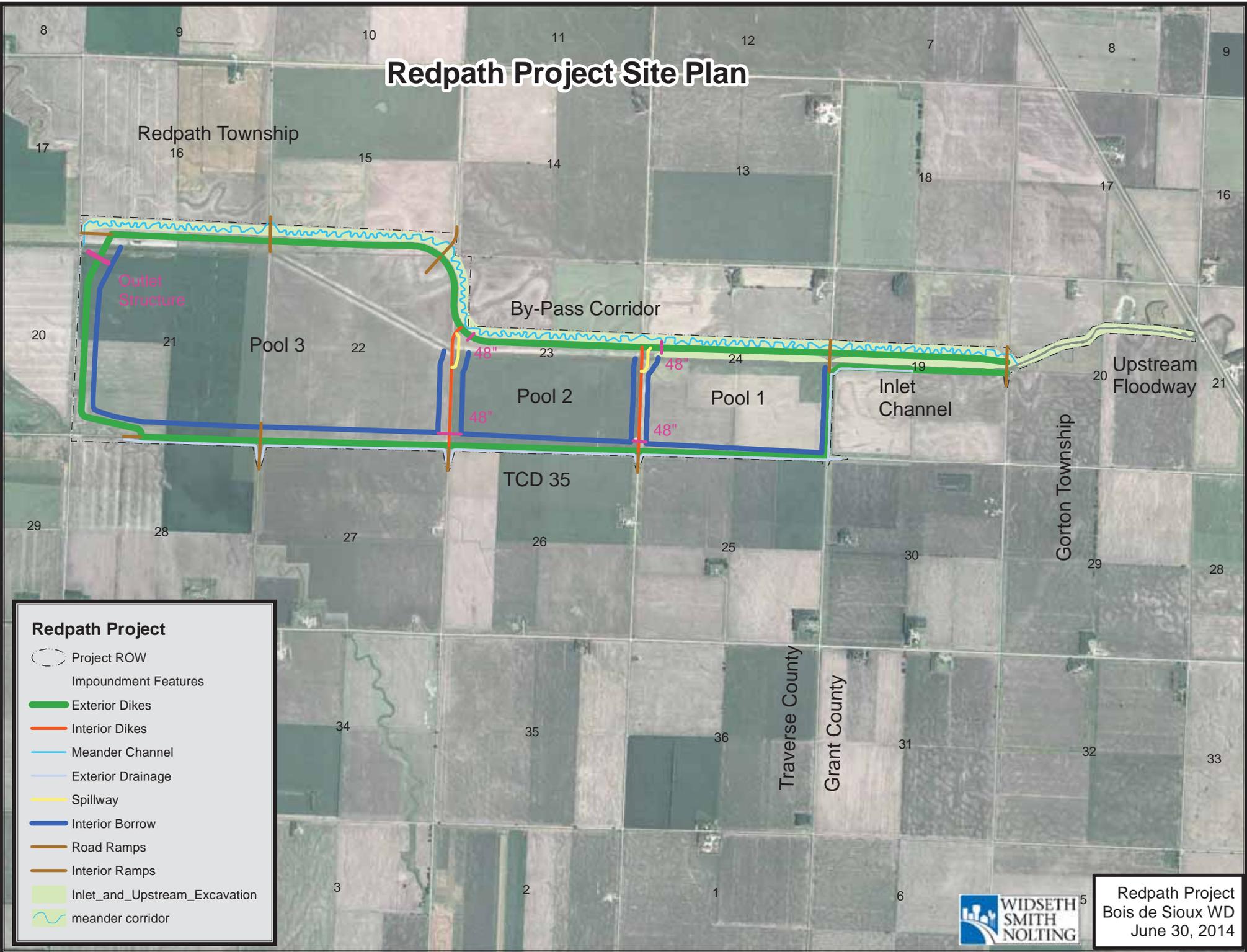
NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.



Redpath Impoundment
 Bois de Sioux Watershed District
 Project Location Map



Redpath Project Site Plan



Redpath Project
Bois de Sioux WD
June 30, 2014

**Redpath Project
Bois de Sioux Watershed District**

Project Impacts to Wetlands
 Delineated wetlands within the Project ROW 160 Acres
 Wetlands in the Project ROW post construction 584 Acres

Wetlands After Project	
Upstream Floodway	24 Acres
Inlet Channel	29 Acres
By-Pass Corridor	170 Acres
Pool 1	270 Acres
Pool 2	10.7 Acres
Pool 3	56.8 Acres
Buffer	10.5 Acres
Minimal	13.8 Acres
Total	584 Acres

By-Pass Corridor excavation will create an area of about 170 acres of riparian wetlands.

