



US Army Corps  
of Engineers  
St Paul District

# Public Notice

**APPLICANT:** Minnesota Department  
of Transportation,  
District 2

**ISSUED:** November 27, 2013

**EXPIRES:** December 27, 2013

**REFER TO:** 2013-03612-LSP

**SECTION:**404 - Clean Water Act

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1. APPLICATION FOR PERMIT TO permanently discharge fill material into 12.51 acres of unnamed wetlands and temporarily impact 3.88 acres of wetlands for a total of 16.39 acres of impacts to aquatic resources for the reconstruction of 11.5 miles of Trunk Highway 11 (TH11). The project begins 0.3 miles east of bridge number 36020 west of Loman and ends at the junction of TH 11 and TH 71 at Pelland. This project is being constructed as S.P. 3604-73.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: Mr. Darren Laesch  
Minnesota Department of Transportation  
District 2  
3920 Highway 2 West  
Bemidji, Minnesota 56601

PROJECT LOCATION: The project site is located in the following areas:

T158N, R25W Sections 10, 11, 12, 13 and 14.

T70N, R27W Sections 35 and 36.

T70N, R26W Sections 31, 32, 33, 34, 35 and 36.

T70N, R25W Sections 29, 30 and 31.

The approximate decimal degrees for this project begin at Latitude 48.52264, Longitude -93.8191 and end at Latitude 48.52279, Longitude -93.57521.

DESCRIPTION OF PROJECT: The applicant proposes to reconstruct 11.5 miles of TH11 from 0.3 miles east of bridge number 36020 near Loman to the junction of TH 11 and TH 71 at Pelland Junction (see attached map). The highway is located in the northern portion of Koochiching County, and several segments of the project are located in close proximity to the Rainy River.

The purpose of the project is to upgrade TH 11 to increase traffic safety and to accommodate heavier vehicles by upgrading the road from a 7 to a 10 ton rated highway. The existing highway does not meet current design and safety standards for existing and anticipated traffic volumes and has design deficiencies that will be corrected with this project. TH 11 is a major truck route and is intended to serve as a future route for heavy traffic to serve the northern part of Minnesota. The proposed project is the last of five highway upgrade projects on Trunk Highway 11 from Baudette to Pelland. Previous projects permitted were: Phase 1, 2007-06021-KJU, S.P. 3604-71, Clementson to Frontier; Phase 2,

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2009-05717-LSP, S.P. 3604-69, Frontier to Indus; Phase 3, 2010-02622-LSP, S.P. 3902-25, Baudette to Clementson and Phase 4, 2011-04344-LSP, S.P. 3604-72.

The proposed project will include bituminous resurfacing, roadway and shoulder widening, slope flattening ditch widening and culvert replacement. The typical section for the majority of the highway will consist of two - 12 foot wide driving lanes with 4 foot wide aggregate shoulders. Inslopes will be built with a slope of 1:4 (V:H) and the backslopes with a slope of 1:3 (V:H). This portion of TH 11 will be built to a design speed of 60 miles per hour.

**QUANTITY, TYPE, AND AREA OF FILL:** Total impacts to natural wetlands, including temporary impacts associated with filling, mechanized land clearing and excavation include: 2.46 acres of wet meadow (permanent) and 1.00 acre of temporary impacts; 4.79 acres of shrub carr (permanent) and 2.49 acres of temporary impacts; and 0.81 acres of hardwood forest (permanent) and 0.39 acres of temporary impacts. The applicant identified an additional 4.45 acres of ditch bottoms that had developed wet meadow (Type 2 – PEM1b) characteristics on this project. These ditches were identified as being constructed entirely in uplands, but had developed wetland characteristics in the ditch bottom. Wet ditch impacts are included in the 16.39 acre total impact figure for the project. All temporary impacts will be restored to the original wetland type after construction is complete.

**VEGETATION IN AFFECTED AREA:** Fresh wet meadow (Type 2) wetlands in the region typically support various sedges and grasses throughout the growing season. Type 6 wetlands support primarily shrubs and other low growing woody vegetation with a sparse herbaceous layer beneath the shrub canopy. Woody species typical of shrub carr plant communities are various willow species, alders and red osier dogwood with an understory comprised of various grasses and sedges. Type 7 deciduous dominated wooded swamps support aspen and ash, and frequently balsam fir in the understory. Emergent plants such as reed canary grass and shrubs are often found at the fringe and in forest openings.

**PROPOSED MITIGATION:** Mitigation for this project will be accomplished through a combination of on-site methods and wetland bank withdrawal. Impacts to the 4.45 acres of aquatic resources identified as having developed within ditch bottoms constructed in uplands will be offset by new wetlands which are anticipated to develop in the newly constructed ditch bottoms. New ditches will be built at or near the same elevation and to the same or larger dimensions as the existing ditches.

The 3.88 acres of wetlands temporarily impacted will all be restored to pre-construction contours and elevations and planted with an appropriate native seed mix. Forested wetlands temporarily impacted will be planted with a native seed mix and allowed to naturally re-grow to a forested wetland plant community.

Impacts to natural wetlands adjacent to the existing roadway impacted by excavation of new ditches include: 1.41 acres of Wet Meadow, 2.93 acres of Shrub Carr and 0.19 acres of Forested Wetlands. An additional 0.20 acres of Forested Wetlands will be filled by widening the roadway inslope into adjacent forested wetlands. These impacts will be mitigated by withdrawing credits from the Mn/DOT-BWSR wetland bank cooperative and will adequately compensate for the permanent loss of these wetlands.

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

**SURROUNDING LAND USE:** Land use in the area consists primarily of small agricultural operations, rural residences, privately owned forest lands and large tracts of government owned land. The roadway is used primarily by east-west commuters, local residents, vacationers and as a truck haul route.

**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.

**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) has been 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. Since this project will disturb greater than 50 acres of soil, Mn/DOT will submit complete plans to the Minnesota Pollution Control Agency for a mandatory 30 day review prior to initiating construction activities.

**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 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.**

None were identified by the applicant or are known to exist in the permit area. However, portions of Koochiching County are within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Canada Lynx (T) <i>Lynx canadensis</i>	Northern Forested Areas

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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 Harbor Act of 1899 and Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 07-01. We have made a *preliminary 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. Our jurisdictional review and final jurisdictional determination could result in modifications to the scope of the project's regulated waterbody/wetland impacts and compensatory mitigation requirements identified above. An *approved jurisdictional determination* will be made prior to reaching a permit decision, and will be posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/>.

Based on the results of a preliminary jurisdictional determination this project comes under the regulatory jurisdiction of the Corps of Engineers because wetlands in the project area are adjacent to the Rainy River.

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 MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

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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.

Jeffrey M. Olson  
Chief, Northwest Minnesota Permit Section

Enclosure

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

# 2013-03612-LSP TH 11 Reconstruction Project Wetland Impact Locations

Location of Project

