



US Army Corps
of Engineers
St Paul District

APPLICANT

**Bois Forte Band of
Chippewa**

Public Notice

ISSUED: January 12, 2009

EXPIRES: February 11, 2009

REFER TO: 2008-02580-JRS

SECTION:404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge fill material into 2.07 acres of wetlands adjacent to Lake Vermilion for the purpose of constructing a recreational trail.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS:

Bois Forte Reservation
Box 16
Nett Lake, Minnesota 55772

AGENT:

Short Elliott Hendrickson, Inc.
Mr. Matt Wegwerth

AGENT'S ADDRESS:

Short Elliott Hendrickson, Inc.
21 NE 5th Street, Suite 200
Grand Rapids, Minnesota 55744

PROJECT LOCATION: The project site is located in Sections 25, 26, 35, T. 62N., R. 16W., St. Louis County, Minnesota.

DESCRIPTION OF PROJECT: The applicant is proposing to construct an approximate 2 mile pedestrian recreation trail. The trail would be constructed adjacent to County Road 104 from Tibbets Trail to Eagle Point, on the Vermilion sector of the Bois Forte Band of Chippewa Reservation. The purpose of the trail would be to provide recreational opportunities and access to the Fortune Bay Casino for reservation members and guests.

QUANTITY, TYPE, AND AREA OF FILL: The applicant proposes to discharge fill material into approximately 2.07 acres of wetlands adjacent to Lake Vermilion for the purpose of constructing a 2 mile long pedestrian recreational trail. The trail would be 10 feet in width with a 2 foot shoulder on either side of the useable surface. The total impact width would be 14 feet.

VEGETATION IN AFFECTED AREA: The vegetation in the proposed construction area consists of hardwood swamps, coniferous swamps and shrub-scrub wetlands. Specific dominant vegetative species includes: Fraxinus Nigra (Black Ash), Poa protensis (Blue Grass), Phalaris arundinacea (Reed Canary Grass), Picea mariana (Black Spruce), Thuja occidentalis (Northern White Cedar), Festuca sp., Scirpus cyperinus (Woolgrass), Alnus incana (Speckled Alder), and Salix sp (Willow).

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SOURCE OF FILL MATERIAL: Fill material would be purchased from a licensed facility within the community.

AVOIDANCE AND MINIMIZATION: The Bois Forte Band of Chippewa considered a no build alternative but is not preferred as this option would not meet the project goals of providing a safe mode of transportation for pedestrians within the community. The applicant has minimized impacts by shortening the trail considerably from the initial project plans. Safety setbacks from the road would not allow the trail to be placed on the existing road grade.

COMPENSATORY MITIGATION: The applicant proposes to purchase wetland credits from a Corps approved wetland bank.

SURROUNDING LAND USE: Surrounding land use consists of both commercial and residential developments.

3. **REPLIES/COMMENTS.** Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 1554 Highway 2, Suite 2, Two Harbors, Minnesota 55616.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Joe Shoemaker at the Two Harbors office of the Corps, telephone number (218) 834 - 6630.

To receive Public Notices by e-mail, go to the St. Paul District web page at <http://www.mvp.usace.army.mil/regulatory/> and sign up by clicking on

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4. **FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.** None were identified by the applicant or are known to exist in the permit area. However, St. Louis County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Canada lynx (Lynx Canadensis)	Northern forested areas
Gray Wolf	Northern forested areas

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. **JURISDICTION.** This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under Sections 9 & 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 07-01. We have made a ***preliminary determination*** that the aquatic resources that would be impacted by the proposed project are regulated by the Corps of Engineers under Section 404 of the Clean Water Act. Our jurisdictional review and final jurisdictional determination could result in modifications to the scope of the project's regulated waterbody/wetland impacts and compensatory mitigation requirements identified above. An ***approved jurisdictional determination*** will be made prior to reaching a permit decision, and will be posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/>.

This project comes under the regulatory jurisdiction of the Corps of Engineers because the wetlands are adjacent to Lake Vermilion, a navigable water of the United States.

