



**US Army Corps
of Engineers®**
St. Paul District

Appendix A – Correspondence and Coordination

**Lower Sioux Indian Community Riverbank
Stabilization
Feasibility Report and Integrated Environmental
Assessment
Section 203 Tribal Partnership Program**

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Appendix A – Correspondence and Coordination

1 Introduction

Coordination has been ongoing throughout the scoping and feasibility phase of the study. This appendix documents major coordination and engagement efforts. It will be continually added to as additional coordination and engagement occurs.

The first draft report, where Alternative 4 was documented as the Tentatively Selected Plan (TSP), was fully coordinated with the public, tribe, and resource agencies. At the end of the review period, it was determined that the FEMA flood stage model was applied incorrectly, and several alternatives were inappropriately screened from consideration due to flood stage impacts. The correct FEMA flood stage model was used, and all of the original alternatives no longer showed flood stage impacts. All alternatives, including the No Action alternative were re-evaluated and compared, and a different alternative (Alternative 3) was identified as the TSP.

The feasibility report and integrated environmental assessment were revised to reflect the new information. **This section will be updated as information is generated.**

2 Tribal Consultation

As part of the USACE' tribal trust responsibility, USACE takes into consideration the relationship between Native American tribes and the federal government on various elements of this project. All federally recognized tribes and sovereign governments are responsible for their own governance and management. Sovereignty is the foundation of tribal governments, and their sovereign status gives them special recognition and treatment under federal law.

USACE consulted with the LSIC THPO throughout the feasibility phase of the project. A cultural resources permit was issued for the cultural survey (attached). Official consultation in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, per its implementing regulation 36 CFR Part 800, has been initiated. Letter to the LSIC THPO is attached. In a letter dated March 4, 2022, the LSIC THPO concurred with the "No Historic Properties Affected" determination (letter attached). A coordination letter describing the revised TSP and determination of "No Effect on Historic Properties" was sent to the LSIC THPO on February 9, 2023.

3 Coordination Meetings

A project kickoff meeting was held on October 15th, 2020 with a representative for the LSIC and the USACE team. An additional meeting was in February 2021 to brief the LSIC on materials to be presented at an In-Progress Review (IPR) meeting with USACE MVD on February 24, 2021.

A representative for the tribe was invited to attend the biweekly team meetings and was closely involved at significant meetings throughout the feasibility phase of the study.

The revised draft report will be coordinated with Tribe prior to release. Any comments on the report will be incorporated and coordination actions will be documented in this appendix.

3.1 Bureau of Indian Affairs

Section 203 of the WRDA 2000, as amended, states the USACE shall coordinate activities in connection with TPP with the Secretary of Interior. **The draft report will be coordinated with the Bureau of Indian Affairs and documentation the coordination will be provided in this appendix.**

3.2 Fish and Wildlife Coordination

As required by the Fish and Wildlife Coordination Act, the proposed action has been coordinated with the U.S. Fish and Wildlife Service (USFWS) and the Minnesota Department of Natural Resources (MNDNR). No substantive concerns have been raised during this early interagency coordination effort. Correspondence related to this coordination can be found at the end of the appendix.

3.3 Permits

The project is within the LSIC tribal reservation boundary. For impacts to waters within the reservation boundary, Section 401 Water Quality Certification would be required from USEPA. A Section 401 pre-filing meeting request was submitted to USEPA on March 17, 2021 and can be found at the end of the appendix.

4 Public Involvement

The first draft feasibility report and integrated environmental assessment was made available for a 30-day public and agency review. The review started on 28 September 2021 and expired on 28 October 2021. The U.S. Environmental Protection Agency commented on the project. Comments and response to comments can be found at the end of the appendix.

After the reformulation and selection of a different alternative, the revised draft report will be made available for a 30-day public and agency review. This section will be updated at the completion of the review period.

From: [Glomski, Lee Ann M CIV USARMY CEMVP \(USA\)](#)
To: "[REDACTED]"
Subject: FWCA - 2 Minnesota River bank stabilization projects
Date: Monday, November 2, 2020 1:15:00 PM
Attachments: [UpperSioux_StudyArea_20200720_20200918_Plug.pdf](#)
[LowerSioux_Shoreline_20201013.pdf](#)

All,

The Lower Sioux Indian Community and the Upper Sioux Community have both requested assistance from the St. Paul District for riverbank stabilization along the Minnesota River under Section 203 Tribal Partnership Program of the Water Resources Development Act of 2000 (WRDA 2000), as amended. These are 2 separate projects and are summarized below:

Lower Sioux: This project is located in Morton, Minnesota (Redwood County). As shown on the attached figure, the tribal boundary extends to the riverbank with the exception of the eastern most portion of the project area where the bank has eroded and the boundary extends out into the Minnesota River. This project is in the early stages of planning but alternatives to stabilize the bank include hard armoring, bioengineering or a combination of both techniques.

Upper Sioux: This project is located in Granite Falls, Minnesota (Yellow Medicine County). As shown on the attached figure, the tribal boundary extends out into the Minnesota River. The tentative plan includes ditch plugs, bendway weirs and riprap.

Environmental Assessments are being drafted and will be made available for a 30-day public and agency review and comment period. We will send you a copy of both EAs once they are available.

If you have any comments or questions on either project, please feel free to contact me.

LeeAnn Glomski
Biologist
USACE - St. Paul District
[REDACTED]

From: [Glomski, Lee Ann M CIV USARMY CEMVP \(USA\)](#)
To: [REDACTED]
Subject: 401 pre-filing meeting request - Lower Sioux TPP
Date: Wednesday, March 17, 2021 7:25:00 AM
Attachments: [Lower Sioux Section 401 Pre-filing.pdf](#)

Please find the attached pre-filing meeting request for the Lower Sioux Indian Community Riverbank Stabilization project. The project is located in Redwood County, Minnesota. We anticipate needing to request Section 401 water quality certification from both MPCA and USEPA.

If you would like to discuss the project, please contact me at your earliest convenience.

LeeAnn Glomski
Biologist
USACE - St. Paul District
[REDACTED]

Section 401 Water Quality Certification Pre-filing Meeting Request 17 March 2021

In accordance with 40 CFR §121.4, the U.S. Army Corps of Engineers St. Paul District is requesting a pre-filing meeting request with Minnesota Pollution Control Agency and U.S. Environmental Protection Agency.

Project Name: Lower Sioux Indian Community Riverbank Stabilization Project

Project Description: The St. Paul District is proposing to stabilize over 1000 linear feet of streambank along the Minnesota River in Redwood County, Minnesota. The project would occur on the Lower Sioux Indian Community reservation in Morton, Minnesota. Figure 1 shows the project area as well as the rate of erosion. The proposed project would include bank re-shaping and placement of riprap along Reaches 1 through 3. No work would occur within Reach 4. The project would also include an access road.



Figure 1. Project Area

Required Permits and Authorizations: The proposed project would occur within and outside of the reservation boundary. The reservation boundary is shown on Figure 2.

- Public Waters Permit (Minnesota Department of Natural Resources): For work in the bed of the Minnesota River that is located outside the boundaries of established tribal lands.

- Section 401 Water Quality Certification (Minnesota Pollution Control Agency): For the discharge of fill material into the Minnesota River outside the boundary of the tribal reservation.
- Section 401 Water Quality Certification (U.S. Environmental Protection Agency): For the discharge of fill material into the Minnesota River and wetlands within the tribal reservation boundary.

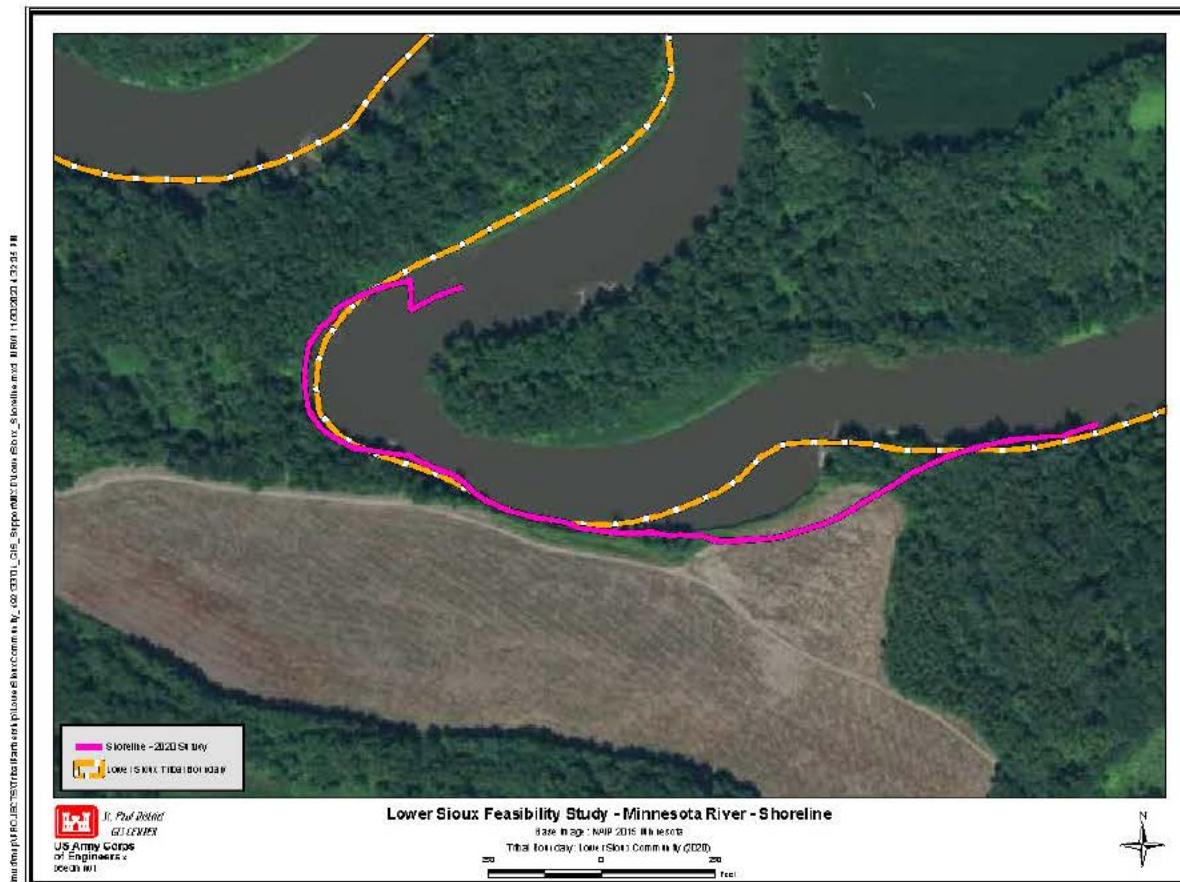


Figure 2. Reservation Boundary

Project Timeline: Feasibility phase is scheduled to be completed by 1 November 2021 and we anticipate submitting a certification request by spring/early summer 2021. The project is anticipated to be constructed during 2022 – 2023.

Please acknowledge receipt of this request via email. If you would like to meet with us, please contact me via email or phone (listed below) to discuss a date and time to meet during the 30-day pre-filing notification timeframe.

LeeAnn Glomski
Biologist





**Tribal Historic Preservation Office
Lower Sioux Indian Community**
P.O Box 308 | 39527 Reservation Hwy 1
Morton, MN 56270
(507) 697-8672

CULTURAL RESOURCE PERMIT

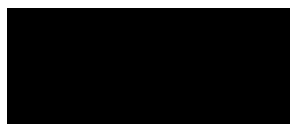
LOWER SIOUX INDIAN COMMUNITY IN THE STATE OF MINNESOTA

The Lower Sioux Tribal Historic Preservation Office provides this permit pursuant to its *Cultural Resource Protection Ordinance*, Title 7 Section 701. The permit is valid for the United States Army Corps. of Engineers preapproved undertaking on Lower Sioux Indian Reservation titled, **Minnesota River Streambank Stabilization project** at the following location and for the preapproved activities for the week of January 21st, 2021:

Project location: Lower Sioux Indian Reservation, Redwood County, Minnesota. Parcel id: 65-006-1020; Section 6 and 7, Township 112, Range 34 and 35W.

Activities: Through exploratory work associated with the preapproved project, applicant intends to conduct visual reconnaissance of the river cut bank, complete approximately 20-30 shovel tests at about 10 m intervals in a single transect parallel with the river. Due to the low terrace and known floodplain within the location proposed tests will be excavated to approximately 90-100cm. Informal soil probes (1-Inch Oakfield) are permitted as long as conducted within the permit area.

Should any of the project activities change from the preapproved *Consent for Survey of Indian Land*, applicant must resubmit a permit request along with project changes to the Lower Sioux THPO.



Cheyenne St. John, THPO
Lower Sioux Indian Community



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

27 August 2021

Regional Planning and Environment Division North

Ms. Cheyanne St. John
Tribal Historic Preservation Officer
Lower Sioux Indian Community
39527 Reservation Highway 1
Morton, Minnesota 56270

SUBJECT: Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.

Ms. St. John:

The U.S. Army Corps of Engineers, St. Paul District (Corps), is proposing to stabilize a stretch of the Minnesota River at the Lower Sioux Community, Redwood County, Minnesota (Figure 1). Ongoing erosion along the bank of the Minnesota River is threatening natural and cultural resources of the Lower Sioux Community. Bank stabilization (Project) would include bank cut back and the placement of riprap and incorporating vegetation where possible. No cultural materials were identified during archaeological investigations. The Corps has determined the Project will have no effect on historic properties.

The project area is in the floodplain along the right-descending bank on an actively eroding outside bend of the river (Figure 2). The downstream portion of the project area is alluvial bottomland while the upper portion is on a low terrace. The upstream and downstream portions of the project area are in floodplain forest (maple, ash, cottonwood, elm) while the middle stretch contains a mix of grasses, willows and occasional other trees in a fallow field in the Conservation Reserve Program (CRP). The upstream portion also contains a granite outcrop, accessed for fishing.

The tentatively selected plan for bank stabilization would include cutting back the vertical banks to a 1V:3H slope. Riprap would be placed on bedding (smaller rock) and extend from the toe of the slope to the top of the bank. A typical cross-section is illustrated in Figure 3. Construction access would follow the existing two-track road running along the south side of the river. The access road may require minor, temporary, improvements with the placement of fill that would be removed after construction is complete. A staging area would be located near the downstream portion of the project within the fallow CRP field. Materials would be placed along the surface of the field with minimal impacts.

