



US Army Corps
of Engineers
St Paul District

APPLICANT:
Minnesota Department of
Transportation
District 1: SP 6918-80

Public Notice

ISSUED: 24 March 2015
EXPIRES: 23 April 2015

REFER TO: 2011-00769-DWW

SECTION: 404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge dredged and fill materials into 6.04 acres of wetlands adjacent to unnamed tributaries to the St. Louis River for the purpose of addressing the termination of the 1960 easement agreement granted by United States Steel Corporation (now held by RGGGS) that affects the current 1.5-mile Trunk Highway (TH) 53 segment between 2nd Avenue West and Cuyuna Drive in the City of Virginia, Minnesota.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS:
Minnesota Department of Transportation
District 1, 1123 Mesaba Avenue, Duluth,
Minnesota 55811

AGENT: Short, Elliott, Hendrickson (SEH)
Incorporated, 418 West Superior Street,
Suite 200, Duluth, Minnesota 55802

PROJECT LOCATION: The project site is located in Sec(s). 8, 9, 16, 17, 20, 21, T. 58N., R. 17 W., St. Louis County, Minnesota. UTM 15 with the approximate Lat/Long (decimal degrees) is 47.5026°, -925177°.

OTHER FEDERAL AGENCY INVOLVEMENT: This project is being funded by Federal Highway Administration (FHWA). As such, FHWA is the lead Federal agency responsible for compliance with applicable laws and regulations. This includes the National Environmental Policy Act (NEPA), Section 7 of the Endangered Species Act, and Section 106 of the National Historic Preservation Act. An Environmental Impact Statement is being prepared to satisfy the agency's responsibility under NEPA. The Corps has entered into an agreement with FHWA to cooperate in preparation of the EIS to streamline review for both agencies.

The Draft EIS (DEIS) was published for public comment in early 2015; the period for submitting comments on the DEIS has ended. However, the DEIS and other, more detailed information on the project can be found at <http://www.dot.state.mn.us/d1/projects/hwy53relocation/>. This public notice is to solicit public comments on the permit application submitted by the Minnesota Department of Transportation for discharges of dredged or fill material into waters of the United States associated with this project.

Operations - Regulatory (2011-00769-DWW)
SUBJECT: Notice of Application for TH 53 Relocation Project

DESCRIPTION OF PROJECT: The application was prepared to describe the MnDOT proposed relocation and realignment of Trunk Highway (TH) 53 from a segment of roadway that operates on an easement subject to mineral rights held by RGGGS Land and Minerals Company, and Cliffs Natural Resources Incorporated, United Taconite, LLC (UTAC).

Since 1960, MnDOT has operated a 1.5-mile segment of TH 53 on an easement granted by United States Steel Corporation (now held by RGGGS). The segment is subject to iron ore mining rights held by RGGGS, and UTAC, the mine owner and operator. Under the 1960 easement agreement terms, MnDOT agreed to relocate the segment of TH 53 upon notice from the mine owner/operator that continued mine operations were to proceed in the subject area.

On May 5, 2010, UTAC and RGGGS provided notice to MnDOT that the 1960 easement rights would be terminated. Under the original easement terms, MnDOT must vacate the TH 53 easement within three years of notification. In response to the notice, MnDOT requested a seven-year timeframe for the relocation of TH 53. The parties have signed an agreement to modify the easement vacation date to May 2017.

The purpose of the project is to address the termination of the 1960 easement agreement that affects the current highway location in order to continue to provide a transportation facility that would safely maintain an adequate roadway capacity and mobility as well as local, regional, and inter-regional connectivity.

PROJECT ALTERNATIVES: Five alternatives were identified in the DEIS. A brief description of these alternatives is listed below.

1. No-build Alternative (Existing Easement Agreement Area Closed) would respond to the easement terms by closing the segment of TH 53 within the existing easement agreement area and reroute traffic to existing highways.

No-build Alternative (Existing Easement Agreement Area Remains Open), although not in compliance with terms of the existing agreement, would keep TH 53 in place and open to traffic by addressing the economic, legal, and engineering issues associated with resolving the terms of the existing surface transportation easement agreement. The State of Minnesota would not vacate TH 53, but would keep the highway segment open.