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED: None

6. **SECTION 401 WATER QUALITY CERTIFICATION.**

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The Section 401 authority within the external boundaries of Federally- recognized Bois Forte Reservation reservation is the Environmental Protection Agency (EPA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the EPA. If the EPA needs any additional information in order for the Section 401 application to be considered complete by EPA, the EPA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the EPA has received a valid, complete application for Section 401 certification and to obtain a final Section 401 action from the EPA.

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The EPA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification. The EPA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the EPA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

Any comments relative to EPA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Ms. Janice Cheng
U.S. Environmental Protection Agency
43 McKinley Lane
Streamwood, IL 60107

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

8. **PUBLIC HEARING REQUESTS.** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

9. **PUBLIC INTEREST REVIEW.** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision,

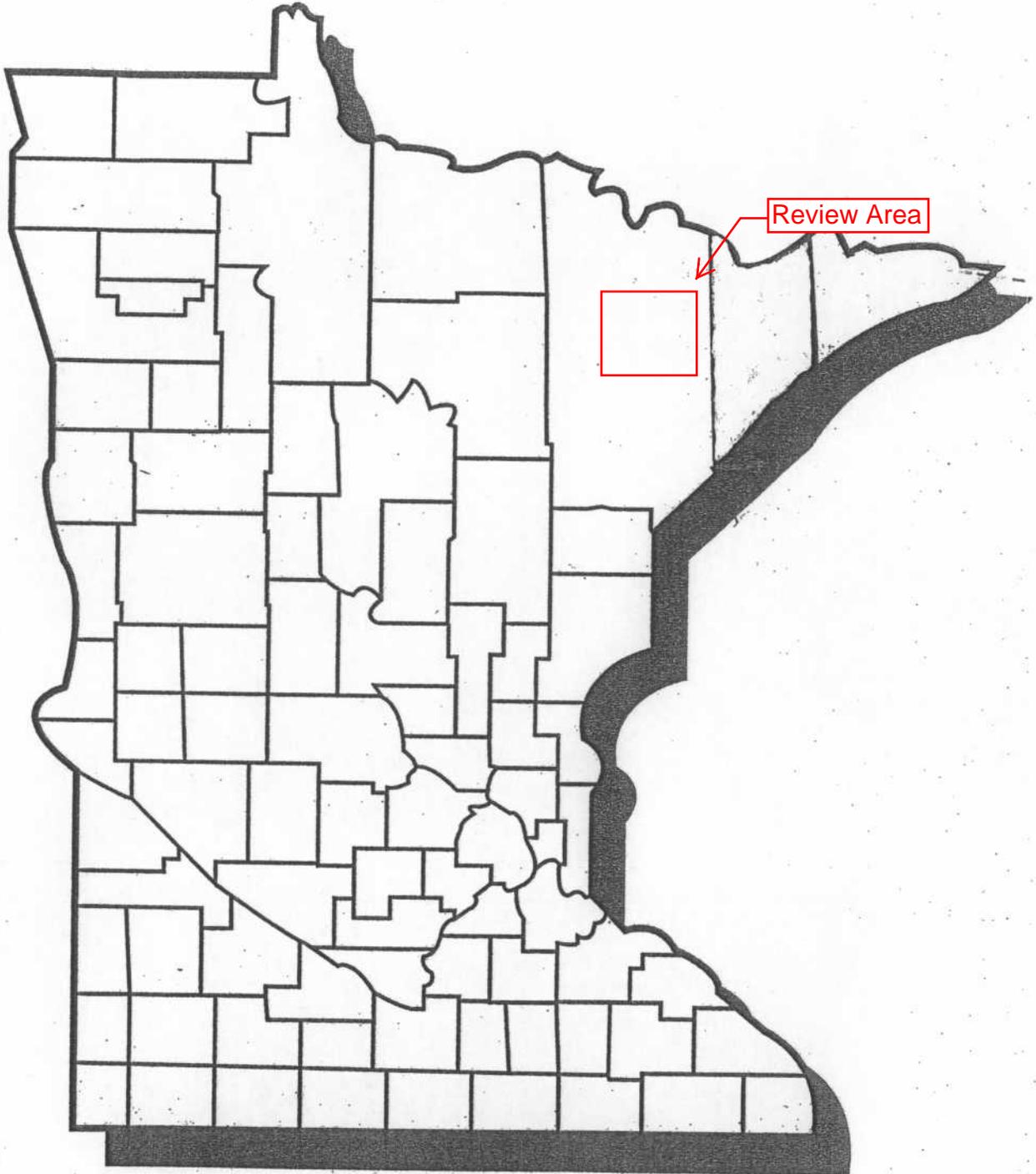
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comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