The Area of Potential Effect (APE) includes the immediate shoreline within the project area and where earth moving activities may potentially occur, such as access roads and lay-down yards for equipment storage and sediment disposal. In addition, the APE includes an area extending one-mile from the project to include distant areas where the project features may be visible and

potential vibration, sound and air-quality effects may occur during short-term, temporary construction activities. Figure 1 depicts the project's APE.

Archaeological investigations for the streambank protection project were completed on 21-22 June 2021, by Dr. Bradley Perkl, Corps Archaeologist, under a Cultural Resources Permit issued by the Tribal Historic Preservation Office (Figure 4). Archaeological investigations included a pedestrian surface survey, an inspection of the cut bank, and placement of shovel tests. Figure 5 provides a sketch map of the investigations in the project area.

The cut bank was inspected from the bedrock outcrop on the upper portion to a sandbar on the lower portion of the project area. Water levels were low during the time of survey and approximately 75 percent (ca. 320 m/650 ft) of the bank was examined from the toe of the bank. The remaining areas (ca. 111 m/364 ft) were scrutinized from above. Surface visibility varied from approximately 25-100 percent.

In addition to some historic trash, (e.g., plastic fragments, bottles), several caudal elements (atlas, axis, vertebrae) from a large mammal (bison vs. elk, cow, horse) were observed along the cut bank, approximately four feet below the ground surface and approximately 225 m (739 ft) downstream of the bedrock exposure. No cultural materials or other faunal remains were observed. The faunal remains appear to be a natural deposit, perhaps washed in.

A total of four shovel tests were completed along the bank (Figure 5). Shovel Test (ST) 3 was placed just above where the faunal elements were located. They averaged approximately 40 cm in diameter. Removed matrix was screened through ¼-inch hardware cloth. All the STs exhibited similar soil profiles, with an A1 (post-settlement alluvium?) horizon of very dark gray 10YR3/1 silt loam from 0-40 centimeters below surface (cmbs) over an A2 horizon of very dark grayish brown 10YR3/2 silt loam to approximately 60 cmbs. A one-inch soil probe was inserted at the base of each ST, revealing an A3 horizon of dark brown 10YR3/3 silt loam to approximately 90 cmbs. No buried soil horizons were observed along the cutbank nor are any mapped in this area. These profiles exhibit natural soil horizons and are within the range of Du Page soil characteristics mapped in the area (USDA 2021). Also, the profiles loosely conform to the geological borings obtained for the project, with a black silty clay topsoil extending to 0.8 ft (24 cmbs), over a brown clay silt too two ft (60 cmbs), over a dark brown silty clay to nine ft (274 cmbs). No buried soils were revealed in the geological borings. No cultural materials were encountered in the STs.

The Corps has determined that the project will have no effect on historic properties. The project area has experienced erosion and has been cultivated. In addition, portions of the project area are low and seasonally inundated. No cultural resources were identified during the June 2021 survey. However, the project area contains a variety of plant and animal resources important to the community. It is recommended that the shoreline be periodically inspected for cultural materials.

Please review the above and comment on our determination. Any comments or questions should be directed to Dr. Bradley Perkl, archaeologist, [REDACTED] or [REDACTED]. We look forward to hearing from you.

Sincerely,

[REDACTED]

Jonathan J. Sobiech
Deputy Chief, Regional Planning and
Environment Division North

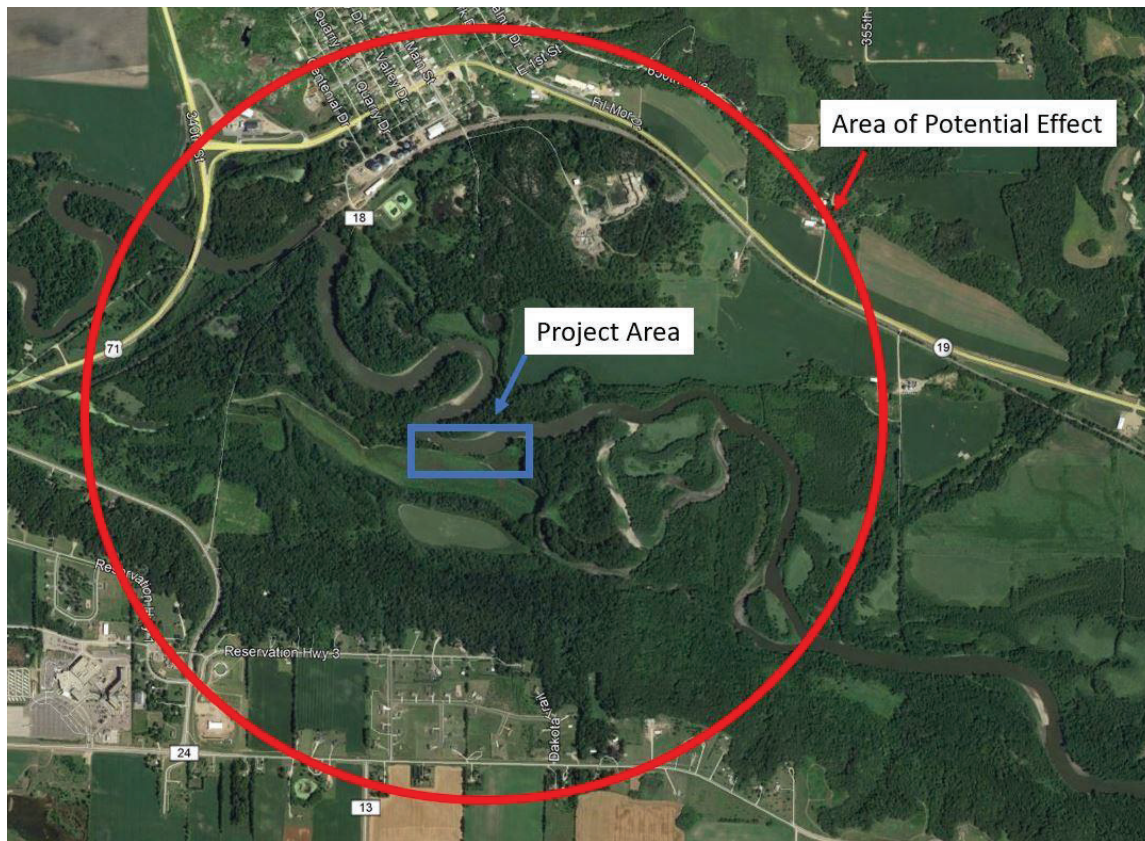


Figure 1. Project Area Location and Area of Potential Effect. Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.



Figure 2. View of Project Area, Looking Upstream/West. Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota

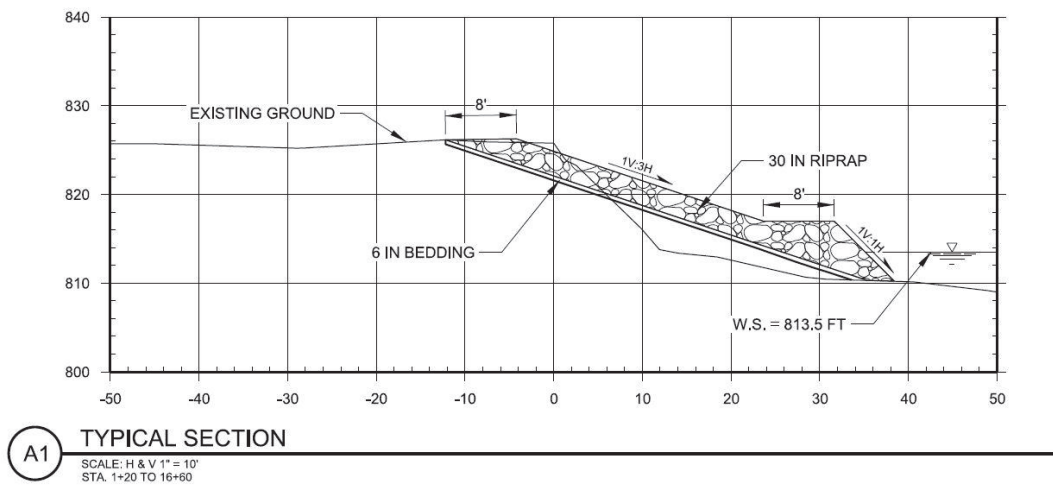


Figure 3. Conceptual Design Cross-Section, Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.



Tribal Historic Preservation Office
Lower Sioux Indian Community
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CULTURAL RESOURCE PERMIT

LOWER SIOUX INDIAN COMMUNITY IN THE STATE OF MINNESOTA

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Should any of the project activities change from the preapproved *Consent for Survey of Indian Land*, applicant must resubmit a permit request along with project changes to the Lower Sioux THPO.



Cheyenne St. John, THPO
Lower Sioux Indian Community

Figure 4. Cultural Resources Permit, Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.

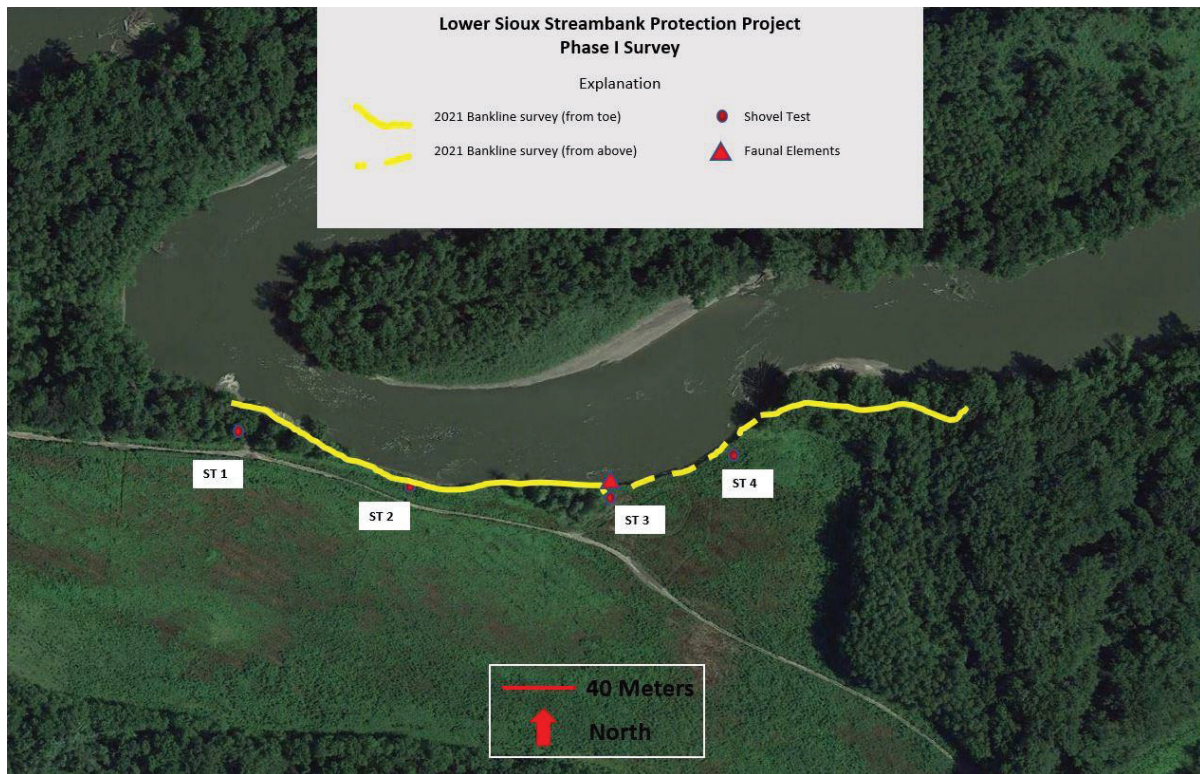


Figure 5. Sketch Map of Archaeological Investigations, Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

28 September 2021

Ms. Patricia Olby
Deputy Regional Director (Trust Services)
Midwest Region Regional Office
Bureau of Indian Affairs
5600 American Blvd W Ste 500
Bloomington, Minnesota 55437

Dear Ms. Olby:

The U.S. Army Corps of Engineers, St. Paul District (Corps) is partnering with the Lower Sioux Indian Community on the Minnesota River Bank Erosion Stabilization (Project) located in Redwood County, Minnesota, along the right descending bank of the Minnesota River (Figure 1). The study is being carried out under Section 203 of the Water Resources Development Act (WRDA) of 2000, as amended (33 U.S.C. § 2269). Section 203 authorizes the Corps to carry out a Tribal Partnership Program (TPP), consisting of water-related planning activities and activities related to the study, design, and construction of water resource development projects that substantially benefit federally recognized tribes. The Corps is reaching out to your office to coordinate this project per implementation guidance (Attached).

The purpose of the Project is to investigate and determine potential remediation of the existing riverbank to protect cultural and natural resources within the study area. Ultimately the study is looking to reduce erosion of Tribal lands. The Lower Sioux Tribal lands are a finite resource and the erosive threat has caused a loss of this resource. It is expected that erosion and land loss would continue unless appropriate measures are taken to reduce the erosive threat to preserve tribal lands. The study area, along approximately 2000 LF of the river, has been separated into four distinct river reaches (Figures 2-6). The reaches were determined based on distinct characteristics of the river and geology. Figure 1 shows the study area and the four study reaches (starting downstream and working upstream) and the geotechnical boring locations (smaller numbers).

Reach 1 (Figure 3) – This reach includes 830 LF of river bend and has no signs of exposed bedrock. The slopes are vertical and up to 15 feet in height. Soils in this area consist of silty clay underlain by sands. Existing forest stands within the reach are eroding and there are limited grasses on the bank. The lowest point within the channel (thalweg) is migrating laterally. It is unclear if the thalweg is migrating vertically, which would be indicative of channel scour. The land adjacent to this reach is classified as wetland.

Reach 2 (Figure 4) – This reach consists of approximately 300 LF of river bend. Up to 18 foot vertical banks transition into a sloped vegetated bank from downstream to upstream in this reach. The land adjacent to this reach is classified as wetland. Soils in this area consist of silty clay underlain by bedrock.

