



US Army Corps
of Engineers
St Paul District

APPLICANT: Shakopee
Mdewakanton Sioux
Community

REFER TO: MVP-2015-04726-RMM

Public Notice

ISSUED: 20-JAN-2016

EXPIRES: 19-FEB-2016

SECTION: 404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge dredged and fill material into 3.93 acres of Mystic Lake and into 2.34 acres of adjacent wetlands for the purpose of re-constructing County State Aid Highway (CSAH) 83 from CSAH 42 to CSAH 82.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: 2330 Sioux Trail NW
Prior Lake, Minnesota 55372

PROJECT LOCATION: The project site is located in Sections 28 and 33, Township 115N, Range 22W, Scott County, Minnesota, as shown on the attached figures labeled MVP-2015-04726-RMM Page 1 of 6 through Page 6 of 6.

DESCRIPTION OF PROJECT: The Shakopee Mdewakanton Sioux Community is proposing to re-construct CSAH 83. The project will include several elements. The re-construction will upgrade the existing two-lane roadway to a four-lane divided roadway. The design speed will be 50-mph. Currently the speed changes from a posted 50-mph north of CSAH 42, dropping to 40-mph before Mystic Lake and continuing south to CSAH 82. The project will include a grade-separated southbound exit. The southbound CSAH 83 lanes increase from two to three lanes, with the additional lane being added on the left at Stone Crest Pathway. The right lane of the three will become an exit-only lane into the Casino-Hotel development, with the middle lane splitting to present a choice of either continuing south on CSAH 83 or entering the casino-Hotel area. The re-construction will also pull CSAH 83 away from the homes that front the existing roadway on a new frontage road. Sidewalks on the east and west side of CSAH 83 will also be constructed along the project corridor allowing non-motorized users to have a dedicated space for travel.

QUANTITY, TYPE, AND AREA OF FILL: This project would result in the discharge of dredged and fill material into 3.93 acres of Mystic Lake and 2.34 acres of adjacent wetland. The impacts are summarized by resource type and can be seen in the table below.

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Aquatic Resource ID (as noted on overhead view)	Aquatic Resource Type (wetland, lake, tributary etc.)	Type of Impact (fill, excavate, drain, or remove vegetation)	Duration of Impact Permanent (P) or Temporary (T) ¹	Size of Impact ²	Overall Size of Aquatic Resource ³	Existing Plant Community Type(s) in Impact Area ⁴	County, Major Watershed #, and Bank Service Area # of Impact Area ⁵
70-79W	Lake	Fill	P	3.93 Ac	NA	I	Scott/33/9
70-79W	Lake Wetland	Fill	P	0.47 Ac	NA	IIB	Scott/33/9
70-79W	Lake Wetland	Fill	P	0.01 Ac	NA	IIIB	Scott/33/9
F(DNR 70-160W)	Wetland	Fill	P	0.58 Ac	NA	IIIB	Scott/33/9
M	Wetland	Fill	P	1.21 Ac	NA	IIIB/VA	Scott/33/9
N	Wetland	Fill	P	0.07 Ac	NA	IIB	Scott/33/9

SURROUNDING LAND USE: Directly to the east of the project corridor is Mystic Lake, which is a Department of Natural Resources public water (70-79W). The project area to the west includes Mystic Lake Casino Hotel and several other commercial sites.

MITIGATION: The Shakopee Mdewakanton Sioux Community (SMSC) has proposed a two part compensatory mitigation plan:

1. **Site-Specific Wetland Mitigation** – The creation of 5.50 acres of Type I wetland habitat within the same watershed (1.4:1 replacement ratio).
2. **Wetland Mitigation Bank Credits** – The purchase of 4.68 acres of wetland credits from an established Minnesota wetland bank (a 2:1 replacement ratio) to compensate for Type IIB and IIIB wetland impacts.