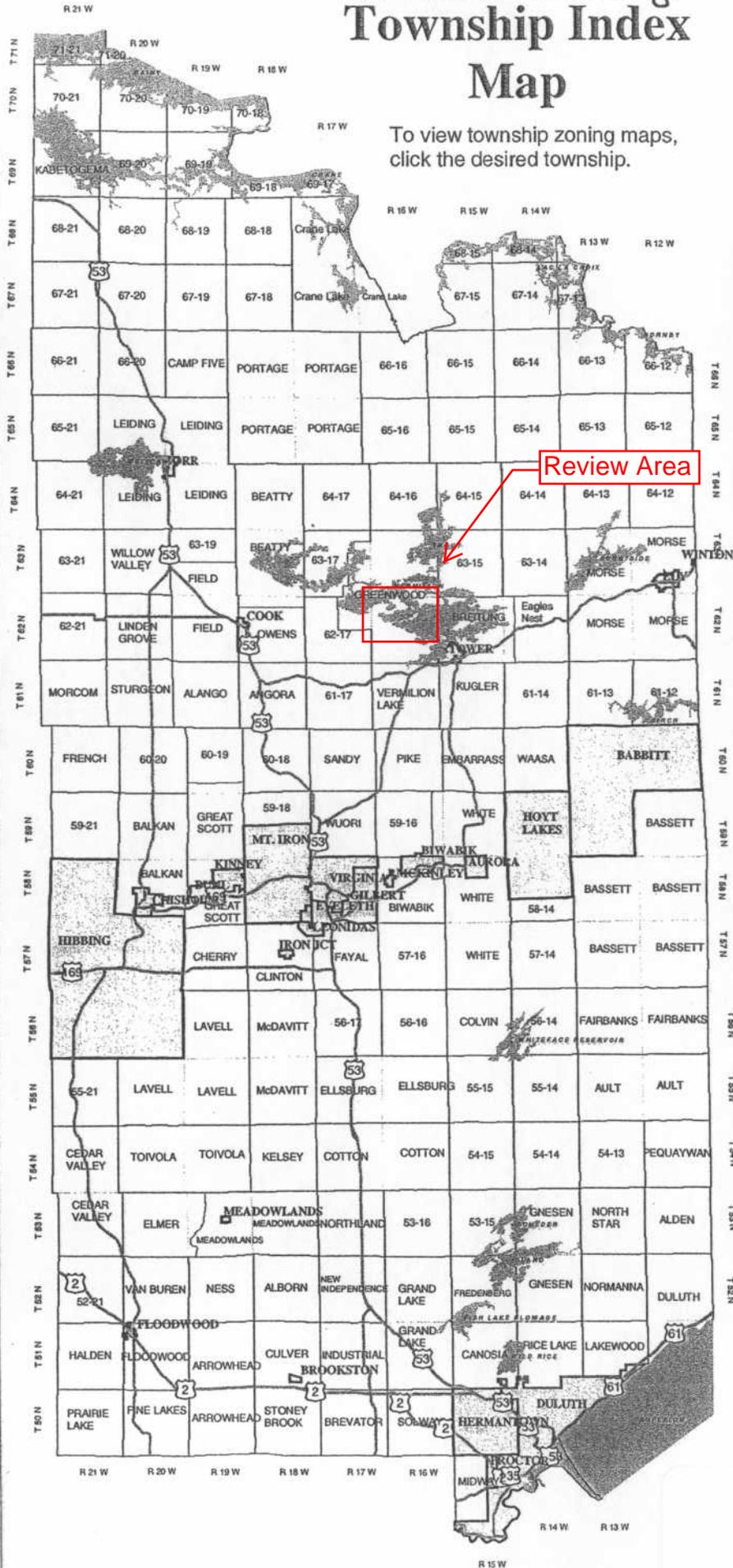

for Robert J. Whiting
Chief, Regulatory Branch