Reach 3 (Figure 5) – This reach is about 320 LF in length along the river bend. A bedrock outcropping is located within this reach, where unvegetated banks up to 18 feet in height

appear to be partially stabilized by tree roots. Soils in this area consist of silty clay underlain by bedrock.

Reach 4 (Figure 6) – This reach contains a meandered pool with relatively low top of bank elevations at the location where overland flow discharges into the river. The reach is approximately 460 LF with varying slopes up to 18 feet in height.

Per Corps implementation guidance, we are reaching out to your office in recognition of the unique role the Bureau of Indian Affairs has concerning trust responsibilities with Federally recognized tribes. If you have any concerns regarding this project please contact Sam Smith, program manager at [REDACTED]

Sincerely,

[REDACTED]
Sam Smith
Tribal Partnership Program Manager

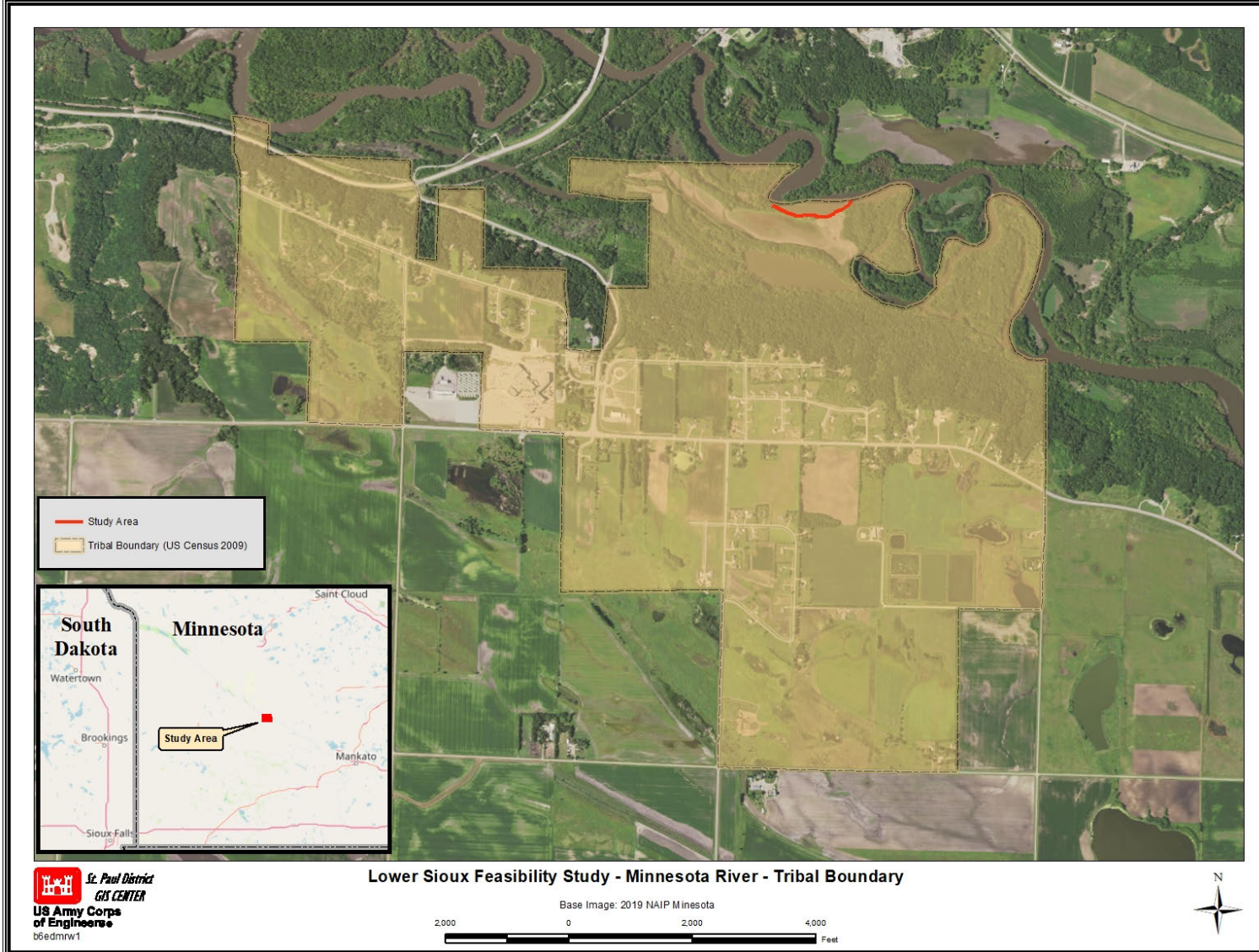


Figure 1. Lower Sioux Indian Community Tribal Boundary



Figure 2. Study Area

Reach 1 – This reach includes 830 LF of river bend and has no signs of exposed bedrock. The slopes are vertical and up to 15 feet in height. Soils in this area consist of silty clay underlain by sands. Existing forest stands within the reach are eroding and there are limited grasses on the bank. The lowest point within the channel (thalweg) is migrating laterally. It is unclear if the thalweg is migrating vertically, which would be indicative of channel scour. The land adjacent to this reach is classified as wetland.



Figure 1: Reach 1, Facing Downstream



Figure 2: Reach 2, Facing Downstream

Reach 2 – This reach consists of approximately 300 LF of river bend. Up to 18 foot vertical banks transition into a sloped vegetated bank from downstream to upstream in this reach. The land adjacent to this reach is classified as wetland. Soils in this area consist of silty clay underlain by bedrock.

Reach 3 – This reach is about 320 LF in length along the river bend. A bedrock outcropping is located within this reach, where unvegetated banks up to 18 feet in height appear to be partially stabilized by tree roots. Soils in this area consist of silty clay underlain by bedrock.



Figure 3: Reach 3, Facing Downstream

Reach 4 – This reach contains a meandered pool with relatively low top of bank elevations at the location where overland flow discharges into the river. The reach is approximately 460 LF with varying slopes up to 18 feet in height.



Figure 4: Reach 4, Facing Upstream



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

CECW-P

FEB 16 2018

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program

1. Section 1121 of WRDA 2016 was completed and signed on 5 February 2018. The implementation guidance is posted in the U.S. Army Corps of Engineers website: <http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. Questions regarding this implementation guidance should be directed to Lisa Morales, Program Manager, Programs Integration Division, at [REDACTED] or [REDACTED]

[REDACTED]
JAMES C. DALTON, P.E.
Director of Civil Works

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DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON, DC 20310-0108

FEB -5 2018

MEMORANDUM FOR COMMANDING GENERAL U.S. ARMY CORPS OF
ENGINEERS

SUBJECT: Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program

1. Section 203 of WRDA 2000, as amended (33 U.S.C. 2269), authorizes the Secretary to carry out the Tribal Partnership Program (the Program), consisting of water-related planning activities, and activities related to the study, design, and construction of water resources development projects, that substantially benefit federally-recognized Indian Tribes and that are located primarily within Indian country (including lands within the jurisdictional area of an Oklahoma Tribe) or in proximity to Alaska Native Villages. Authorized activities include: projects for flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources; watershed assessments and planning activities; letter reports; and other projects as the Secretary, in cooperation with Indian Tribes and the heads of other federal agencies, determines to be appropriate. The Secretary is also directed to consult with the Department of the Interior on any activity under the Program and to coordinate with Tribes, Department of the Interior and other federal agencies to consider their authorities in making recommendations. To meet this requirement, Districts, in collaboration with Tribal partners, shall implement appropriate coordination with the Department of Interior and other federal agencies during the study and document accordingly in the study report. The Program is currently authorized through fiscal year 2024. Section 203, as amended, as well as the language of the WRRDA 2014 and the WRDA 2016 amendments, is enclosed.

2. This guidance is issued primarily to implement the WRRDA 2014 and the WRDA 2016 amendments to Section 203.

a. Section 203 as originally enacted in WRDA 2000 provided that cost share agreements for such studies are subject to the ability of a Tribe to pay, as determined by the Secretary of the Army in accordance with procedures to be established by the Secretary. Section 1031(a) of WRRDA 2014 added a provision requiring the Secretary to issue guidance on such ability to pay procedures not later than 180 days after the date of enactment of WRRDA 2014 (June 10, 2014).

b. Section 1121 of WRDA 2016 further amended Section 203 to expand the planning activities that the Secretary may carry out, and to authorize the Secretary to

SUBJECT: Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program

undertake design and construction of a project formulated under the Program that the Secretary determines to be feasible if the federal share is not more than \$10,000,000. A project whose federal share exceeds \$10,000,000 may only be carried out upon further Congressional authorization.

3. Watershed assessments, non-feasibility planning activities, and letter reports without specific recommendations.

a. Guidance for conducting watershed assessments is provided in Implementation Guidance for Section 202 of WRDA 2000, dated May 29, 2001, and in Implementation Guidance for Section 2010 of WRDA 2007, dated March 7, 2008. Additional guidance for conducting watershed assessments is provided in the Planning Bulletin (PB) 2016-03. Watershed assessments will not require Congressional new start determinations, as these are undertaken under the Program authority and do not involve Congressional authorization of specific projects. The Model Agreement for Cost Shared Watershed and River Basin Assessments posted on the USACE Civil Works Agreements website should be used. Watershed assessments will be cost shared at 75 percent federal and 25 percent non-federal expense.

b. The Secretary is also authorized to carry out stand-alone water-related planning activities independent of watershed assessments. Examples would be Letter Reports containing real estate analyses of lands required for authorized Corps mitigation activities on behalf of federally-recognized Indian Tribes, or assessments of water-related hazardous and toxic waste sites. Water-related planning activities will not require new start determinations. Planning activities will be cost shared at 50 percent federal and 50 percent non-federal expense. The Model Agreements for Tribal Partnership Program Planning Activities to be posted on the Civil Works Agreements website should be used for such studies.

c. Section 1121 of WRDA 2016 added paragraph (b)(3)(B), specifying that a report provided to a Tribe pursuant to a feasibility study may, but is not required to, contain a recommendation on a specific water resources development project. Depending on the wishes of the Tribal Sponsor, the study will be scoped at the outset to either result in a report recommending a project plan for design and construction, or in a more limited letter report describing an array of alternatives that are determined to be technically feasible and economically and environmentally justifiable. Such a report may be useful to a Tribe for future planning, or for coordination by the Tribe with the Department of the Interior or other federal agencies. Studies not intended to result in a recommendation will not require new start determinations. Such studies will be cost shared at 50 percent federal and 50 percent non-federal expense. The Model Agreement for Tribal Partnership Program Section 203(b)(3)(B) Studies to be posted on the Civil Works Agreements website should be used for such studies.

SUBJECT: Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program

4. Feasibility Studies for the Construction of Water Resources Development Projects or of Projects for the Preservation of Cultural and Natural Resources.

a. Section 203, as amended, contemplates feasibility studies for construction of water resources development projects (projects within the Corps' mission areas described in Engineer Regulation (ER) 1105-2-100, i.e., navigation, flood risk management, ecosystem restoration, storm risk management, water supply, hydroelectric power generation and recreation), as well as feasibility studies for construction of projects for the preservation of cultural and natural resources related to water resources development. Congress included projects for preservation of cultural and natural resources in Section 203 (b)(2)(A). Therefore, projects whose primary purpose is the preservation of cultural or natural resources related to water resources development will be considered policy compliant and budgetable. Planning alternatives for such projects will be justified under the Environmental Quality account or the Other Social Effects account as defined in ER 1105-2-100, rather than under the National Economic Development account. The evaluation of the alternatives to find the most effective plan should be performed by using cost effectiveness and incremental cost analysis, in accordance with ER 1105-2-100.

b. The Model Agreement for Cost Shared Feasibility Studies posted on the USACE Civil Works Agreements website should be used for Program feasibility studies, whether or not such studies are anticipated to result in a Chief's Report. Feasibility studies will not require new start determinations, as these are undertaken under Program authority and do not involve Congressional authorization of specific projects. Feasibility studies will be cost shared at 50 percent federal and 50 percent non-federal expense.

(i) Chief's Reports will be required for those Program feasibility studies wherein the Federal design and construction cost of the project is anticipated to exceed \$10,000,000, in order to request Congressional authorization. Such studies will be implemented in accordance with the guidance for Sections 1001 and 1002 of WRRDA 2014, and with the SMART planning process and milestones.

(ii) Section 203, as amended, authorizes the design and construction of projects whose federal design and construction cost is not more than \$10,000,000. The funding and time limitations contained in the guidance for Sections 1001 and 1002 of WRRDA 2014 will apply to studies for such projects. The MSC Commander may approve the resulting reports and recommended plans.

5. Model Design and Project Partnership Agreements for the Tribal Partnership Program to be posted on the Civil Works Agreements website should be used for design and construction, respectively, under the Program. In accordance with Section 203(d)(4)(B), design and construction costs will be shared as described in Sections 101 and 103 of WRDA 1986, as amended (33 U.S.C. 2211 and 2213), depending on the purpose of the project. The design and construction costs of projects for the

SUBJECT: Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program

preservation of cultural or natural resources will be shared in accordance with the cost sharing for flood risk management, storm risk management, or ecosystem restoration, depending on the causal factors necessitating the project. New start determinations will only be required in cases where project construction requires Congressional authorization. Each Project Partnership Agreement undertaken pursuant to a MSC approved report shall provide that costs will be closely monitored, and should an estimate indicate that federal design and construction costs are likely to exceed \$10,000,000, all work on the project will be suspended until HQUSACE determines whether the project should be terminated or Congressional authorization sought in order to complete it.

6. Credit shall be afforded toward the required non-federal share of study costs, or the non-Federal share of design or construction costs, for the cost of services, studies, supplies or other in-kind contributions provided by the Tribe.