2. Alternative M-1 (New Alignment through Active Mine) would consider construction of a new four-lane TH 53 alignment through the active UTAC mine.
3. Alternative E-1A (New Alignment through Permit to Mine Boundary) would consider construction of a new four-lane TH 53 alignment through the UTAC permit to mine area. This alternative routes TH 53 across the Rouchleau Pit along an existing submerged haul road embankment.
4. Alternative E-2 (Preferred: New Alignment around UTAC Permit to Mine Boundary) would be routed around the UTAC permit to mine and environmental setting boundaries. The proposed alignment would follow a northeasterly track on the present

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day Landfill Road corridor before turning to the west to cross over the Rouchleau Pit. Upon crossing the pit, the alignment turns to the southwest following an abandoned railroad corridor that runs between the pit and residential neighborhoods before reconnecting to existing TH 53 at 2nd Avenue West. A bridge would be built along the corridor across the Rouchleau Pit.

VEGETATION IN AFFECTED AREA: The project would result in the discharge of dredged and fill material into 6.04 acres of wetlands: 1.1 acres of fresh wet meadow; 2.13 acres fresh wet meadow/shrub-carr; 0.05 acre sedge meadow; 2.0 acres sedge meadow/shallow marsh; 0.12 acre shallow marsh; 0.45 acre shallow marsh/shrub-carr; and 0.19 acre seasonally flooded basin.

The wetland review was based on a Level 1 assessment that utilized current digital data from the U.S. Geological Survey, U.S. Fish and Wildlife Service (FWS) National Wetlands Inventory, MnDNR Public Waters Inventory, U.S. Department of Agriculture Natural Resources Conservation Service hydric soils data, and a visual inspection of selected wetlands. Wetland boundaries were verified by photo interpretation, review of digital data, and visual inspection of wetland areas for general wetland types and characteristics.

A Level 2 wetland delineation is planned for spring 2015. Updated wetland impact information would be available after the Level 2 delineation is complete.

SOURCE OF FILL MATERIAL: The source of fill material would be determined by the contractor. The type of fill material would be clean granular soils for embankment and salvaged topsoil from within the project limits. If fill material would be needed beyond what is available on site, MnDOT's special provisions 1602 and 1701 would apply.

SURROUNDING LAND USE: Taconite Mining, City of Virginia's business district

DESCRIPTION OF STRUCTURE: A bridge structure would be built across the Rouchleau Pit. The structure would not require fill to be discharged in the pit below the water surface. There would be placement of fill along limited areas of the pit wall for placement of abutments for the bridge crossing.

DESCRIPTION OF DREDGING OR EXCAVATION: There would be excavation activities for the construction of the road bed along the project corridor and retention/detention ponds.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: The preferred alternative would have no net change in impervious surface from the existing condition. Per National Pollutant Discharge Elimination Systems (NPDES) requirements, treatment of stormwater is not required based on the net change in impervious surface area for the project. However, water quality treatment of the stormwater runoff from the constrained cross section would be included to maintain water quality of the Rouchleau Pit. Construction erosion and sediment control would be provided in accordance with Minnesota Pollution Control Agency and NPDES requirements.

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MITIGATION: Compensatory mitigation for impacts to wetlands is proposed through debit of credits from an established wetland mitigation bank. The preliminary amount of credit to be withdrawn by the applicant would be 5.67 credits; the credit amount would be refined after the Level 2 wetland delineation would be complete in spring 2015. It was estimated by MnDOT that 0.37 acre of wetlands in ditch systems are non-jurisdictional within the project corridor.

This is a state project for which MnDOT would be providing replacement using wetland credits already in the MnDOT Wetland Banks already established for MnDOT-specific projects. Credits would be debited from Bank Service Area (BSA) 1 as a first priority. If sufficient credits are not available in BSA 1, the credits would be debited from established wetland mitigation banks in other bank service areas at an increased debit ratio.

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, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Daryl W. Wierzbinski at the Duluth office of the Corps, telephone number (218) 720 – 5291 Ext 35401.

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

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

St. Louis County is within the known or historic range of the following Federally-listed threatened (T) species:

<u>Species</u>	<u>Habitat</u>
Gray Wolf (<i>Canis Lupus</i>) (T)	Northern forested areas
Canada Lynx (<i>Lynx Canadensis</i>) (T)	Northern forested areas

This information in the application about Federally-listed threatened species is being coordinated between the FHWA and the FWS. 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.