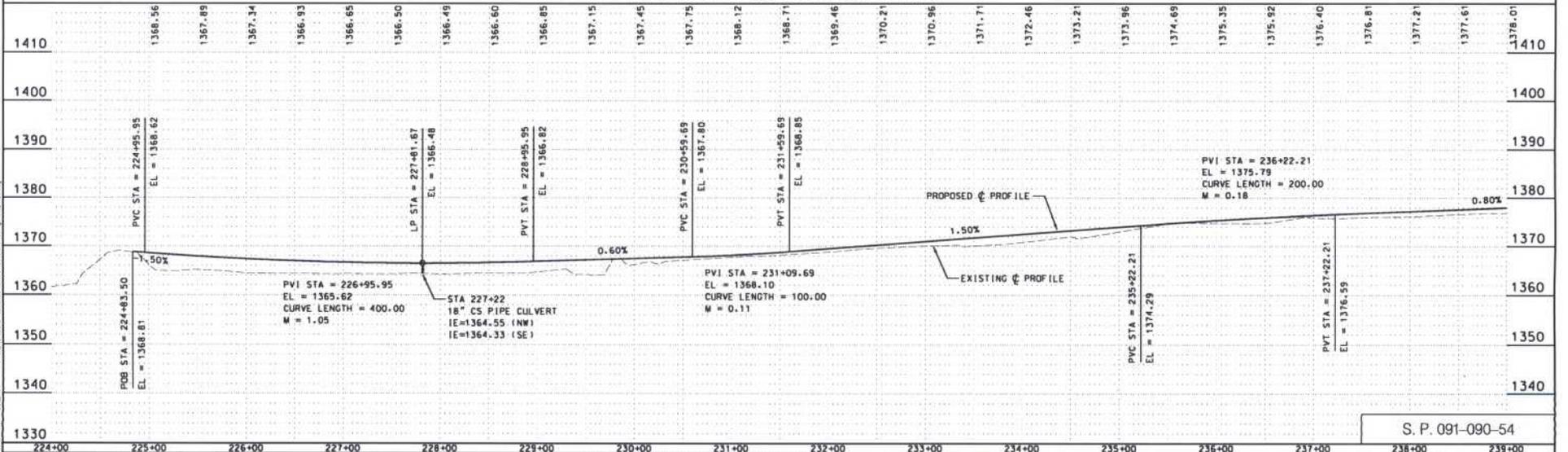
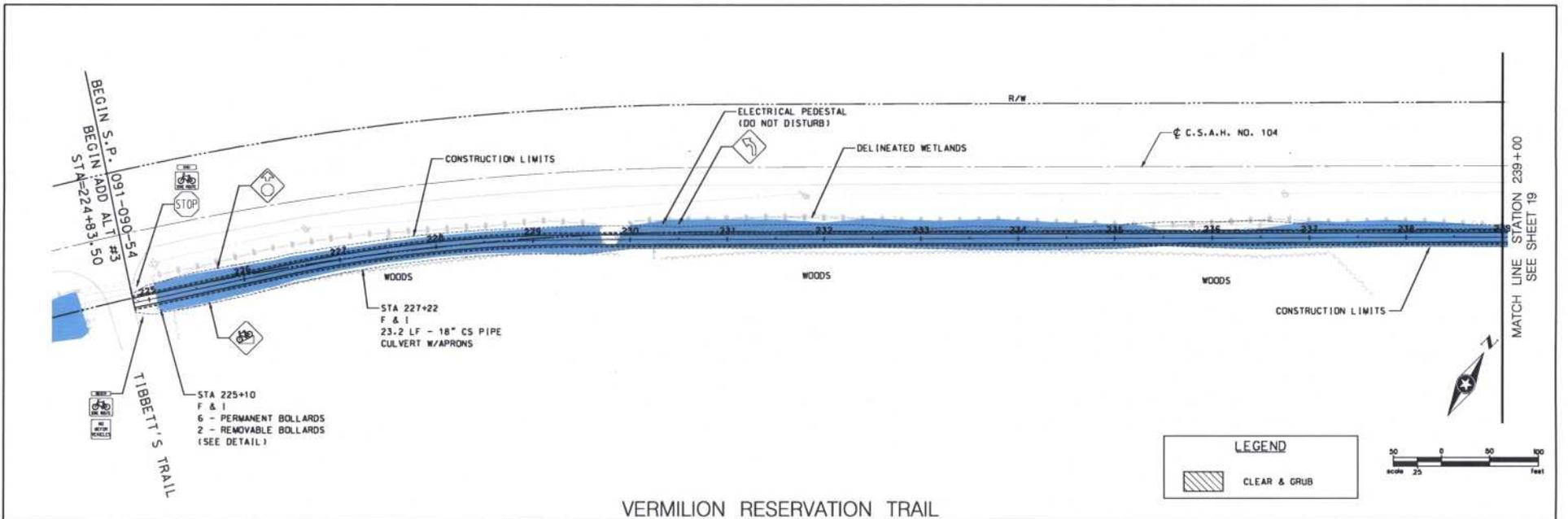
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