7. Due to the amended language enacted in Section 1121, the ability to pay provision now applies to design and construction as well as to studies, watershed assessments, and planning activities carried out under the Program. The following procedures will apply to all agreements:

a. If the Indian Tribe has a per capita income less than the per capita income of two thirds of the counties in the United States, the non-federal share shall be reduced as follows:

(i) for a watershed assessment, non-feasibility planning activity or letter report described in paragraph 3 of this guidance, the non-federal share shall be reduced to 10 percent of shared agreement costs;

(ii) for a feasibility study described in paragraph 4. of this guidance, the non-federal share shall be reduced to the amount resulting from the application of a factor of 25 percent to the non-federal share after application of the Section 1156 waiver, as described in the Implementation Guidance for Section 1119 of WRDA 2016, dated May 11, 2017, by excluding up to \$455,000 from the shared study costs, multiplying the remaining amount by the 50 percent cost share for feasibility study costs, and applying the 25 percent factor to the result to obtain the non-federal share for the feasibility study; and

(iii) for construction of a project described in paragraph 5. of this guidance, the non-federal share shall be reduced to the amount resulting from the application of a factor of 25 percent to the non-federal share after application of the Section 1156 waiver, as described in the Implementation Guidance for Section 1119 of WRDA 2016, by deriving the baseline non-federal share using applicable cost sharing procedures, excluding up to \$455,000 of that amount, and applying the 25 percent factor to the result to obtain the non-federal share for project construction.

b. The number for the per capita income that is less than the per capita income of two-thirds of the counties in the United States shall be derived from the State and

SUBJECT: Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program

County Income Index Data in the most recent Economic Guidance Memorandum (EGM) issued by the Corps concerning ability to pay calculations. The EGM format specifies the time frame window, in calendar years, to which its data pertains. Using this time frame window, the per capita income of an Indian Tribe shall be derived from the U.S. Census Bureau's American Community Survey estimates for the same time frame for the appropriate Tribal Census Tracts, Tribal Block Groups, or Alaska Native Village Statistical Areas.

c. The non-federal 10 percent share or 25 percent share as described in subparagraph a. of this paragraph may be fulfilled by services, studies, supplies, or other in-kind contributions provided by the Tribe.

d. Any existing agreement entered into pursuant to Section 203 with an Indian Tribe qualifying under this guidance may be amended to incorporate an ability to pay provision, but only with regard to federal financial obligations not yet incurred as of the effective date of the amendment.

e. Template language for new agreements and to amend existing agreements for purposes of applying the ability to pay provision will be posted on the Civil Works Agreements website. The template language will include the procedure for applying the ability to pay provision after application of the Section 1156 cost sharing waiver in the relevant agreements. (It should be noted that the Section 1156 cost sharing waiver is not applicable to watershed assessments, non-feasibility planning activities, and letter reports described in paragraph 3 of this guidance. See Implementation Guidance for Section 1119 of WRDA 2016, paragraph 6).

8. Before enactment of WRDA 2016, all Program funds were budgeted and appropriated in the Investigations appropriations account because Section 203 was only a study authority. Because Section 203, as amended, now authorizes certain design and construction, a separate Program funding account within the Construction appropriation will be required as follows:

a. Feasibility studies resulting in projects whose federal design and construction cost is not more than \$10,000,000, and the resulting design and construction, as well as Program design and construction specifically authorized by Congress pursuant to a Chief's Report, will be budgeted in the Construction appropriation account; and

b. Watershed assessments, non-feasibility planning activities and letter reports described in paragraph 3. of this guidance, and feasibility studies for the construction of projects to be specifically authorized described in paragraph 4.b.(i) of this guidance, will be budgeted in the Investigations appropriation account.

9. This guidance supersedes the following guidance documents: Memorandum dated August 16, 2010, subject: "Delegated Review and Approval Authority for

SUBJECT: Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program

Reconnaissance Studies for Section 203 of WRDA 2000 Authority, Tribal Partnership Program"; Implementation Guidance for Section 2011 of WRDA 2007, dated May 16, 2008; Implementation Guidance for Section 203 of WRDA 2000, dated January 8, 2002; and Implementation Guidance for Sections 203(d)(1) and 204 of WRDA 2000, dated February 27, 2001, but only insofar as it relates to Section 203.

10. Questions regarding this implementation guidance may be directed to Gib Owen, Office of the Assistant Secretary of the Army for Civil Works at gib.a.owen.civ@mail.mil or 703-695-4641. Technical questions may be directed to Lisa Morales, Senior Tribal Liaison, [REDACTED]

[REDACTED]

RYAN A. FISHER

Acting Assistant Secretary of the Army
(Civil Works)

TRIBAL PARTNERSHIP PROGRAM.

- (a) Definition of Indian tribe. In this section, the term "Indian tribe" has the meaning given the term in section 5304 of Title 25.
- (b) Program.
- (1) In general. In cooperation with Indian tribes and the heads of other Federal agencies, the Secretary may carry out water-related planning activities, or activities relating to the study, design, and construction of water resources development projects, that
 - (A) will substantially benefit Indian tribes; and
 - (B) are located primarily within Indian country (as defined in section 1151 of title 18, United States Code, and including lands that are within the jurisdictional area of an Oklahoma Indian tribe, as determined by the Secretary of the Interior, and are recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations) or in proximity to Alaska Native villages.
 - (2) Authorized activities. An activity conducted under paragraph (1) may address
 - (A) projects for flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources;
 - (B) watershed assessments and planning activities; and
 - (C) such other projects as the Secretary, in cooperation with Indian tribes and the heads of other Federal agencies, determines to be appropriate.
 - (3) Feasibility study and reports.
 - (A) In general. On the request of an Indian tribe, the Secretary shall conduct a study on, and provide to the Indian tribe a report describing, the feasibility of a water resources development project described in paragraph (1).
 - (B) Recommendation. A report under subparagraph (A) may, but shall not be required to, contain a recommendation on a specific water resources development project.
 - (4) Design and construction.
 - (A) In general. The Secretary may carry out the design and construction of a water resources development project described in paragraph (1) that the Secretary determines is feasible if the Federal share of the cost of the project is not more than \$10,000,000.
 - (B) Specific authorization. If the Federal share of the cost of a project described in subparagraph (A) is more than \$ 10,000,000, the Secretary may only carry out the project if Congress enacts a law authorizing the Secretary to carry out the project.
- (c) Consultation and coordination with Secretary of the Interior.
- (1) In general. In recognition of the unique role of the Secretary of the Interior concerning trust responsibilities with Indian tribes and in recognition of mutual trust responsibilities, the Secretary shall consult with the Secretary of the Interior concerning an activity conducted under subsection (b).
 - (2) Integration of activities. The Secretary shall

- (A) Integrate civil works activities of the Department of the Army with activities of the Department of the Interior to avoid conflicts, duplications of effort, or unanticipated adverse effects on Indian tribes; and
 - (B) Consider the authorities and programs of the Department of the Interior and other Federal agencies in any recommendations concerning an activity conducted under subsection (b).
- (d) Cost sharing.
 - (1) Ability to pay.
 - (A) In general. Any cost-sharing agreement for an activity conducted under subsection (b) shall be subject to the ability of the non-Federal interest to pay.
 - (B) Use of procedures.
 - (i) In general. The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.
 - (ii) Determination. Not later than 180 days after the date of enactment of this clause [enacted June 10, 2014], the Secretary shall issue guidance on the procedures described in clause (i).
 - (2) Credit. The Secretary may credit toward the non-Federal share of the costs of an activity conducted under subsection (b) the cost of services, studies, supplies, or other in-kind contributions provided by the non-Federal interest.
 - (3) Sovereign immunity. The Secretary shall not require an Indian tribe to waive the sovereign immunity of the Indian tribe as a condition to entering into a cost-sharing agreement under this subsection.
 - (4) Water resources development projects.
 - (A) In general. The non-Federal share of costs for the study of a water resources development project described in subsection (b)(1) shall be 50 percent.
 - (B) Other costs. The non-Federal share of costs of design and construction of a project described in subparagraph (A) shall be assigned to the appropriate project purposes described in sections 101 and 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2211, 2213) and shared in the same percentages as the purposes to which the costs are assigned.
 - (5) Water-related planning activities.
 - (A) In general. The non-Federal share of costs of a watershed and river basin assessment conducted under subsection (b) shall be 25 percent.
 - (B) Other costs. The non-Federal share of costs of other water-related planning activities described in subsection (b)(1) shall be 50 percent.
- (e) Restrictions. The Secretary is authorized to carry out activities under this section for fiscal years 2015 through 2024.

WRRDA 2014 Amendment.

SEC. 1031. TRIBAL PARTNERSHIP PROGRAM.

(a) IN GENERAL. Section 203 of the Water Resources Development Act of 2000 (33 U.S.C. 269) is amended

(1) In subsection (d)(1)(B)

(A) by striking "The ability" and inserting the following: (i) IN GENERAL. The ability; and

(B) by adding at the end the following: (ii) DETERMINATION. Not later than 180 days after the date of enactment of this clause, the Secretary shall issue guidance on the procedures described in clause (i); and

(2) by striking subsection (e) and inserting the following: (e) RESTRICTIONS. The Secretary is authorized to carry out activities under this section for fiscal years 2015 through 2024.

SEC. 1121. TRIBAL PARTNERSHIP PROGRAM.

Section 203 of the Water Resources Development Act of 2000 (33 U.S.C. 2269) is amended

(1) in subsection (b)

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “the Secretary” and all that follows through “projects” and inserting “the Secretary may carry out water-related planning activities, or activities relating to the study, design, and construction of water resources development projects;

(B) in paragraph (2) by striking “(2) MATTERS TO BE STUDIED. A study” and inserting the following: (2) AUTHORIZED ACTIVITIES. An activity; and

(C) by adding at the end the following:

(3) FEASIBILITY STUDY AND REPORTS.

(A) IN GENERAL. On the request of an Indian tribe, the Secretary shall conduct a study on, and provide to the Indian tribe a report describing, the feasibility of a water resources development project described in paragraph (1).

(B) RECOMMENDATION. A report under subparagraph (A) may, but shall not be required to, contain a recommendation on a specific water resources development project.

(4) DESIGN AND CONSTRUCTION.

(A) IN GENERAL. The Secretary may carry out the design and construction of a water resources development project described in paragraph (1) that the Secretary determines is feasible if the Federal share of the cost of the project is not more than \$10,000,000.

(B) SPECIFIC AUTHORIZATION.—If the Federal share of the cost of a project described in subparagraph (A) is more than \$10,000,000, the Secretary may only carry out the project if Congress enacts a law authorizing the Secretary to carry out the project.;

(2) in subsection (c)

(A) in paragraph (1) by striking “studies” and inserting “an activity”; and

(B) in paragraph (2)(B) by striking “carrying out projects studied” and inserting “an activity conducted”; and (3) in subsection (d) (A) in paragraph (1)(A) by striking “a study” and inserting “an activity conducted”; and (B) by striking paragraph (2) and inserting the following:

(2) CREDIT. The Secretary may credit toward the non-Federal share of the costs of an activity conducted under subsection (b) the cost of services, studies, supplies, or other in-kind contributions provided by the non-Federal interest.

(3) SOVEREIGN IMMUNITY. The Secretary shall not require an Indian tribe to waive the sovereign immunity of the Indian tribe as a condition to entering into a cost-sharing agreement under this subsection.

(4) WATER RESOURCES DEVELOPMENT PROJECTS.

(A) IN GENERAL.—The non-Federal share of costs for the study of a water resources development project described in subsection (b)(1) shall be 50 percent.

(B) OTHER COSTS.—The non-Federal share of costs of design and construction of a project described in subparagraph (A) shall be assigned to the appropriate project purposes described in sections 101 and 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2211, 2213) and shared in the same percentages as the purposes to which the costs are assigned.

(5) WATER-RELATED PLANNING ACTIVITIES.

(A) IN GENERAL. The non-Federal share of costs of a watershed and river basin assessment conducted under subsection (b) shall be 25 percent.

(B) OTHER COSTS. The non-Federal share of costs of other water-related planning activities described in subsection (b)(1) shall be 50 percent.

From: [Glomski, Lee Ann M CIV USARMY CEMVP \(USA\)](#)
To: [REDACTED]
Subject: Lower Sioux TPP - public review
Date: Tuesday, September 28, 2021 1:24:00 PM

All,

The draft feasibility report and environmental assessment for the Lower Sioux Indian Community Streambank Stabilization project is available for public review. The project involves stabilizing a portion of the Minnesota River streambank along the Lower Sioux Indian Community reservation in Redwood County, Minnesota. The streambank would be reshaped to create a 3V:1H slope and riprap placed from the top of the bank to the toe of the bank.

The proposed action would be authorized under Section 203 of the Water Resources Development Act (WRDA) of 2000, as amended, (33 U.S.C. § 2269). Section 203 authorizes the Secretary of the Army to carry out the Tribal Partnership Program (TPP), consisting of water-related planning activities, and activities related to the Study, design, and construction of water resource development projects that substantially benefit federally recognized Indian tribes.

The report assumes that the boundary of land held in Trust by the US Government for the benefit of the Lower Sioux Indian Community extends to the centerline of the Minnesota River. The Corps and tribe are currently working to verify the boundary of trust lands.

The document can be found here:

<https://www.mvp.usace.army.mil/Home/PN/Article/2791465/public-notice-lower-sioux-indian-community-riverbank-stabilization/>

Comments are due October 28, 2021. Contact me with any questions or concerns.

LeeAnn Glomski
Biologist
USACE - St. Paul District
[REDACTED]

From: [Smith, Samuel R CIV USARMY CEMVP \(USA\)](#)
To: [REDACTED]
Subject: FW: USACE Tribal Partnership Program Feasibility Study Report for Review
Date: Wednesday, September 29, 2021 8:56:05 AM

FYSA.

Press Release for public review was sent out yesterday afternoon.

Thanks,

Sam

From: Smith, Samuel R CIV USARMY CEMVP (USA)
Sent: Wednesday, September 29, 2021 8:50 AM
[REDACTED]
Subject: USACE Tribal Partnership Program Feasibility Study Report for Review

Hi Deb,

The feasibility study report has been uploaded to the file sharing website DOD SAFE. You should receive a separate email with instructions on how to download these documents. The download link will expire in seven days. These documents are being provided to the Lower Sioux Indian Community for review, comment and discussion. The documents provided are listed below.

- Main Report
- Appendices A through I
- Draft Finding of No Significant Impact (FONSI) Memo

As I had previously mentioned, the proposed review schedule is listed below. Please let me know your thoughts and if we should plan to make adjustments.