The Northern Long-eared Bat (proposed to be listed as threatened) is also being coordinated with the FWS for the review process.

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5. JURISDICTION.

This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under 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.

MnDOT had requested the Corps to prepare an approved jurisdictional determination for the Rouchleau Pit and 2.57 acres of wetlands (W17, W22, W23, W24, W28, W29, W30, W44) within the TH 53 corridor prior to making a permit decision. This may affect the amount of jurisdictional wetlands and waters under Section 404 of the Clean Water Act, which in turn, could also affect the level of permitting for the overall project.

Approved jurisdictional determinations are posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

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 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.

The FHWA will review information on known cultural resources and/or historic properties within and adjacent to the project area. The FHWA will also consider the potential effects of the project on any properties that have yet to be identified. The results of this review and the FHWA's determination of effect will be coordinated with the State Historic Preservation Officer

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independent of this public notice. Any adverse effects on historic properties will be resolved prior to the Corps authorization, or approval, of the work in connection with this project.

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.

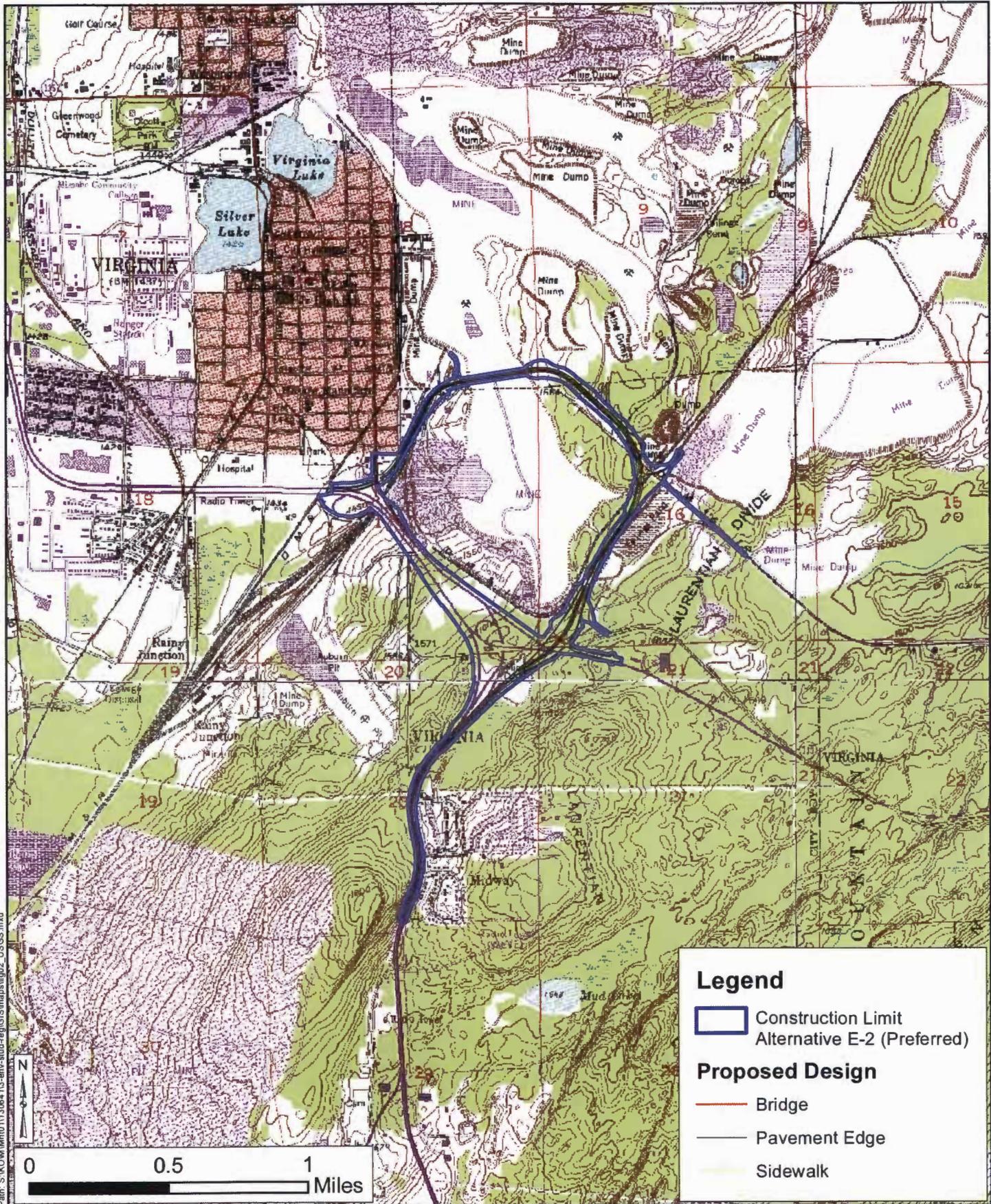
The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably 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 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.