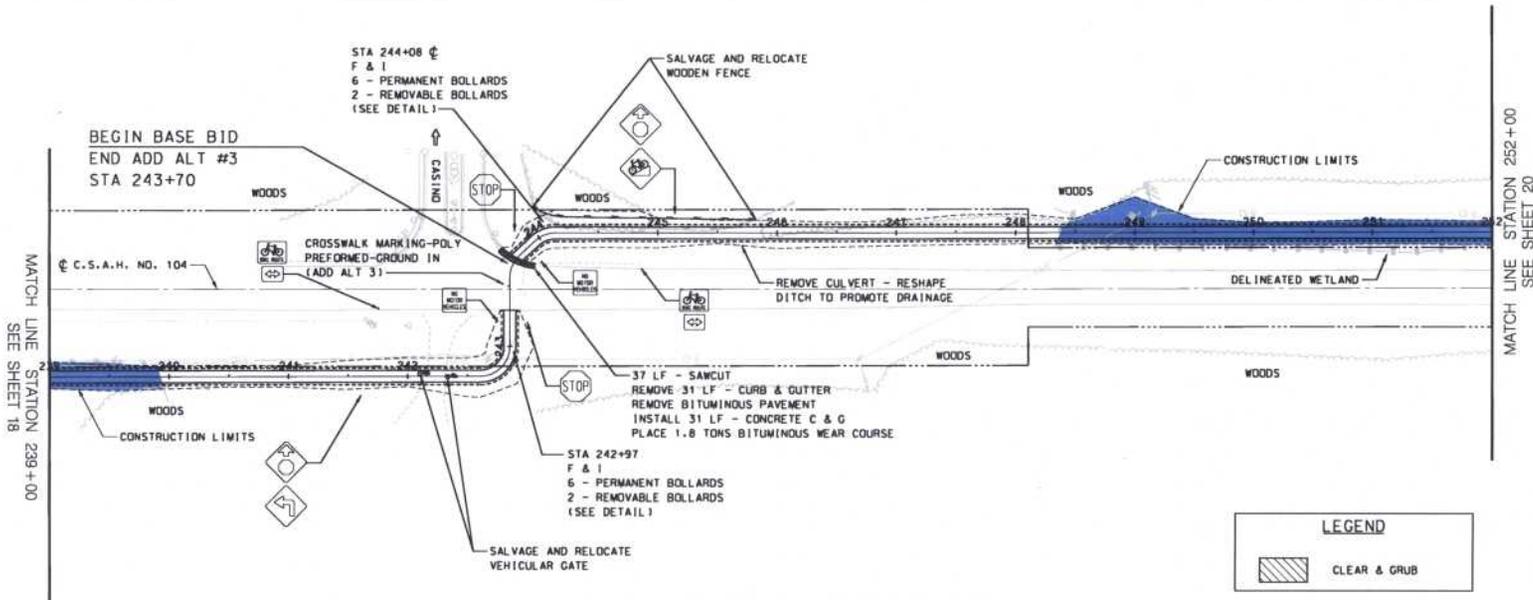
ST LOUIS COUNTY Township Index Map