- Lower Sioux review of Feasibility Study report and supporting documents: 28 Sept – 28 Oct 2021
- USACE & Lower Sioux meet to discuss report and ask/answer questions: Week of 18 Oct 2021
- Review comments submitted by Lower Sioux to USACE: 28 Oct 2021
- USACE address comments received by Lower Sioux: 29 Oct – 12 Nov 2021
- Final Lower Sioux review to confirm comments have been satisfied: 15 – 19 Nov 2021
- Lower Sioux provide letter documenting support of study to USACE: By 1 Dec 2021

I am excited about the continued progress we are making and look forward to collaborating with you during this review!

Thank you!

Sam Smith, PE, PMP
Project Manager
St. Paul District, Corps of Engineers
180 5th Street East, Suite 700
St. Paul, MN 55101



Sam Smith, PE, PMP
Project Manager
St. Paul District, Corps of Engineers
180 5th Street East, Suite 700
St. Paul, MN 55101





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON
BOULEVARD CHICAGO, IL
60604-3590

October 28, 2021

REPLY TO THE ATTENTION OF:
Mail Code RM-19J

VIA ELECTRONIC MAIL ONLY

LeeAnn Glomski, Biologist
St. Paul District, Corps of Engineers
180 Fifth Street East
St. Paul, Minnesota 55101 - 1678

Re: Feasibility Study with Integrated Environmental Assessment for the Lower Sioux Indian Community Riverbank Stabilization Project, Redwood County, Minnesota

Dear Ms. Glomski:

The U.S. Environmental Protection Agency received U.S. Army Corps of Engineers' (USACE) Section 203 Tribal Partnership Program Integrated Feasibility Report (Report) and Environmental Assessment (EA) for the Lower Sioux Indian Community (LSIC) Riverbank Stabilization Project dated September 2021. This letter provides our comments, pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

The Report and EA evaluate potential actions to protect cultural and natural resources along approximately 1,500 linear feet of the Minnesota River (River) in partnership with the Lower Sioux Indian Community through a riverbank erosion stabilization project (Project) under the Tribal Partnership Program. According to the EA, river migration and eroding banks have resulted in loss of adjacent wetlands and Tribal Trust Land loss, subsequently resulting in a loss of land to conduct traditional cultural practices.

The River is experiencing greater flows, accelerating river migration, and creating land erosion along the banks in the project area. Approximately 1,500 feet of riverbank is actively eroding along the outer bend of the river. The eroded face of the bank varies throughout the 1,500 feet, but at its maximum, the bank is approximately 15 feet in height from the ground surface to the channel bottom.

The Report assumes the boundary of land held in Trust by the U.S. Government for the benefit of the LSIC extends to the centerline of the Minnesota River. USACE and LSIC are working to verify the boundary of trust lands. A boundary determination that differs from the current assumption could result in the need for real property not owned by the LSIC. Real estate ownership will be determined prior to the final Report.

The Report and EA analyzed impacts of the No Action and two action alternatives¹, Alternatives 1 and 4, for the project area, which was divided into four reaches. Alternative 1 consists of 16 bendway weirs and a longitudinal stone toe at the banks of Reach 1 and Reach 2. The longitudinal stone toe would provide stability to the toe of Reach 1 and Reach 2, allowing for a naturally-stable angle to be reached that could be vegetated (approximately 1 acre). Alternative 1 would require minimal disturbance to the project area, as most of the material would be placed at the toe of the bank. Riprap would be used to protect the unvegetated vertical banks of Reach 3. No action is proposed for Reach 4, as there is a lack of evidence of erosion in this reach. Alternative 1 would include approximately 1 acre of required seeding.

Alternative 4, the Tentatively Selected Plan (TSP), includes cutting back the vertical banks in Reaches 1, 2, and 3, placing the cut material at the toe of the bank to create a 1V:3H slope, placing geotextile, bedding, and riprap from the toe of the bank to the top of the bank. The cutback would impact a number of trees at the downstream end of Reach 1 and Reach 3, but the long-term stabilization of the bank would prevent further erosion and uncontrolled loss of the forest ecosystem. Reach 3 would be protected by riprap extending from the outcropping to the top of the bank, resulting in some impacts to the wetlands present adjacent to the banks. Alternative 4 includes approximately 1/3 the seeding compared with Alternative 1.

After reviewing the Report, EA, and appendices, EPA provides the enclosed comments to aid USACE's decision making process related to these documents.

Please send an electronic copy of future NEPA documents for this project, including the decision document, to me at the address listed above. If you have any questions or comments regarding the contents of this letter or would like to discuss our comments in more detail, please contact me or Kathy Kowal at [REDACTED]

Sincerely,

Kenneth A. Westlake, Deputy Director
Tribal and Multimedia Programs Office

cc: Cheyanne St. John, LSIC Tribal Historic Preservation Officer
Deb Dirlam, LSIC Director of Environmental Programs
Melissa Blankenship, USEPA, Watersheds and Wetlands

Enclosures: USEPA Comments on the Feasibility Study with Integrated Environmental
Assessment for the Lower Sioux Indian Community Riverbank Stabilization Project;
USEPA Construction Emission Control Checklist

¹ Alternatives 2 and 3 were eliminated from consideration early in the process.

**USEPA COMMENTS ON THE FEASIBILITY STUDY WITH
INTEGRATED ENVIRONMENTAL ASSESSMENT FOR THE LOWER SIOUX
INDIAN COMMUNITY RIVERBANK STABILIZATION PROJECT
October 28, 2021**

Lower Sioux Indian Community (LSIC) Involvement

The Report and EA indicate USACE was responsible for the overall management of the study and Report preparation, and the Lower Sioux Indian Community (LSIC), as the non-Federal Sponsor, has been involved throughout the study process.

Recommendation: Neither the Report nor the EA include any comment or direction from the LSIC regarding the analyses or conclusions found in these documents. As such, EPA is unable to determine if the LSIC is in agreement with the TSP or has provided any recommendations to alter, modify, or otherwise customize the TSP as proposed in the Draft EA. As a Federally recognized tribe and, therefore, a sovereign government whose status provides LSIC with special recognition and treatment under Federal law, EPA recommends USACE indicate in the Report and EA whether the LSIC has raised any substantive concerns or has given its tentative approval of the TSP in response to USACE's August 27, 2021 letter to the Tribal Historic Preservation Officer. The results of coordination, similar to that with the U.S. Fish and Wildlife Service and Minnesota Department of Natural Resources (as shown in Appendix A, Coordination) would inform USACE's decision to select Alternative 4 as the TSP. EPA also recommends that the EA discuss if the USACE Engineer Research and Development Center (ERDC) was consulted on the proposed design, and if not, why not.

Alternatives

Rationale for Elimination

Table 2, Preliminary Measures Considered for Reach 2,² includes longitudinal bank lowering as one potential measure. Pros are listed as reconnecting riparian areas, no additional materials needed, and it's simple and cost effective. Cons listed include modeling not yet completed, stock piling materials, and construction access may be limited. However, a screening justification was not included in this table.

Recommendation: EPA recommends the rationale for considering longitudinal bank lowering be included in the Report and EA. Assuming the rationale for not further considering longitudinal bank lowering is that the modeling was not complete at the time the Report and EA was released for public comment, that is not sufficient rationale to eliminate an alternative that is cost effective and reconnects riparian areas.

Hybrid Alternative

EPA understands that hard armoring of river and stream banks for the purpose of stabilization and protection is quite common; however, it can also transfer the problem by redirecting and strengthening the flow downstream of the armoring causing bank erosion. It does not provide aquatic or terrestrial habitat, and it does not have the ability to filter sediments and nutrients.³

² Section 2.5.1, Array of Measures and Screening of the Report and EA

³ https://files.dnr.state.mn.us/publications/waters/understanding_our_streams_and_rivers_resource_sheet_2.pdf

Due to the volume of water in the river and the erosive forces already at play, the most effective solution could be a blend of armoring and bioengineering. However, the Report and EA do not address bioengineering nor why only hard armoring will provide a sustainable solution.

Therefore, EPA strongly encourages consideration of bio-engineering techniques (e.g., toe wood-sod mats)⁴, along with constructed features (e.g., bendway weirs) to provide a more natural result in one or more of the Reaches as well as to minimize potential adverse impacts of the discharge on water quality, the aquatic ecosystem, and downstream erosion.

For these reasons, EPA strongly recommends USACE evaluate longitudinal bank lowering for Reach 2 and a hybrid approach incorporating bio-engineering and constructed features to provide a sustainable, and more natural, solution for the LSIC to conduct traditional and cultural practices.

Project Resiliency

Section 2.2, Problems and Opportunities, indicates an opportunity identified is increased streambank resiliency to future climate and land use changes. The Executive Summary states *“Reduction of erosion of Tribal Lands. The Lower Sioux Tribal lands are a finite resource that currently cover 1,700 acres. The erosive threat in the project area has caused a loss of almost 3 acres of land since 1992, with over half of the loss occurring since 2015. There were 5 events in 2019 that exceeded the channel’s capacity. It is expected that the erosive energy of the river will continue or increase in the future condition. At the current rate of erosion, approximately 400 feet of land is at risk of being lost. The alternatives proposed would help reduce the erosive threat to preserve tribal lands.*

“Both alternatives aim to address the erosive threat in the project area. ...

“The design for Alternative 4 is demonstrated to be resilient and would provide streambank protection and prevent additional land loss. The current design for alternative 4 is for the 50-year event and is well understood for this area. The design is resilient, and the longevity can be scaled to the needs of the tribe.” (emphasis added)

Recommendation: With over half of the loss to the project area occurring since 2015 and 5 events in 2019 that exceed the channel’s capacity, EPA recommends USACE explain why the 50-year event was selected for this project and whether the 50-year event design provides sufficient resiliency to the project area.

Additionally, EPA recommends the phrase “longevity can be scaled to the needs of the tribe” be clarified. Is the current TSP scaled to the needs of the LSIC? If not, when would the LSIC’s needs regarding longevity be determined and incorporated into the TSP?

Project Features

The Report and EA indicate the land adjacent to the river is used by the LSIC to conduct traditional cultural practices such as hunting, fishing, planting of native plants, and accessing the

⁴ https://files.dnr.state.mn.us/publications/waters/understanding_our_streams_and_rivers_resource_sheet_2.pdf

Minnesota River. Stairs would be constructed in Reach 3 to provide access to the bedrock outcropping, which is an important fishing area for the LSIC.

Recommendation: The Report and EA do not indicate whether stairs would be constructed in Reaches 1, 2, and 4, if used by the LSIC for fishing and river access. Additionally, the impacts analysis for Alternative 4 does not indicate whether the LSIC finds bedrock and stairs to be acceptable in Reach 3 to facilitate traditional cultural practices. EPA recommends the visual impact of these project features “in a relatively remote stretch of the Minnesota River”⁵ be analyzed from the user’s (LSIC’s) point of view (eg, type of construction material for stairs that blends with the environment); results of coordination would indicate whether LSIC views this approach as acceptable to facilitating traditional cultural practices in the project area.

Vegetation

Table ES 6: Summary of Project Features indicates “*Native species plantings will be incorporated where possible. Drought tolerant species may be used to increase the resilience of the project to climate change. ... Consideration will be given to species of tribal significance. The vegetation plan will be further defined in the design phase of the study.*” (emphasis added)

Recommendation: The analysis would benefit from a detailed discussion concerning how and when vegetation would occur. For instance, what’s the criteria to determine where it might be possible to plant native species? Why does Alternative 4 include approximately 1/3 the seeding as Alternative 1? Why was seeding selected v. planting herbaceous vegetation or using live woody cuttings, particularly in light of invasive plants and noxious weeds being present throughout the area? What is the success rate of seeding v. planting in the project area?

Study Opportunities

Section 2.2, Problems and Opportunities, indicates that one of the opportunities identified in the Report is increasing community awareness of water quality issues related to fish and pollutants. After a review of the Report and EA, it appears this opportunity was not addressed.

In Section, 2.3, Project Objectives, the Report and EA indicate one of the planning objectives for the study includes reducing erosion and land loss related to high flows and velocity in the river.

Recommendation: EPA recommends USACE incorporate increasing community awareness regarding water quality issues in the project plans. Additionally, addressing water quality issues provides an opportunity to increase community awareness about non-native invasive species (NNIS), especially aquatic nuisance species and NNIS.⁶ We request USACE commit to including these activities in the Report and EA and Finding of No Significant Impact (FONSI).

Similarly, the Report and EA should include an analysis of ways to reduce erosion and land loss related to high flows and velocity in the river. While we recognize that some causes/measures to address erosion and land loss are outside the jurisdiction of USACE, working with state and local agencies to address these problems will have a positive effect on the river.

⁵ Taken from Feasibility Study with Integrated Environmental Assessment for the Lower Sioux Indian Community Riverbank Stabilization Project, September 2021.

⁶⁶ <https://www.dnr.state.mn.us/invasives/ais/index.html>

Air Impacts

We acknowledge the air impact analysis in the Report and EA.

Recommendation: EPA recommends USACE commit to using the attached “Construction Emission Control Checklist” and commit to requiring contractors to adhere to these emission reduction measures in order to reduce air emissions to the greatest extent practicable. These measures are necessary because diesel emissions and fugitive dust from project construction may pose environmental and human health risks and should be minimized.

U.S. Environmental Protection Agency **Construction Emission Control Checklist**

Diesel emissions and fugitive dust from project construction may pose environmental and human health risks and should be minimized. In 2002, EPA classified diesel emissions as a likely human carcinogen, and in 2012 the International Agency for Research on Cancer concluded that diesel exhaust is carcinogenic to humans. Acute exposures can lead to other health problems, such as eye and nose irritation, headaches, nausea, asthma, and other respiratory system issues. Longer term exposure may worsen heart and lung disease.⁷ We recommend USACE consider the following protective measures and commit to applicable measures in decision documents for the Lower Sioux Indian Community Riverbank Stabilization Project.

Mobile and Stationary Source Diesel Controls

Purchase or solicit bids that require the use of vehicles that are equipped with zero-emission technologies or the most advanced emission control systems available. Commit to the best available emissions control technologies for project equipment in order to meet the following standards.

