



US Army Corps
of Engineers
St Paul District

Public Notice

APPLICANT: Minnesota Department
of Transportation,
District 4

ISSUED: May 19, 2014
EXPIRES: June 18, 2014

REFER TO: 2012-05579-LSP

SECTION:404 - Clean Water Act

1. APPLICATION FOR PERMIT TO permanently discharge fill material into 6.27 acres of unnamed wetlands for the reconstruction of approximately 1.20 miles of Trunk Highway 10 (TH10). This project would also involve the reconstruction of a frontage road owned by the city of Detroit Lakes and the construction of a multi use trail in the city of Detroit Lakes in Becker County, Minnesota. This project is being constructed as S.P. 0301-60.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: Paul Munsterteiger
Minnesota Department of Transportation
District 4
1000 Highway 10 West
Detroit Lakes, Minnesota 56501

PROJECT LOCATION: The project site is located in the following area:
Sections 28 and 29, T139N, R41W.

The approximate decimal degrees for this project are 46.2955N, Longitude -96.1178W.

DESCRIPTION OF PROJECT: This proposed project would involve the reconstruction of TH 10 from the Airport Road to TH 59 with an unbounded concrete overlay, consolidation of access points between the frontage road to TH 10, reconfiguration of the eastbound TH 10 left turn lane and the northbound TH 59 turn lane, construction of a frontage road and multi-use trail including an underpass, construction of a new connection between the new frontage road and TH 59 and incorporation of a city project on Thomas Avenue. The approximate locations of proposed wetland impacts are shown on the attached drawing. Construction is scheduled to begin in March 2015.

QUANTITY, TYPE, AND AREA OF FILL: Total proposed impacts to aquatic resources include: 1.01 acres of shallow marsh wetlands; 0.65 acres of shrub carr wetlands; and 4.61 acres of hardwood forest wetlands. All impacts are proposed to be permanent.

VEGETATION IN AFFECTED AREA: Shallow marsh type wetlands contain at least some standing water throughout most of the growing season. In this part of Minnesota, shallow marshes typically support a variety of emergent vegetation such as cattails, reed canary grass, redtop, horsetails and often scattered shrubs such as willows and alders.

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Shrub carr wetlands support primarily shrubs and other low growing woody vegetation with an herbaceous layer beneath the shrub canopy. Woody species typical of shrub carr plant communities are various willows, alders and red osier dogwood with an understory comprised of a variety of grasses and sedges such as Canada bluejoint and lake sedge.

Hardwood swamps in this part of Minnesota are often dominated by black ash, silver maple, cottonwood and balsam poplar. Emergent plants such as reed canary grass and various shrubs are often found at the fringe and in forest openings. The understory in hardwood swamps often includes ostrich fern, marsh marigold, jewelweed and bladder sedge.

PROPOSED MITIGATION: In order to offset permanent, unavoidable impacts to wetlands, the applicant has proposed to withdraw credits from the Mn/DOT – BWSR wetland bank cooperative.

SOURCE OF FILL MATERIAL: Fill material will be clean material either excavated on site or purchased from commercial sources.

SURROUNDING LAND USE: The project is located in a growing commercial portion of the city of Detroit Lakes. Much of the surrounding area is developed for commercial uses. Some adjacent land is owned by railroad companies. Residential developments are located in proximity to the east end of the project.

THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE: The applicant has indicated that only clean fill material would be used for road construction. No use of toxic materials has been identified by the applicant, however construction zones frequently contain gasoline, diesel and other flammable substances. Solvents, lubricants and other hydrocarbons may also be present in the construction zone.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: Best Management Practices to protect water quality in the form of temporary and permanent erosion and sediment control measures will be used throughout the project corridor and shall conform to the Mn/DOT 2005 specification manual regarding erosion and sediment control. A Storm Water Pollution Prevention Plan (SWPPP) will be prepared for this project and will be included in the final plan package. The plan package with SWPPP will be available on-site during construction.

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.

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Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Mr. Larry Puchalski at the Bemidji Office of the Corps of Engineers. The telephone number is: (218) 444-6381.

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

No federally listed species are identified as occurring in Becker County.

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. The Corps will prepare an approved or preliminary jurisdictional determination prior to making a permit decision. Approved jurisdictional determinations are posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

REGULATORY AUTHORITY: This application will be reviewed according to the provisions of Section 404 of the Clean Water Act. Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 Code of Federal Regulations 230).

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

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

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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.

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer to determine if there are known cultural resources which may be affected by the described work. Any unknown archaeological, scientific, or historical data could be lost or destroyed by the work described in the permit application. However, the latest version of the National Register of Historic Places has been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located in the project area.

Mn/DOT's cultural resources unit has reviewed the proposed project pursuant to their FHWA delegated responsibilities for compliance with Section 106 of the National Historic Preservation Act and as per the terms of the Programmatic Agreement between the FHWA and the Minnesota SHPO. The Mn/DOT cultural resources unit has determined that there are **no historic properties affected** by the project as currently proposed.

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.

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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.

Desiree L. Morningstar
Acting Chief, Northwest Section

Enclosure

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

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Wetland Impact Locations**

Location of Project