To view township zoning maps,
click the desired township.

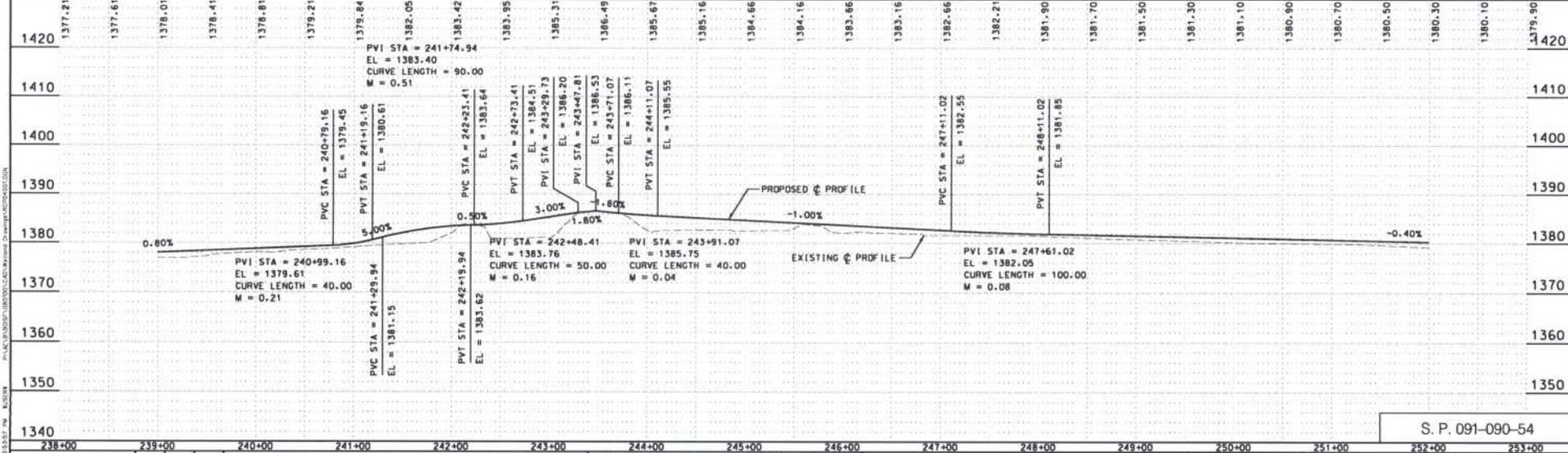




DRAWN: DLP DESIGNED: DLP CHECKED: MWW	NO. BY DATE 	REVISIONS 	I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA. Name: MATTHEW WECKWORTH, PE Date: 12/5/08 Reg. No.: 45016	 PH: 218.741.4264 615 5TH STREET NO. VIRGINIA, MN 55792-3761 www.seh1inc.com	BOIS FORTÉ BAND OF CHIPPEWA TOWER, MN	PLAN & PROFILE VERMILION RESERVATION TRAIL STA 224+83 TO STA 239+00	FILE NO. 18 BOISF 0801
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Matthew Wegert
 Date: 4/5/08 Name: MATTHEW WEGERT, PE Reg. No. 4506