PROJECT ALTERNATIVES: In addition to the applicant's preferred alternative several other alternatives were considered. Highway design speeds from 40 mph to 55 mph were considered. Lake fill impacts, which comprise the majority of the project's wetland fill, were considered for these various design speeds. The results of the design speed and lake fill impacts comparison are summarized as follows:

- **40-MPH Design Speed.** A 40-mph design speed would result in about 2.70 acres of lake fill impact. This option was rejected because it does not meet the 45- to 50-mph design speed guidance for a minor arterial (Scott County standard, based upon Metropolitan Council standards). This option also would not substantially eliminate wetland impacts.
- **45-MPH Design Speed.** A 45-mph design speed would result in about 4.36 acres of lake fill impact. While this design would be minimally compliant with the Scott County design standard, it would not reduce impacts measurably compared to the 50-mph option; the two options are almost equal, with 45-mph estimated at about 1.2% square feet less fill than the 55-mph speed.

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- 55-MPH Design Speed. At the high end, a 55-mph design speed was considered. This design would result in about 4.55 acres of lake-fill impact. It was decided that while this speed is the highest reasonable target for a minor arterial, and is consistent with similar nearby highways, it is not necessary or optimal for this challenging highway design location.
- **The Bridge Alternative.** Another analysis to address possible minimization of fill impacts to Mystic Lake considered a range of feasible bridge lengths designs. This analysis considered bridge lengths in 75-foot spans to calculate corresponding reductions in lake fill. The various bridge lengths did not significantly minimize the amount of lake fill that would be needed to offset a substantive increase in project costs. One 75-foot bridge span would reduce the total amount of lake fill by about 0.2 acre compared with that segment of lake being filled entirely. The resulting 5-span bridge (375 feet long) would reduce the total amount of lake fill by about 1.0 acre as compared to complete filling. The bridge concept was rejected because it would not substantially minimize impacts to Mystic Lake and other nearby wetlands. Furthermore, the incremental minimization through use of bridge spans are not cost effective, with the method averaging more than \$4.4 million in net additional cost per acre of wetland avoided.

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 Ryan Malterud at the St. Paul office of the Corps, telephone number (651) 290-5286.

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.

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

<u>Species</u>	<u>Habitat</u>
Northern Long-eared Bat (T)	Hibernates in caves and mines – swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.

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.

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5. JURISDICTION.

This application is being reviewed in accordance with current practices for documenting Corps jurisdiction under Section(s) 9 & 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

We have made a preliminary determination that the aquatic resources that would be impacted by the proposed project are subject to Corps of Engineers jurisdiction under Section(s) 9 & 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If an approved jurisdictional determination is completed as part of the review process for this application, a copy will be posted on the St. Paul District web page at the following link:

<http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

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

1. Minnesota DNR Public Waters Permit.

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.

This public notice is being sent to the National Park Service and the State Archaeologist for their comments. The Corps will review information on known cultural resources and/or historic properties within and adjacent to the project area. The Corps 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 Corps' determination of effect will be coordinated with the State Historic Preservation Officer 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.

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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.