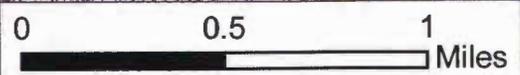
Benjamin Cox
Chief, Northwest Section

Enclosures

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



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Legend

- Construction Limit
- Alternative E-2 (Preferred)

Proposed Design

- Bridge
- Pavement Edge
- Sidewalk



418 W. SUPERIOR ST., SUITE 200

Project MNT01 130641
Print Date: 2/12/2015

Project Location Map (USGS)

TH 53 Relocation Project
St. Louis County, Minnesota

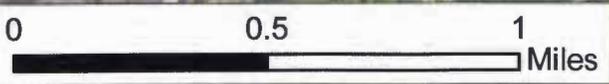
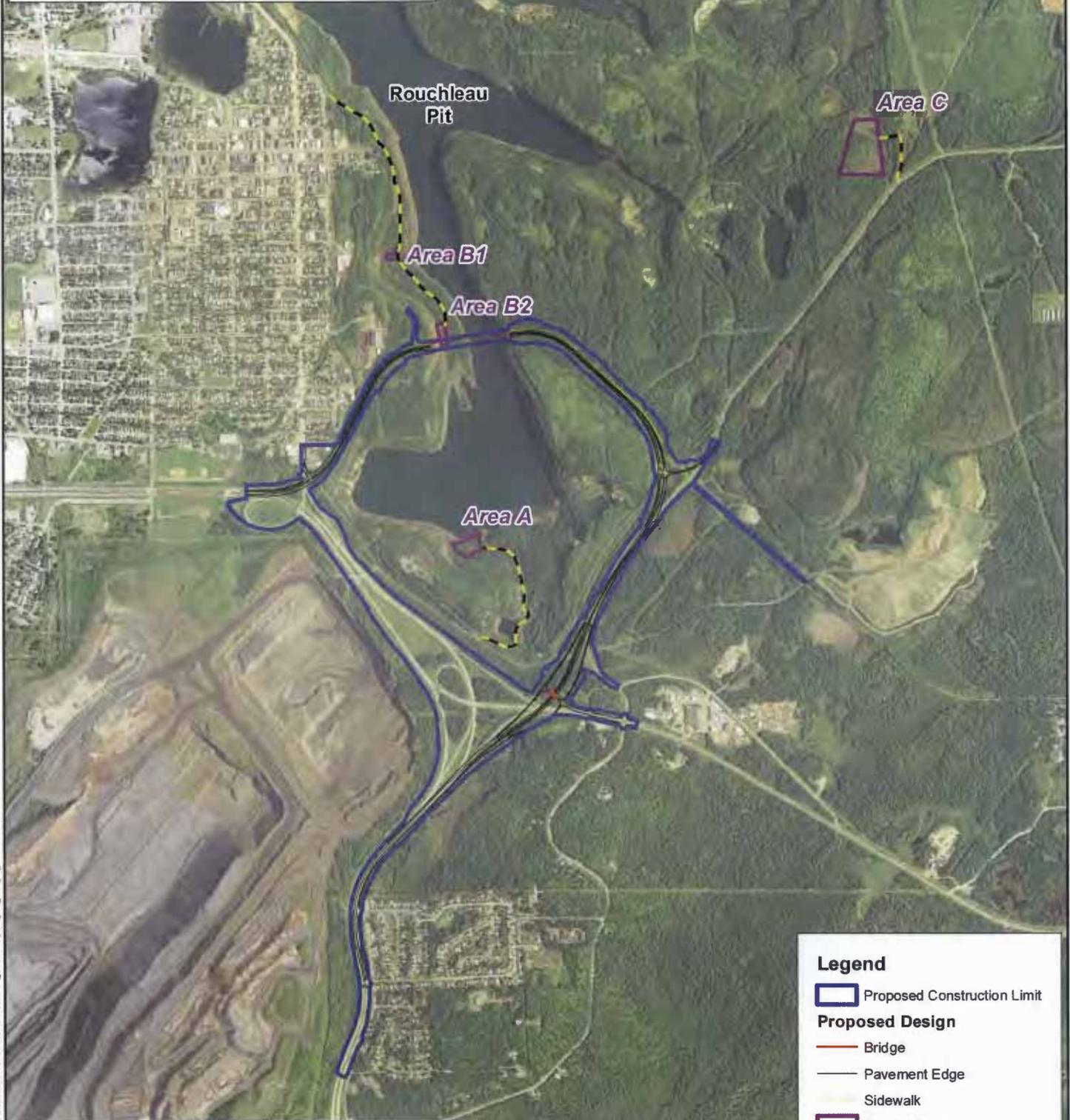
Figure
2