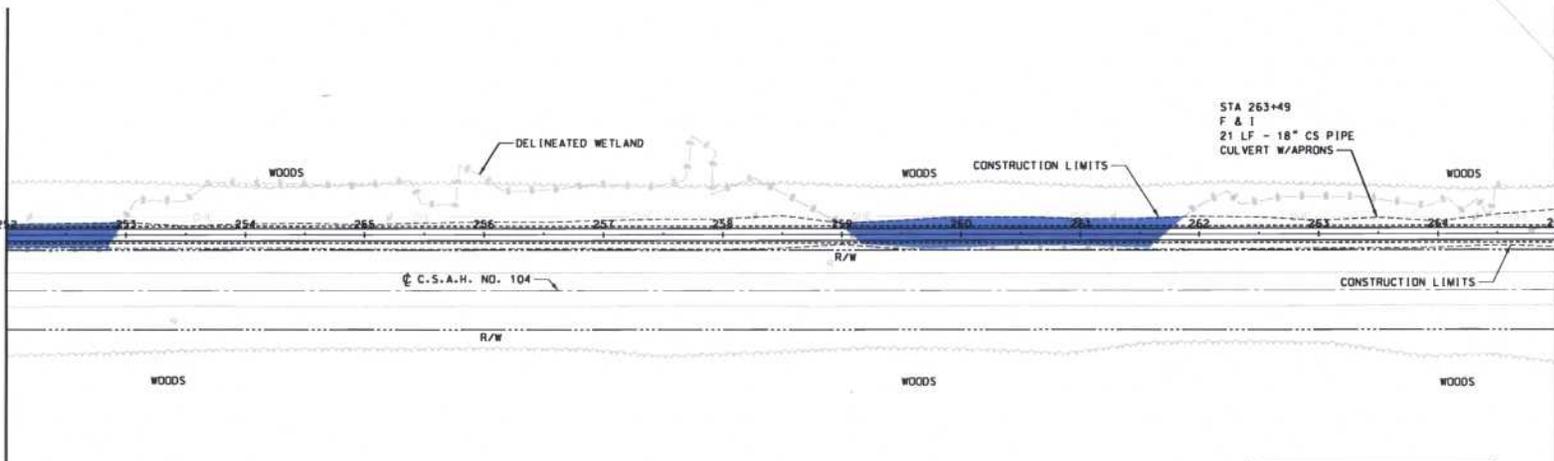
SEH
 P.O. Box 218, 741.4284
 615 9TH STREET NO.
 VIRGINIA, MN
 55792-3761
 www.sehinc.com

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 OF CHIPPEWA
 TOWER, MN

PLAN & PROFILE
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 STA 239+00 TO STA 252+00

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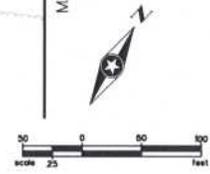
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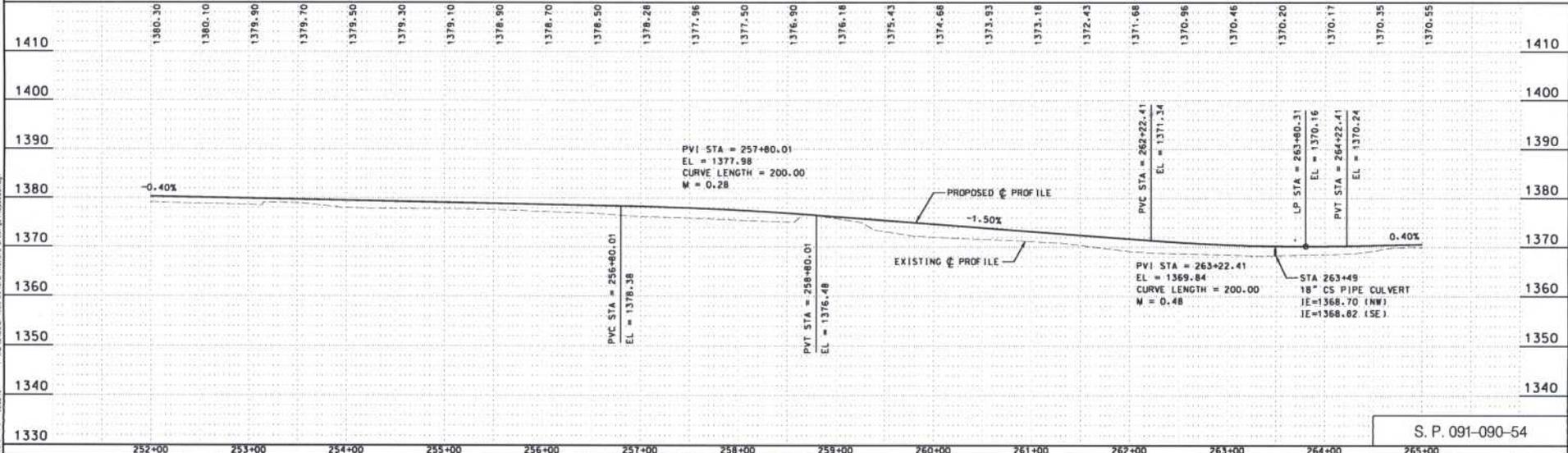
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SEE SHEET 21