Ryan Malterud
Acting Chief, Southwest Section

Enclosures



Legend

Study Area Limits



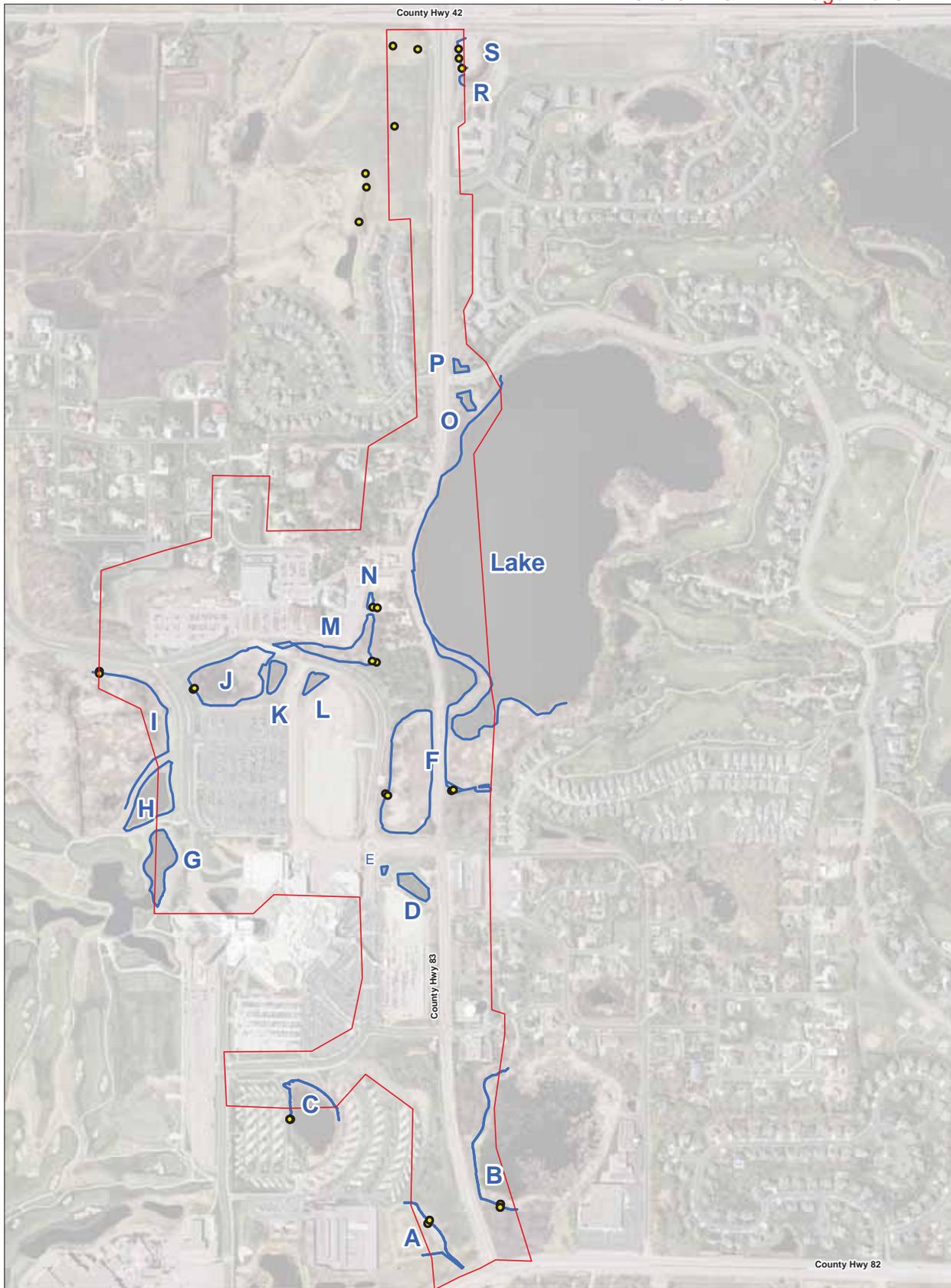
**SHAKOPEE MDEWAKANTON
SIOUX COMMUNITY**

**CSAH 83
RECONSTRUCTION**

PROJECT LOCATION

ATTACHMENT A

EXHIBIT A
OCTOBER, 2015



Legend

- Study Area Limits