- On-Highway Vehicles: On-highway vehicles should meet, or exceed, the EPA exhaust emissions standards for model year 2010 and newer heavy-duty, on-highway compression-ignition engines (e.g., long-haul trucks, refuse haulers, shuttle buses, etc.).⁸
- Non-road Vehicles and Equipment: Non-road vehicles and equipment should meet, or exceed, the EPA Tier 4 exhaust emissions standards for heavy-duty, non-road compression-ignition engines (e.g., construction equipment, non-road trucks, etc.).⁹
- Marine Vessels: Marine vessels hauling materials for infrastructure projects should meet, or exceed, the latest EPA exhaust emissions standards for marine compression-ignition engines (e.g., Tier 4 for Category 1 & 2 vessels, and Tier 3 for Category 3 vessels).¹⁰
- Low Emission Equipment Exemptions: The equipment specifications outlined above should be met unless: 1) a piece of specialized equipment is not available for purchase or lease within the United States; or 2) the relevant project contractor has been awarded funds to retrofit existing equipment, or purchase/lease new equipment, but the funds are not yet available.

Consider requiring the following best practices through the construction contracting or oversight process:

- Establish and enforce a clear anti-idling policy for the construction site.
- Use onsite renewable electricity generation and/or grid-based electricity rather than diesel-powered generators or other equipment.
- Use electric starting aids such as block heaters with older vehicles to warm the engine.
- Regularly maintain diesel engines to keep exhaust emissions low. Follow the manufacturer's recommended maintenance schedule and procedures. Smoke color can

⁷ Carcinogenicity of diesel-engine and gasoline-engine exhausts and some nitroarenes. *The Lancet*. June 15, 2012

⁸ <http://www.epa.gov/otaq/standards/heavy-duty/hdci-exhaust.htm>

⁹ <http://www.epa.gov/otaq/standards/nonroad/nonroadci.htm>

¹⁰ <https://www.epa.gov/emission-standards-reference-guide/all-epa-emission-standards>

signal the need for maintenance (e.g., blue/black smoke indicates that an engine requires servicing or tuning).

- Retrofit engines with an exhaust filtration device to capture diesel particulate matter before it enters the construction site.
- Repower older vehicles and/or equipment with diesel- or alternatively-fueled engines certified to meet newer, more stringent emissions standards (e.g., plug-in hybrid-electric vehicles, battery-electric vehicles, fuel cell electric vehicles, advanced technology locomotives, etc.).
- Retire older vehicles, given the significant contribution of vehicle emissions to the poor air quality conditions. Implement programs to encourage the voluntary removal from use and the marketplace of pre-2010 model year on-highway vehicles (e.g., scrappage rebates) and replace them with newer vehicles that meet or exceed the latest EPA exhaust emissions standards.

Fugitive Dust Source Controls

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative, where appropriate. This applies to both inactive and active sites, during workdays, weekends, holidays, and windy conditions.
- Install wind fencing and phase grading operations where appropriate and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

Occupational Health

- Reduce exposure through work practices and training, such as maintaining filtration devices and training diesel-equipment operators to perform routine inspections.
- Position the exhaust pipe so that diesel fumes are directed away from the operator and nearby workers, reducing the fume concentration to which personnel are exposed.
- Use enclosed, climate-controlled cabs pressurized and equipped with high-efficiency particulate air (HEPA) filters to reduce the operators' exposure to diesel fumes. Pressurization ensures that air moves from inside to outside. HEPA filters ensure that any incoming air is filtered first.
- Use respirators, which are only an interim measure to control exposure to diesel emissions. In most cases, an N95 respirator is adequate. Workers must be trained and fit-tested before they wear respirators. Depending on the type of work being conducted, and if oil is present, concentrations of particulates present will determine the efficiency and type of mask and respirator. Personnel familiar with the selection, care, and use of respirators must perform the fit testing. Respirators must bear a NIOSH approval number.



**Tribal Historic Preservation Office
Lower Sioux Indian Community**
P.O Box 308 | 39527 Reservation Hwy 1
Morton, MN 56270

March 4th, 2022

Brad Perkl, Archaeologist
U.S Army Corps of Engineers
180 5th St. Suite 700
St. Paul, MN 55101

Re: Lower Sioux Riverbank Stabilization, Minnesota River at Lower Sioux Community, Redwood County, Minnesota.

Dear Brad,

Pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended) the Lower Sioux Indian Community Tribal Historic Preservation Office offers this letter of concurrence for the above-mentioned project.

We concur with The Corps. determination of "No Historic Properties Affected" provided the project is of the nature stated and takes place in the location plotted in the August 27th, 2021 report and correspondence. We understand there will be a continuation of work in this area of the river valley, as previously stated, this is a sensitive location therefore we request the THPO be notified of any proposed work or testing in this area related to the Lower Sioux Riverbank Stabilization project.

Please inform our office of updates and/or opportunities to participate in further planning on the project at [REDACTED]

Sincerely,

[REDACTED]
Cheyanne St. John, THPO
Lower Sioux Indian Community

Cc:
Robert Larsen, Tribal President- LSIC
Deb Dirlam, Office of Environment Director-LSIC

Summary of Comments Received During Public Review

During the 30-day public review and comment period, correspondence was received from the agencies and individuals listed below. Copies of the comment letters received are also included following this summary. Comments are summarized below, along with responses.

1. U.S. Environmental Protection Agency

Comment 1: Neither the Report nor the EA include any comment or direction from the LSIC regarding the analyses or conclusions found in these documents. As such, EPA is unable to determine if the LSIC is in agreement with the TSP or has provided any recommendations to alter, modify, or otherwise customize the TSP as proposed in the Draft EA. As a Federally recognized tribe and, therefore, a sovereign government whose status provides LSIC with special recognition and treatment under Federal law, EPA recommends USACE indicate in the Report and EA whether the LSIC has raised any substantive concerns or has given its tentative approval of the TSP in response to USACE's August 27, 2021, letter to the Tribal Historic Preservation Officer. The results of coordination, similar to that with the U.S. Fish and Wildlife Service and Minnesota Department of Natural Resources (as shown in Appendix A, Coordination) would inform USACE's decision to select Alternative 4 as the TSP. EPA also recommends that the EA discuss if the USACE Engineer Research and Development Center (ERDC) was consulted on the proposed design, and if not, why not.

Response: The LSIC has been involved throughout the study process, is supportive of the TSP and will be submitting a letter of support for the project prior to final project approval. A response from the THPO was received in March 2022 concurring with the USACE determination that no historic properties would be affected. As documented in Appendix A Section 3, "A representative from the tribe was invited to attend the biweekly team meetings and was closely involved at significant meetings throughout the feasibility phase of the study. A meeting with the Tribal Council and the MVP Commander was held on June 17th to brief the LSIC on the Tentatively Selected Plan (TSP), following the TSP milestone meeting with the USACE Vertical Team." The USACE will update the main report and Appendix A to state the LSIC supports the Recommended Plan.

As stated in Appendix C Section 3.0, "A geomorphic assessment of the study area was conducted with the assistance of the USACE Engineer Research and Development Center (ERDC) through a Watershed Operations Technical Support (WOTS) request. This request allowed the St. Paul team to leverage subject matter expert knowledge to assess the study area and identify potential geomorphological processes contributing to erosion within the study area." This information was used in developing the proposed design. The level of involvement from ERDC exceeds what is typical for this kind of project but allowed the team to utilize all the tools and expertise available to identify workable solutions.

Comment 2: EPA recommends the rationale for considering longitudinal bank lowering be included in the Report and EA. Assuming the rationale for not further considering longitudinal bank lowering is that the modeling was not complete at the time the Report and EA was released for public comment, that is not sufficient rationale to eliminate an alternative that is cost effective and reconnects riparian areas.

Response: The USACE will clarify the rationale for dismissing longitudinal bank lowering in the final Report/EA consistent with the following. This measure would allow flow to expand earlier, reducing near bank velocities and potentially reducing bank erosion, but given the sandy nature of the soil and the observation that erosion of the toe of the bank was driving bank erosion this measure would not be a long-term solution. Observations of toe erosion and subsequent bank

failure within Reach 1 combined with the erodible nature of the soil led to low confidence within the PDT that longitudinal bank lowering would provide adequate erosion protection.

Comment 3: EPA understands that hard armoring of river and stream banks for the purpose of stabilization and protection is quite common; however, it can also transfer the problem by redirecting and strengthening the flow downstream of the armoring causing bank erosion. It does not provide aquatic or terrestrial habitat, and it does not have the ability to filter sediments and nutrients.

Due to the volume of water in the river and the erosive forces already at play, the most effective solution could be a blend of armoring and bioengineering. However, the Report and EA do not address bioengineering nor why only hard armoring will provide a sustainable solution. Therefore, EPA strongly encourages consideration of bio-engineering techniques (e.g., toe wood-sod mats), along with constructed features (e.g., bendway weirs) to provide a more natural result in one or more of the Reaches as well as to minimize potential adverse impacts of the discharge on water quality, the aquatic ecosystem, and downstream erosion.

For these reasons, EPA strongly recommends USACE evaluate longitudinal bank lowering for Reach 2 and a hybrid approach incorporating bio-engineering and constructed features to provide a sustainable, and more natural, solution for the LSIC to conduct traditional and cultural practices.

Response: The USACE considered and screened out the bioengineering measures recommended by EPA, as described in the report. Table 1 in the report includes several bioengineering solutions, including root wads, wooden cribs, integrated bank treatments (hybrid), vegetated geogrids and toe wood sod mats and the Reach where that solution was considered. The screening criteria and rationales in the table have been updated, but in general, the bioengineering solutions would deteriorate over time and required continued maintenance (wooden cribs, root wads, toe wood sod mats) or would not provide a long-term solution (longitudinal bank lowering, integrated bank treatment, sloped banks with groundcover). Longitudinal bank lowering was screened based on the rationale provided in response to Comment 2. There may be opportunities to include vegetation into the TSP and it is recommended that this be investigated further during plans and specifications (see response to Comment 6).

Comment 4: With over half of the loss to the project area occurring since 2015 and 5 events in 2019 that exceed the channel's capacity, EPA recommends USACE explain why the 50-year event was selected for this project and whether the 50-year event design provides sufficient resiliency to the project area.

Additionally, EPA recommends the phrase "longevity can be scaled to the needs of the tribe" be clarified. Is the current TSP scaled to the needs of the LSIC? If not, when would the LSIC's needs regarding longevity be determined and incorporated into the TSP?

Response: The design is not for the 50-year event. The study incorporated a 50-year period of analysis for planning and economic purposes. While we acknowledge that there are environmental factors that may extend beyond the 50-year period of analysis, the 50-year period of analysis is the subset of the planning horizon in which we consider plan effects. The current TSP design is scaled to the needs of the LSIC as currently known and the LSIC supports the TSP. Cost is a significant factor in the TPP with the PDT attempting to provide the maximum protection at the minimum cost. Adding resiliency to the design would entail adding rock to protect against scour.

Comment 5: The Report and EA do not indicate whether stairs would be constructed in Reaches 1, 2, and 4, if used by the LSIC for fishing and river access. Additionally, the impacts analysis for Alternative 4 does not indicate whether the LSIC finds bedrock and stairs to be acceptable in Reach 3 to facilitate traditional cultural practices. EPA recommends the visual impact of these project features “in a relatively remote stretch of the Minnesota River” be analyzed from the user’s (LSIC’s) point of view (eg, type of construction material for stairs that blends with the environment); results of coordination would indicate whether LSIC views this approach as acceptable to facilitating traditional cultural practices in the project area.

Response: Stairs are currently located in Reach 3 and will be replaced during construction. The stairs allow access to a bedrock outcropping which is an existing natural feature. Tribal members fish from the bedrock outcropping, and the tribe has an interest in keeping stairs and the bedrock outcropping. Specifics on stair design will be addressed during plans and specifications. The tribal representative will continue to be involved in the project during plans and specifications. Stairs will not be constructed in Reaches 1 or 2, and as stated in the report, no work will be completed in Reach 4. LSIC tribal council is supportive of the TSP. A letter of support will be submitted to the USACE prior to final project approval. The final report will add a statement in the aesthetics section to address the user’s point of view.

Comment 6: The analysis would benefit from a detailed discussion concerning how and when vegetation would occur. For instance, what’s the criteria to determine where it might be possible to plant native species? Why does Alternative 4 include approximately 1/3 the seeding as Alternative 1? Why was seeding selected v. planting herbaceous vegetation or using live woody cuttings, particularly in light of invasive plants and noxious weeds being present throughout the area? What is the success rate of seeding v. planting in the project area?

Response: The details of vegetation planting will be completed during plans and specifications stage with input from tribal environmental staff. Willow growth along the overbank in Reach 2 could be used as a potential live cutting within the project area. Guidance regarding the placement of live stakes within riprap is available through the USACE Pittsburgh district.

Comment 7: EPA recommends USACE incorporate increasing community awareness regarding water quality issues in the project plans. Additionally, addressing water quality issues provides an opportunity to increase community awareness about non-native invasive species (NNIS), especially aquatic nuisance species and NNIS. We request USACE commit to including these activities in the Report and EA and Finding of No Significant Impact (FONSI).

Similarly, the Report and EA should include an analysis of ways to reduce erosion and land loss related to high flows and velocity in the river. While we recognize that some causes/measures to address erosion and land loss are outside the jurisdiction of USACE, working with state and local agencies to address these problems will have a positive effect on the river.

Response: The USACE appreciates the EPA’s comment. One of the opportunities listed in Section 2.2 of the feasibility report is “Increase community awareness of water quality issues related to fish and pollutants.” However, the proposed project, relatively small with a limited budget, is intended to address the problem of resources threatened by erosion. We do not have the funding to include a community awareness program regarding water quality and invasive species. Also, water quality is not a USACE mission, and non-native invasive species issues are outside the scope of the study effort. While water quality education is noted as an opportunity, it is not a recommended action as part of the study. The tribe or other agencies may be better positioned to support community awareness activities.

The Report and EA identify alternatives to address the erosion and land loss occurring on tribal lands, within the scope of the study. The USACE undertakes Tribal Partnership Program projects for water resources development purposes, or preservation of cultural and natural resources related to water resources development, that occur primarily in Indian country. A more extensive effort to address general erosion issues with state and local partners is outside the scope of the study and proposed project.

Comment 8: EPA recommends USACE commit to using the attached “Construction Emission Control Checklist” and commit to requiring contractors to adhere to these emission reduction measures in order to reduce air emissions to the greatest extent practicable. These measures are necessary because diesel emissions and fugitive dust from project construction may pose environmental and human health risks and should be minimized.