2011-00769-DWW
Drawing 2 of 8

This map is neither a legally record Information System (GIS) Data use map acknowledges that SEH shall

formation, and data gathered from various sources listed on this map and is to be used for reference purposes only. SEH does not warrant that the Geographic tional, tracking, or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. The user of this

Note: Staging Areas A and B are temporary and will be utilized during construction. Staging Area C will be used as the snow dump area after construction is complete.



Legend

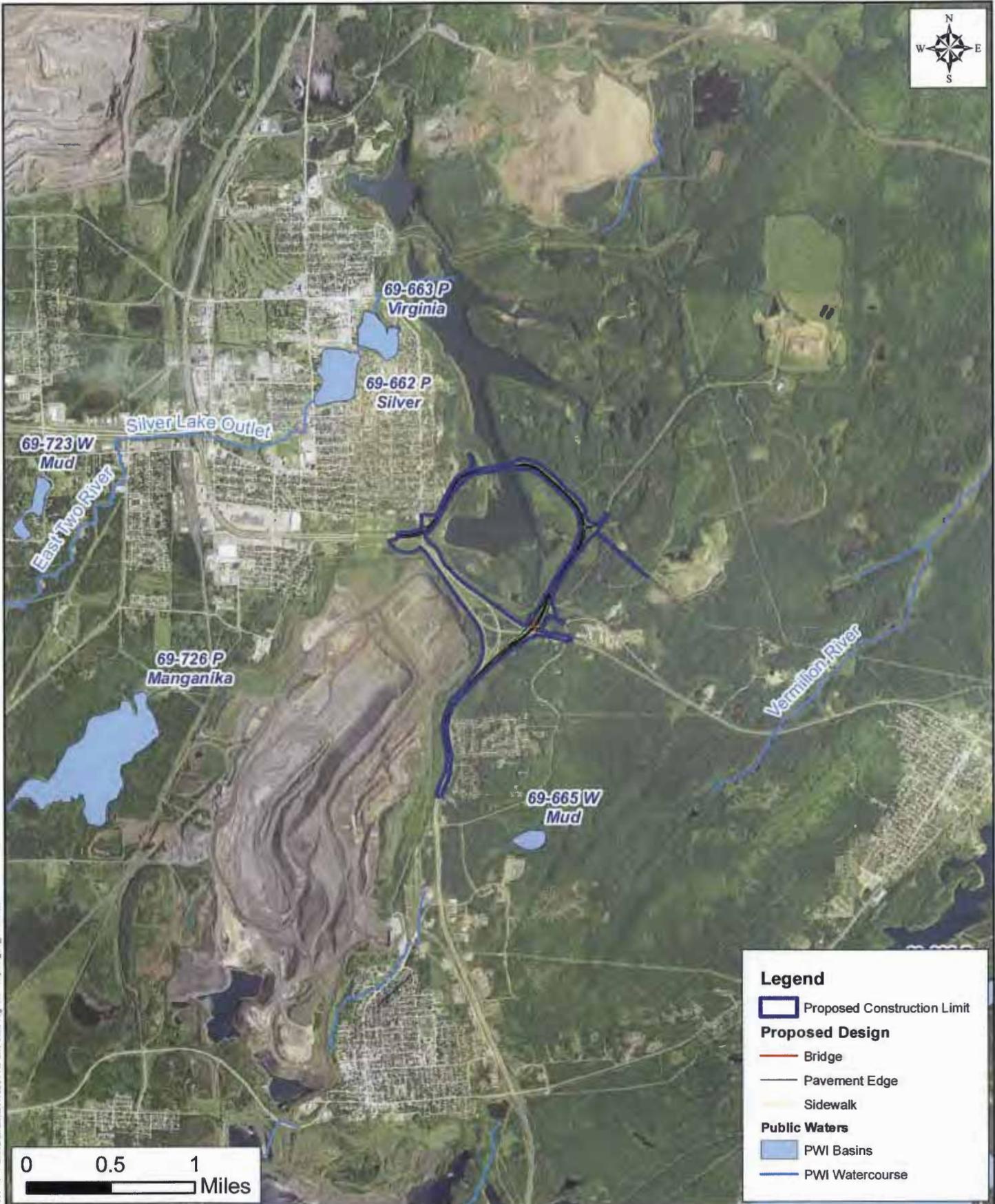
- Proposed Construction Limit
- Proposed Design**
- Bridge
- Pavement Edge
- Sidewalk
- Staging Areas
- Access Road