- Wetland
- Soil Borings

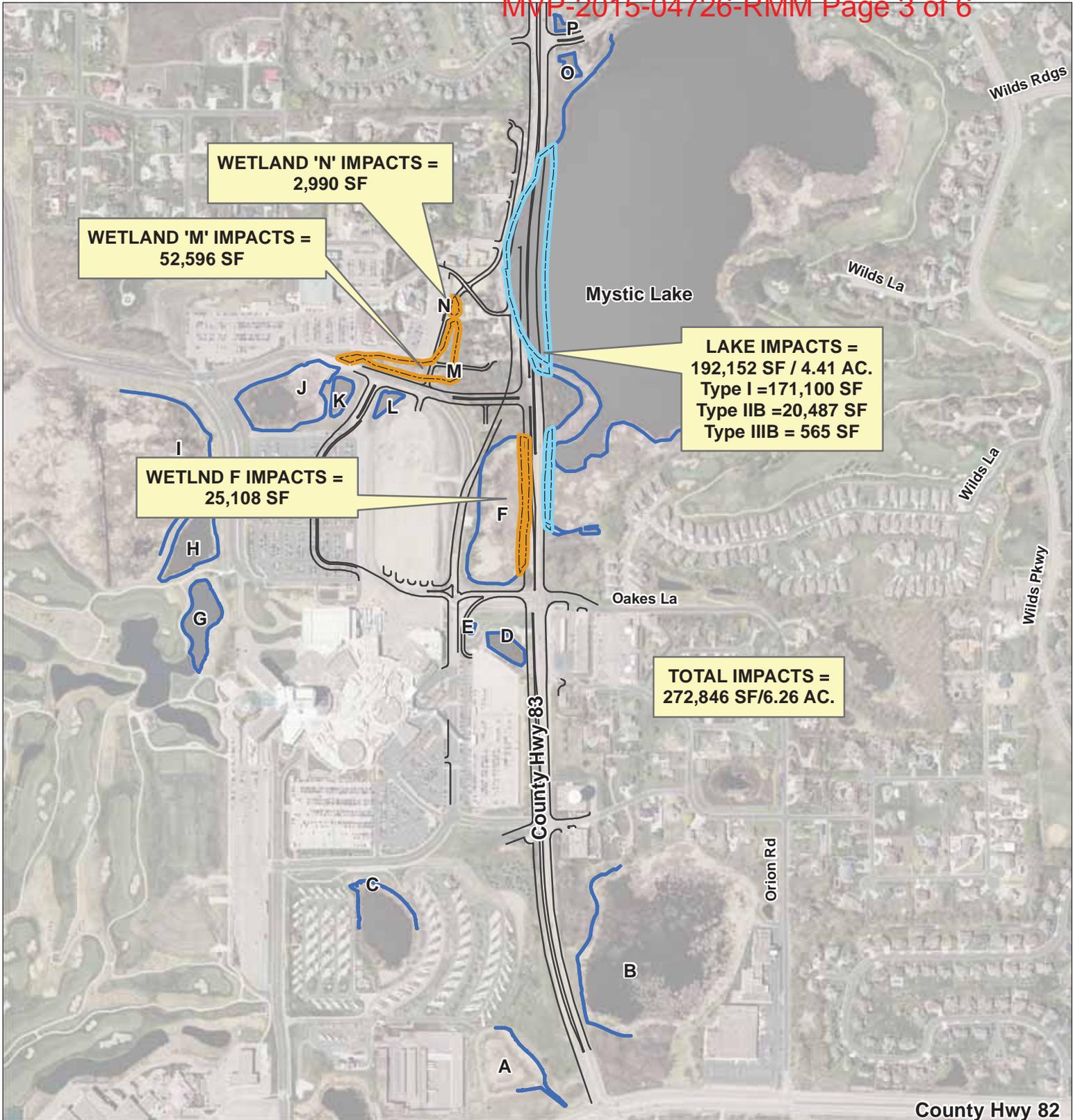
ATTACHMENT A

**SHAKOPEE MDEWAKANTON
SIOUX COMMUNITY**

**CSAH 83
RECONSTRUCTION**

WETLAND DELINEATION

**EXHIBIT F
OCTOBER, 2015**



Legend

- LAKE IMPACTS
- WETLAND IMPACTS
- Delineated Wetland
- Proposed Road Alignment-45mph