Response: The USACE have considered the recommendation to include the checklist measures in USACE contract. Some of the recommended measures, for occupational health, overlap with the USACE’s established health and safety provisions prescribed by the USACE Safety Manual, EM 385-1-1. USACE will continue to require the measures in the safety manual. Also, the work area and duration is small and away from populated areas. USACE has sent a separate letter to EPA to further address our review of the recommended checklist measures as relates to actions in the St. Paul District.

From: [Deb Dirlam](#)
To: [REDACTED]
Subject: [Non-DoD Source] Lower Sioux Review of USACE TPP integrated Feasibility report and environmental assessment
Date: Monday, April 25, 2022 9:07:40 AM

Hello Katie-

I am writing to let you know that Lower Sioux has reviewed the USACE TPP Integrated Feasibility Report and Environmental Assessment report for Minnesota River streambank erosion stabilization on Lower Sioux Indian Community.

We agree on the findings of the feasibility report and the proposed scope of the project.

Please consider this email as our support of this important proposed project for the stabilization of the Minnesota River streambank.

Pidamaya ye (Thank you)

Anpetu Wašte Yuhapi (Have a great day)

Deb Dirlam
Director of Environmental Programs
Lower Sioux Indian Community
39527 Res Hwy 1
Morton MN 56270

[REDACTED]
[REDACTED]

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
332 MINNESOTA STREET, SUITE E1500
ST. PAUL, MN 55101-1678

January 12, 2023

Regional Planning and Environment Division North

Ms. Shauna Marquardt
Field Office Supervisor
U.S. Fish and Wildlife Service
Minnesota-Wisconsin ES Field Office
4101 American Boulevard East.
Bloomington, MN 55425

Dear Ms. Marquardt:

The U.S. Army Corps of Engineers, St. Paul District (Corps) is requesting concurrence from the U.S. Fish and Wildlife Service that the proposed Lower Sioux Indian Community Riverbank Stabilization project may affect but is not likely to adversely affect northern long-eared and tricolored bats. The project would stabilize approximately 1,500 linear feet of shoreline along the right descending bank of the Minnesota River on lands of the Lower Sioux Indian Community in Redwood County, Minnesota (Figure 1).

The Lower Sioux Reservation covers approximately 2,000 acres, a drastic reduction of lands compared to pre-European settlement. The land's significance is directly tied to both the enhancement/protection of cultural practices by its members and its historical and cultural significance as a small portion of Dakota lands under governance by the Lower Sioux. Cultural practices in the vicinity of the actively eroding riverbank include hunting, fishing, gathering plants, and access to the Minnesota River. However, river migration and eroding banks have resulted in a loss of Tribal Trust Land utilized for cultural practices. Aerial imagery indicates that the bank has moved laterally approximately 180 feet since 1992. The sandy silt material is highly erodible and will continue to encroach on the tribal land without remediation.

To stabilize this segment of the riverbank, the project would include riprap and bendway weirs as described below and shown on Figure 2. The project would also include a temporary access road and staging area as well as permanent stairs for tribal members to access a bedrock outcropping used for fishing.

- *Riprap Protection:* Riprap has been shown to effectively protect against flow velocities and would be used to protect the riverbank. The riprap would extend from the toe of the bank to the top of the bank at a 1.5H:1V slope. The rock would be placed at the toe of the bank and built up without any grading of the existing vertical banks to minimize cost and exposure of any unknown cultural resources.
- *Bendway Weirs:* Seven bendway weirs would be included to alter the flow pattern of the channel by pushing the energy away from the bank and toward the center of the channel. Bendway weirs have also been shown to provide habitat for numerous fish species.

We reviewed the Service's Information for Planning and Consultation (IPac) website for a list of species and critical habitat that "may be present" within the project area. No critical habitats were found, but the following listed species may be present within the project area:

- Northern long-eared bat (*Myotis septentrionalis*, endangered after 30 January)
- Tricolored bat (*Perimyotis subflavus*, proposed endangered)
- Monarch butterfly (*Danaus plexippus*, candidate)
- Prairie Bush-clover (*Lespedeza leptostachya*, threatened)

Recently it was announced that the NLEB would be up-listed to endangered on 30 January 2023, making the 4(d) rule no longer applicable for the species. Any implementation of the project would happen after NLEB is listed as endangered. Additionally, the tricolored bat was submitted for listing on 14 September 2022, giving it a proposed endangered status under ESA. The proposed project would include 0.2 acre of tree removal. The project would not impact any known hibernacula or roost trees within 0.25 miles of the project area and to avoid any potential take of NLEB or other proposed bat species (i.e., tricolored bat), tree clearing would avoid the bats active season from March 31 to November 1. Therefore, the Corps has determined that the project may affect but is not likely to adversely affect NLEB and tricolored bat as tree clearing activities would occur while bats are in hibernation.

The monarch butterfly was listed as a candidate species in December 2020 but it is not yet listed or proposed for listing. With milkweed being absent within the project area, the proposed project would have no effect on the monarch. The Corps has also made a no effect determination for the prairie bush-clover as the project area does not contain native prairie habitat with well-drained soils which is essential habitat for the species.

We are requesting your concurrence with our determination regarding impacts to federally listed species under Section 7 of the Endangered Species Act for the Corps Lower Sioux Indian Community Riverbank Stabilization project. If you have questions about the project or the content of this letter, please contact LeeAnn Glomski at [REDACTED]

Sincerely,

Jonathan J. Sobiech
Deputy Chief, Regional Planning and
Environment Division North

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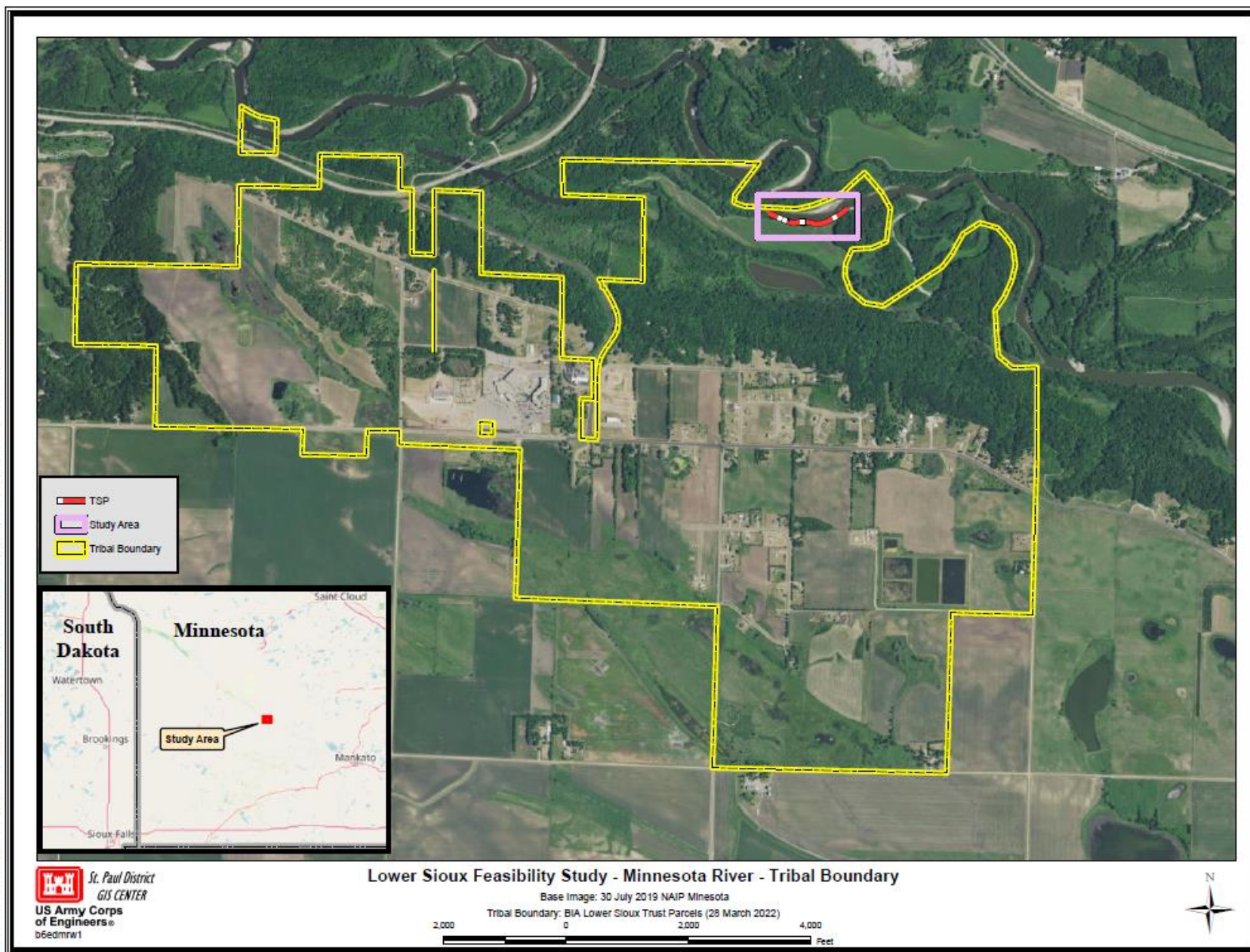


Figure 1. Project Location

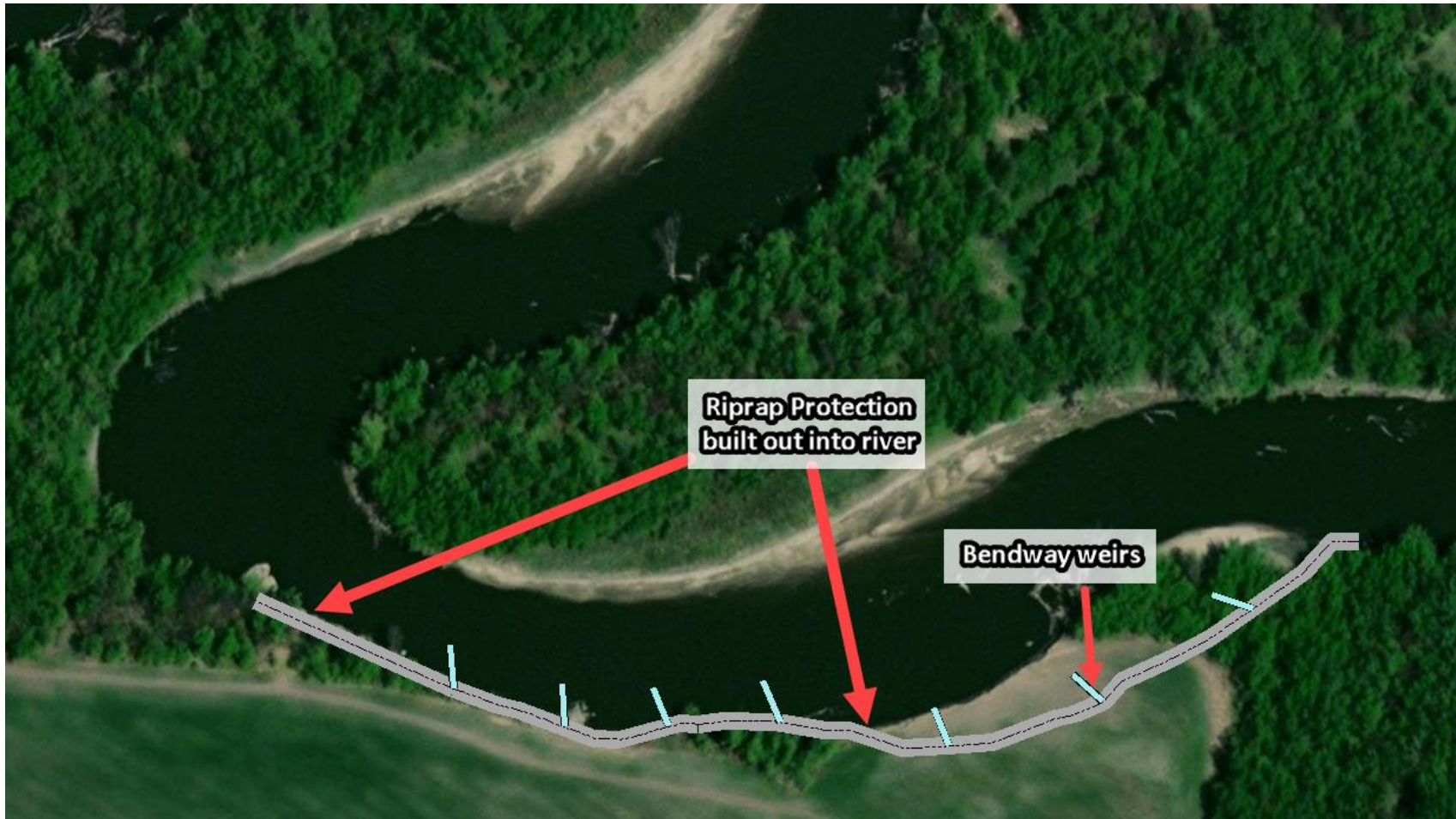


Figure 2. Proposed project features (2015 aerial imagery)

From: [Utrup, Nick J](#)
To: [Glomski, Lee Ann M CIV USARMY CEMVP \(USA\)](#)
Subject: [Non-DoD Source] Re: [EXTERNAL] USACE Lower Sioux ESA consultation
Date: Thursday, January 26, 2023 12:26:06 PM

LeeAnn,

This email is in response to your request for our concurrence with your determination that proposed Lower Sioux Indian Community Riverbank Stabilization project may affect but is not likely to adversely affect northern long-eared and tricolored bats.

We concur with your determination that the permitted activities may affect, but are not likely to adversely affect northern long-eared and tricolored bats in the action area indicated in the materials provided by you. Our concurrence is based on the understanding that the tree cutting would be minimal (0.2 acres) and any tree clearing would avoid the bats active season from March 31 to November 1.

This email response concludes your consultation requirements with our office. Please let me know if you have any further questions.