Wetland Impacts	
Within Fill area	29.6 Acres
Within Excavation area	2.3 Acres
Stream (JD 14)	0.85 Acres

**Redpath Project
Wetland Categories**

Area

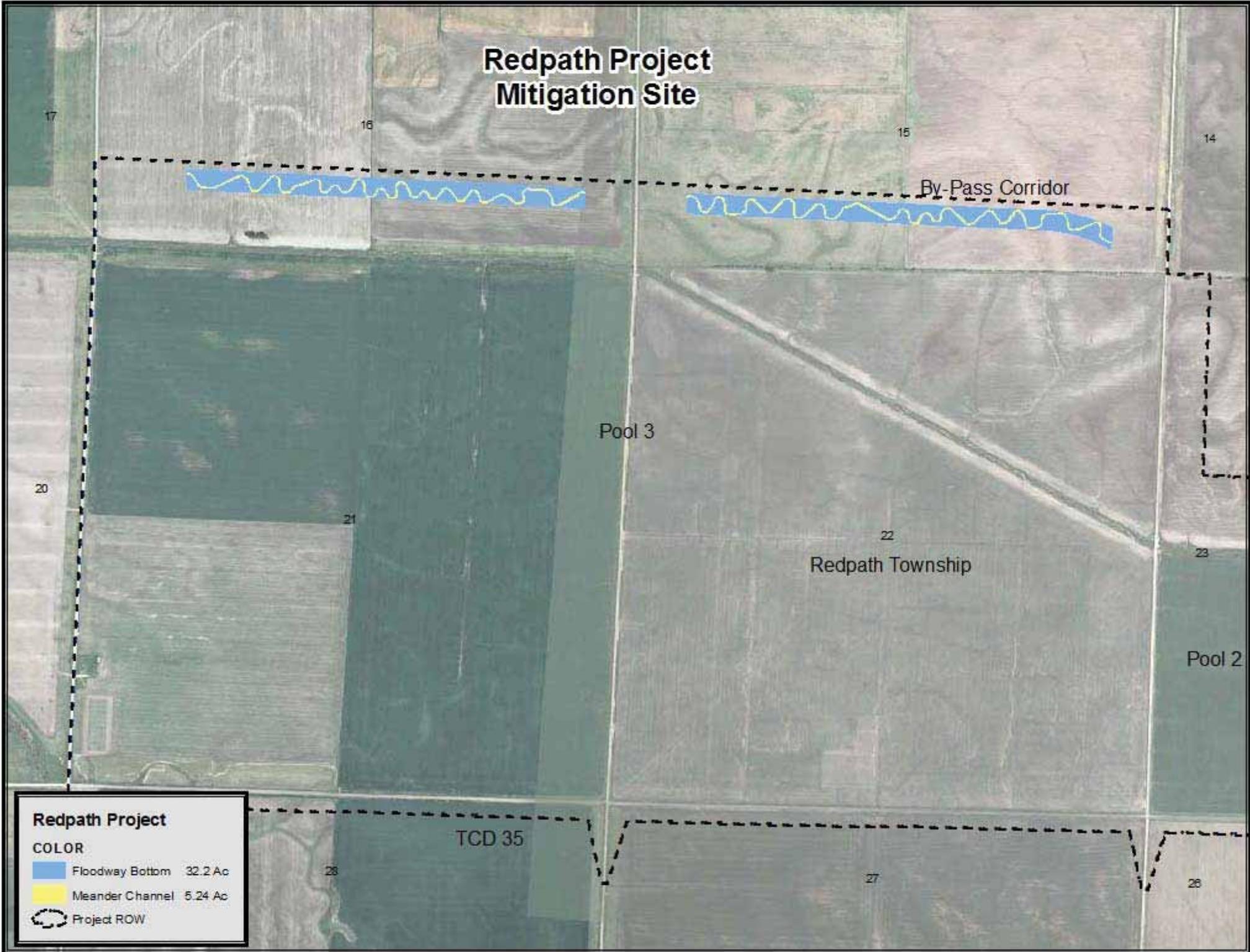
-  Fill
-  Excavation
-  Minimal
-  Buffer
-  Pool1
-  Pool2
-  Pool3

Wetlands within Pools	
Pool 1	12.9 Acres
Pool 2	10.7 Acres
Pool 3	56.8 Acres

Note:
 Wetlands shown on map represent all delineated wetlands including field delineated and MN Mapping Conventions within the ROW of the Project. Impact areas are approximate. Excavation area may change based on borrow needs and materials encountered.



Redpath Project Mitigation Site



By-Pass Corridor

Pool 3

Redpath Township

Pool 2

TCD 35

Redpath Project

COLOR

-  Floodway Bottom 32.2 Ac
-  Meander Channel 5.24 Ac
-  Project ROW