ATTACHMENT C

**SHAKOPEE MDEWAKANTON
 SIOUX COMMUNITY
 CSAH 83
 RECONSTRUCTION
 WETLAND IMPACTS SUMMARY**

EXHIBIT E
 OCTOBER, 2015

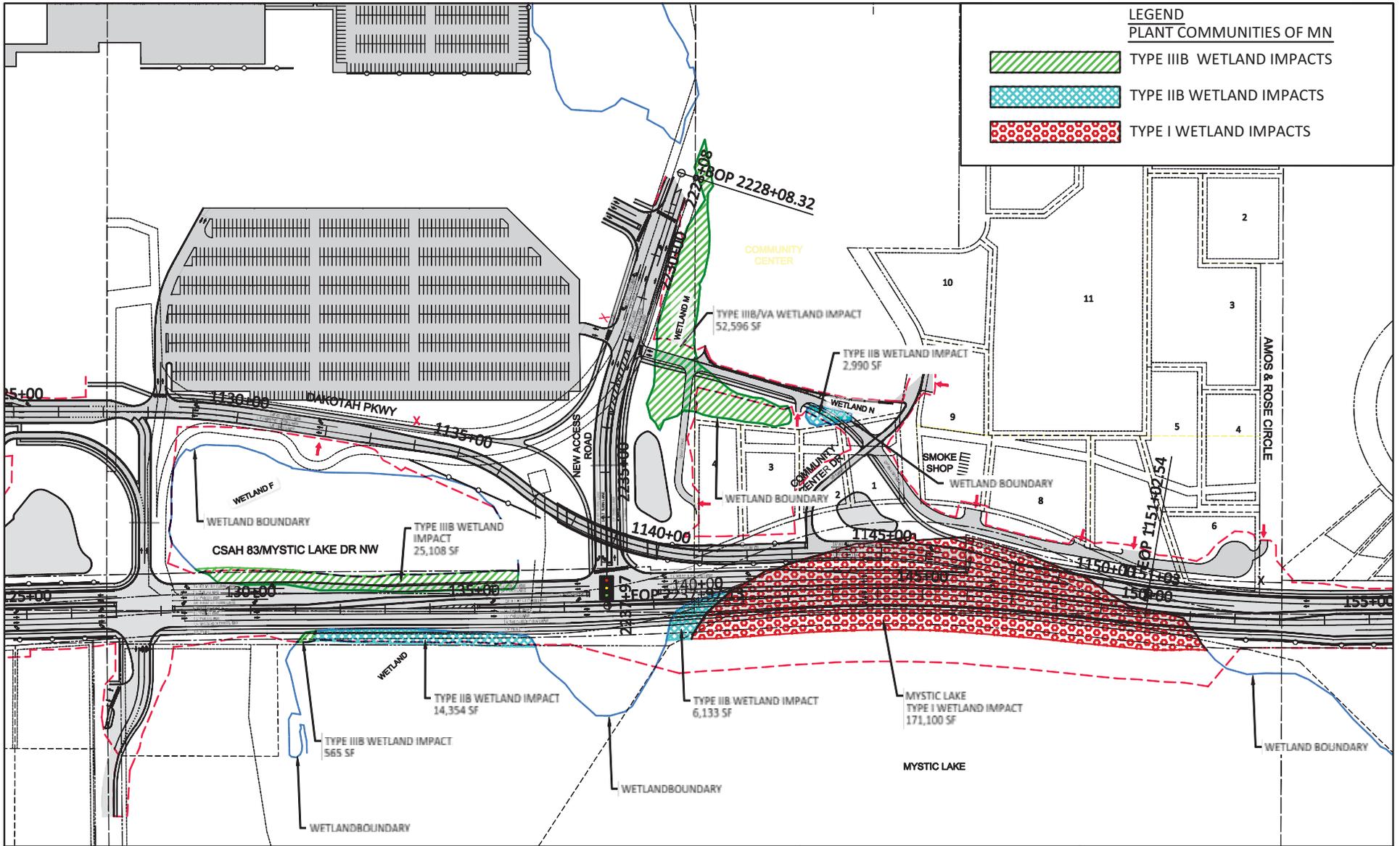


**SHAKOPEE MDEWAKANTON
SIOUX COMMUNITY
CSAH 83
RECONSTRUCTION**

**PURPOSE & NEED
ROAD ALIGNMENT**

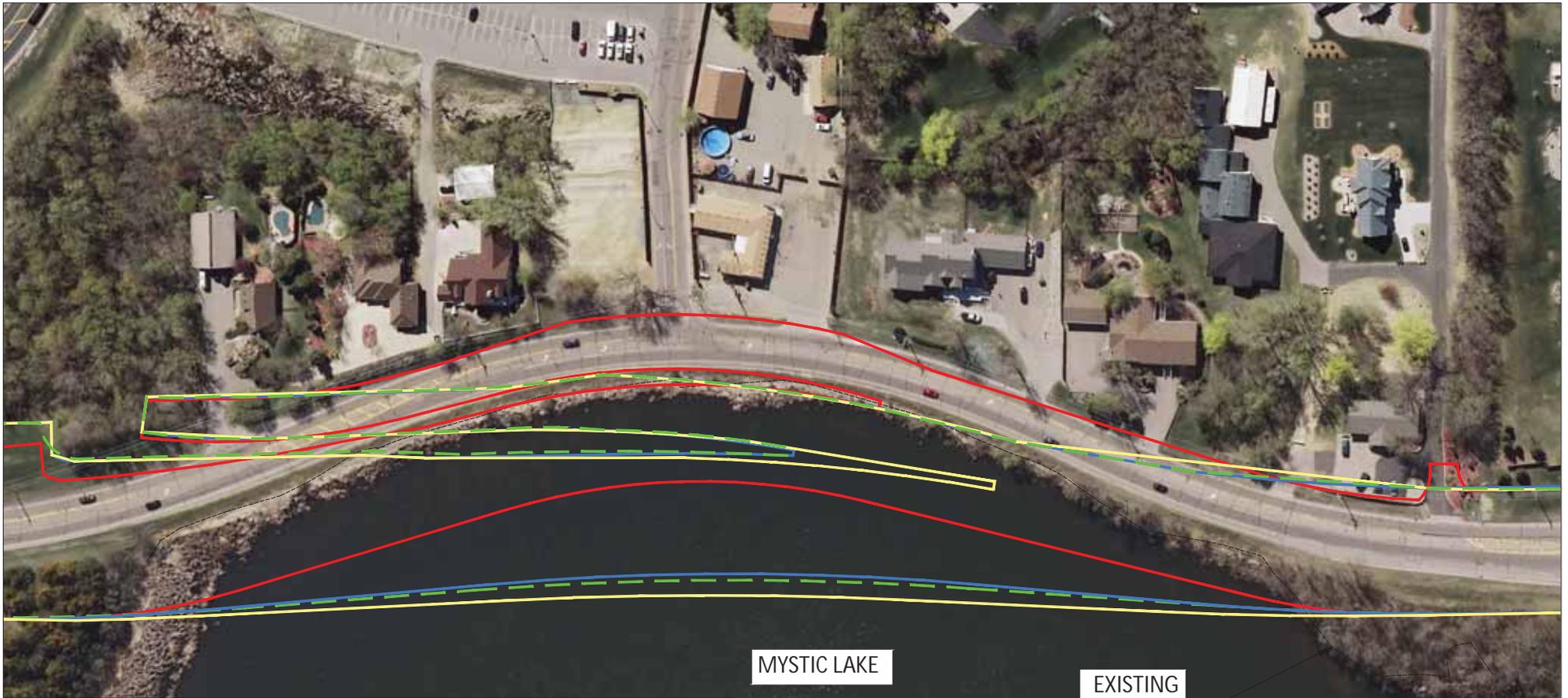
EXHIBIT C
OCTOBER, 2015

ATTACHMENT C



LEGEND
PLANT COMMUNITIES OF MN

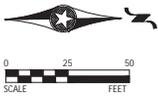
-  TYPE III B WETLAND IMPACTS
-  TYPE IIB WETLAND IMPACTS
-  TYPE I WETLAND IMPACTS



MYSTIC LAKE

EXISTING LAKE LINE

OPTION	LAKE FILL TOTAL
55 MPH	197,985 SQ FT/4.55 ACRES
50 MPH	192,152 SQ FT/4.41 ACRES
45 MPH	189,790 SQ FT/4.36 ACRES
40 MPH	117,698 SQ FT/2.70 ACRES



Design Speed and
Lake Fill Impacts
(revised 10/29/15)

ATTACHMENT C