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2011-00769-DWW
Drawing 3 of 8

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Legend

-  Proposed Construction Limit
- Proposed Design**
-  Bridge
-  Pavement Edge
-  Sidewalk
- Public Waters**
-  PWI Basins
-  PWI Watercourse

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0 0.5 1 Miles



418 W. SUPERIOR ST., SUITE 200

Project: MNT01 130641
Print Date: 2/12/2015

MNDNR PWI
TH 53 Relocation Project
St. Louis County, Minnesota

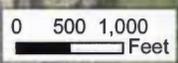
Figure 5

2011-00769-DWW
Drawing 4 of 8

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*** Notes:**
 - Wetlands 12 and 33 are within the project construction limit but will not be impacted. These wetlands occur in an area where the existing TH 53 is proposed to be obliterated and no additional construction would take place. Therefore, impacts to Wetlands 12 and 33 are able to be avoided.
 - Bridge abutments adjacent to the Rouchleau Pit will be above or notched into the pit wall. Impacts to the open water area of the pit will be avoided.



Legend

- Proposed Construction Limit
- Wetland Delineation (Level 1)
- Proposed Wetland Impacts

Proposed Design

- Bridge
- Pavement
- Shoulder
- Sidewalk
- Staging Areas
- Access Road



2011-00769-DWW
 Drawing 6 of 8

Source: USGS Aerial 2011

Legend

- Alternative M-1 Area of Evaluation
- Existing US 53 Easement Agreement Area
- Existing Public Recreation Land
- Existing School Trust Land
- Existing Mesabi Trail

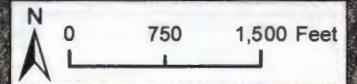


Figure 2.1-5
Alternative M-1
 US Highway 53 Virginia to Eveleth
 Draft Environmental Impact Statement



December 2014

Note: A 200-400 foot wide corridor was assumed for impact calculations reported in the Draft EIS.



Source: USGS Aerial 2011

Legend

- Alternative E-1A Area of Evaluation
- Existing US 53 Easement Agreement Area
- Existing Public Recreation Land
- Existing Mesabi Trail
- Existing School Trust Land



Figure 2.2-1
Alternative E-1A
US Highway 53 Virginia to Eveleth
Draft Environmental Impact Statement



- Legend**
- Existing US 53 Alternative
 - Alternative M-1
 - Alternative E-1A
 - Alternative E-2
 - ▨ Existing US 53 Easement Area
 - ▨ Alternative M-1 Estimated Construction Limits
 - ▨ Alternative E-1A Estimated Construction Limits
 - ▨ Alternative E-2 Estimated Construction Limits
 - ▭ Estimated Wetland Boundaries
 - ▭ Potential Wetland Impacts

2011-00769-DWW
Drawing 8 of 8

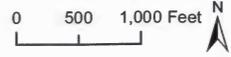


FIGURE 1
Water Resources

US Highway 53 Virginia to Eveleth
Draft Environmental Impact Statement