Thanks,

Nick

Nick Utrup
Minnesota-Wisconsin Ecological Services Field Office
U.S. Fish and Wildlife Service
3815 American Boulevard East
Bloomington, MN 55425

From: [REDACTED]
Sent: Thursday, January 12, 2023 7:19 AM
To: Marquardt, Shauna R <Shauna_Marquardt@fws.gov>; Utrup, Nick J <nick_utrup@fws.gov>
Subject: [EXTERNAL] USACE Lower Sioux ESA consultation

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
332 MINNESOTA STREET, SUITE E1500
ST. PAUL, MN 55101-1323

9 February 2023

Regional Planning and Environment Division North

Ms. Cheyanne St. John
Tribal Historic Preservation Officer
Lower Sioux Indian Community
P.O. Box 308
39527 Reservation Highway 1
Morton, Minnesota 56270

SUBJECT: Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.

Ms. St. John:

The U.S. Army Corps of Engineers, St. Paul District (Corps), is proposing to stabilize a stretch of the Minnesota River at the Lower Sioux Community, Redwood County, Minnesota (Project) (Figure 1). Ongoing erosion along the bank of the Minnesota River is threatening natural and cultural resources of the Lower Sioux Community. Since our correspondence on 8 August 2021, the Project's tentatively selected plan (TSP) has changed slightly. The proposed Project still includes rip rap bank stabilization, minor clearing and grubbing, native species plantings, a replacement staircase, and a temporary access road. Changes from the previous plan include the addition of bendway weirs and no bank reshaping would occur. No cultural materials were identified during the 2021 archaeological investigations. The Corps has determined the proposed Project would have no effect on historic properties.

The project area is in the floodplain along the right-descending bank on an actively eroding outside bend of the river (Figure 2). The downstream portion of the project area is alluvial bottomland while the upper portion is on a low terrace. The upstream and downstream portions of the project area are in floodplain forest (maple, ash, cottonwood, elm) while the middle stretch contains a mix of grasses, willows, and occasional other trees in a fallow field under the Conservation Reserve Program (CRP). The upstream portion also contains a granite outcrop, accessed for fishing. The Corps recognizes that natural resources important to the Lower Sioux Community may be present within the project area. Currently, the proposed Project has the potential to benefit these plant and animal communities.

The current TSP would include placing rip rap and bendway weirs out into the river from the bank. Rock would be placed at the toe of the bank and built up at a 1.5:1 V slope without any grading of the existing vertical banks. A typical cross-section is illustrated in Figure 3. Seven bendway weirs, designed to alter the flow pattern of the channel by pushing the energy away from the bank and toward the center of the channel, would be constructed after the rip rap is

placed. Figure 4 presents the location of the rip rap and bendway weirs. A new staircase would replace the existing set of steps in the upstream portion of the Project to allow continued access to the river. The design and materials of the stairway are to be determined. Construction access would follow the existing two-track road running along the south side of the river. The 1.1-mile long, 12-foot-wide access road may require minor, temporary, improvements with the placement of 10-inch-thick aggregate over geotextile. A staging area would be located near the downstream portion of the project within the fallow CRP field. Materials would be placed along the surface of the field with minimal ground disturbance.

The Area of Potential Effect (APE) includes the immediate shoreline within the project area, where earth moving activities may potentially occur, such as access roads and lay-down yards for equipment storage and sediment disposal, and where the project features may be visible. Figure 1 depicts the Project's APE.

Archaeological investigations for the Project were completed on 21-22 June 2021 and described in our letter to your office dated 8 August 2021. A copy of the Cultural Resources Permit issued by your office is included in Figure 5 and a sketch map depicting the extent of the investigations is provided in Figure 6.

The Corps has determined that the Project would have no effect on historic properties. The project area has experienced erosion and has been cultivated. In addition, portions of the project area are low and seasonally inundated. No cultural resources were identified during the June 2021 survey.

The Corps is interested in your comments and opinions of the proposed Project. Please provide any comments or questions to Dr. Bradley Perkl, archaeologist, [REDACTED]
[REDACTED]. We look forward to hearing from you.

Sincerely,

Jonathan J. Sobiech
Deputy Chief, Regional Planning and
Environment Division North



Figure 1. Project Area Location and Area of Potential Effect. Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.



Figure 2. View of Project Area, Looking Upstream/West. Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota

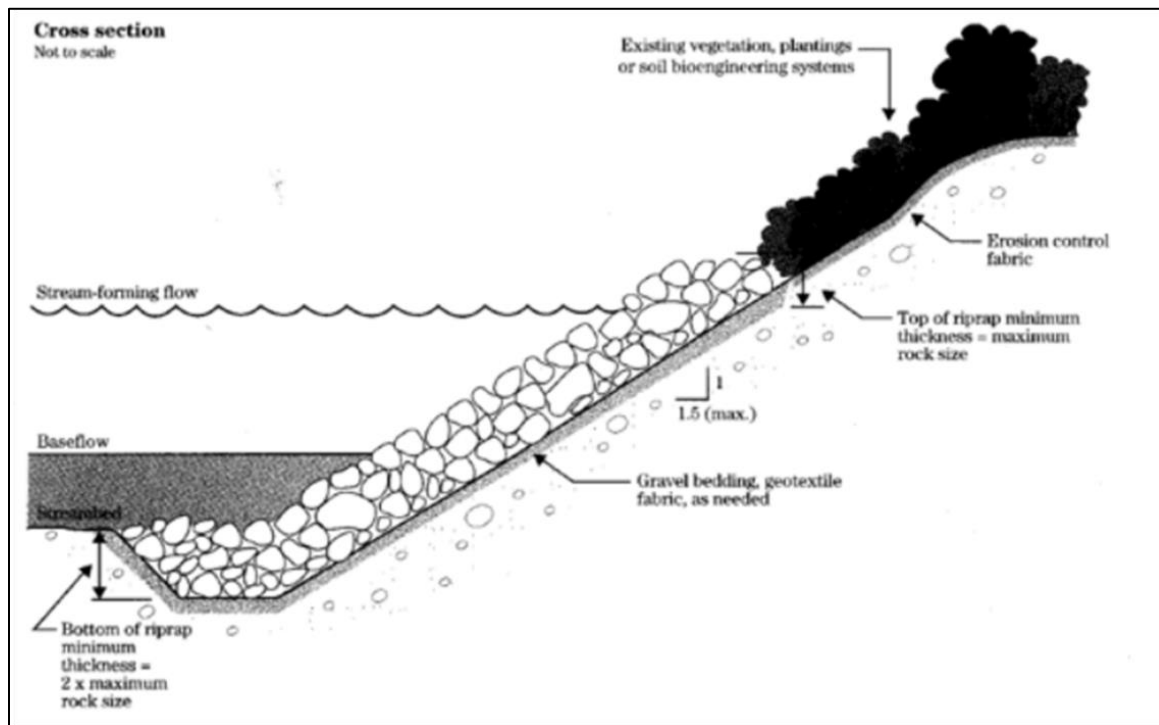


Figure 3. Conceptual Design Cross-Section, Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.

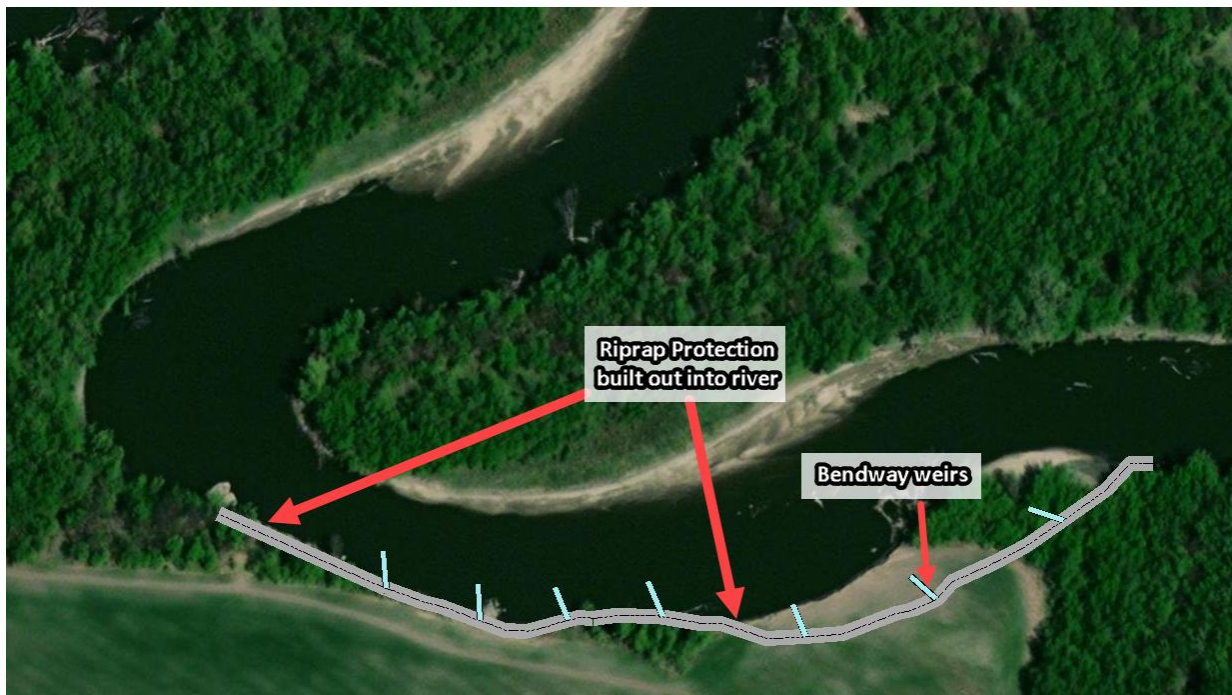


Figure 4. Location of Rip Rap and Bendway Weirs. Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota. 2015 Aerial Imagery.



**Tribal Historic Preservation Office
Lower Sioux Indian Community**
P.O. Box 308 | 39527 Reservation Hwy 1
Morton, MN 56270
(507) 697-8672

CULTURAL RESOURCE PERMIT

LOWER SIOUX INDIAN COMMUNITY IN THE STATE OF MINNESOTA

The Lower Sioux Tribal Historic Preservation Office provides this permit pursuant to its *Cultural Resource Protection Ordinance*, Title 7 Section 701. The permit is valid for the United States Army Corps. of Engineers preapproved undertaking on Lower Sioux Indian Reservation titled, **Minnesota River Streambank Stabilization project** at the following location and for the preapproved activities for the week of January 21st, 2021:

Project location: Lower Sioux Indian Reservation, Redwood County, Minnesota. Parcel id: 65-006-1020; Section 6 and 7, Township 112, Range 34 and 35W.

Activities: Through exploratory work associated with the preapproved project, applicant intends to conduct visual reconnaissance of the river cut bank, complete approximately 20-30 shovel tests at about 10 m intervals in a single transect parallel with the river. Due to the low terrace and known floodplain within the location proposed tests will be excavated to approximately 90-100cm. Informal soil probes (1-Inch Oakfield) are permitted as long as conducted within the permit area.

Should any of the project activities change from the preapproved *Consent for Survey of Indian Land*, applicant must resubmit a permit request along with project changes to the Lower Sioux THPO.



Cheyenne St. John, THPO
Lower Sioux Indian Community

Figure 5. Cultural Resources Permit, Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.

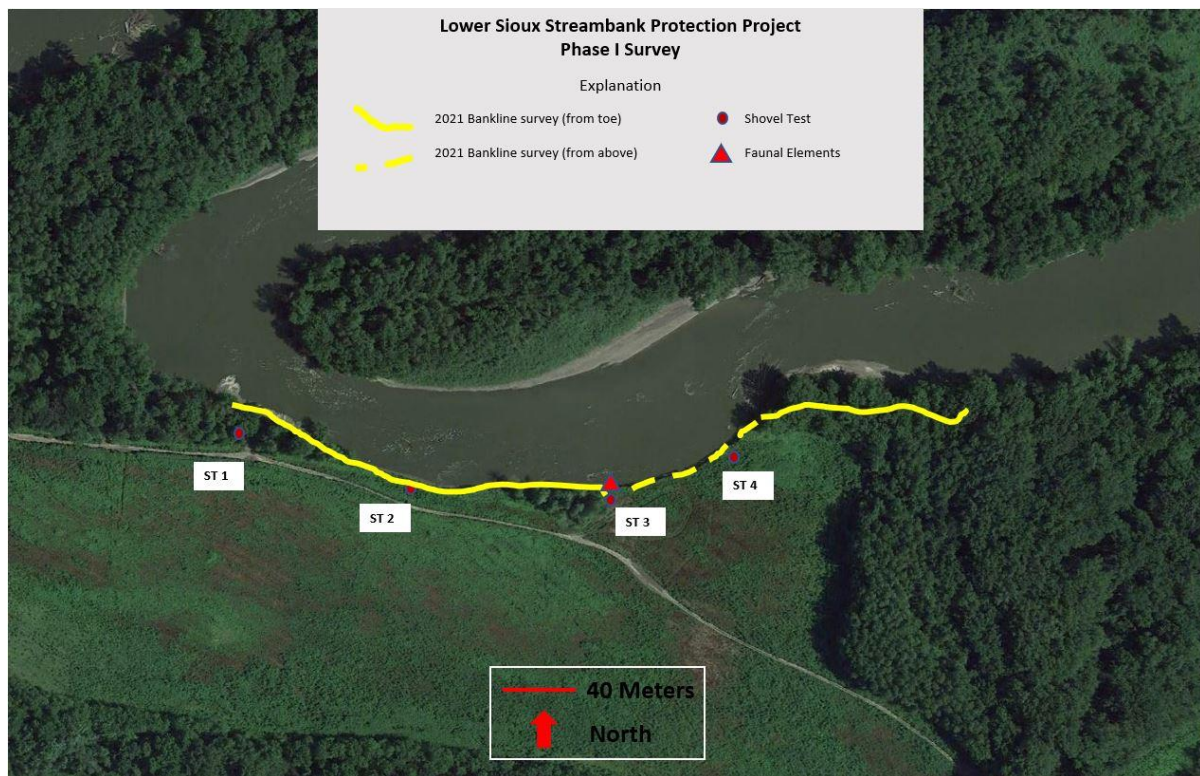


Figure 6. Sketch Map of Archaeological Investigations, Lower Sioux Riverbank Stabilization, Minnesota River at the Lower Sioux Community, Redwood County, Minnesota.