LEGEND

CLEAR & GRUB



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Matthew Wedgworth
Name: MATTHEW WEDGWORTH, PE
Date: 12/5/08
Reg. No. 45016

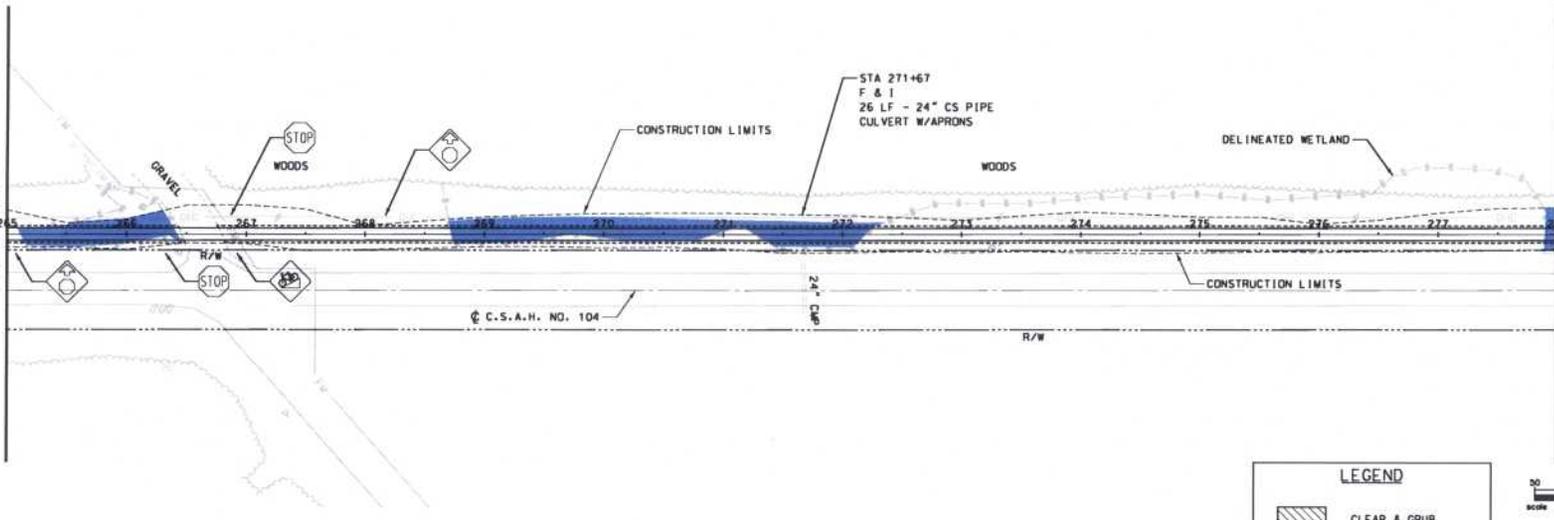
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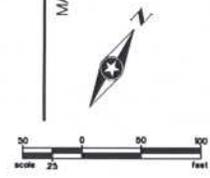
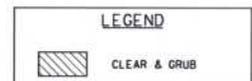
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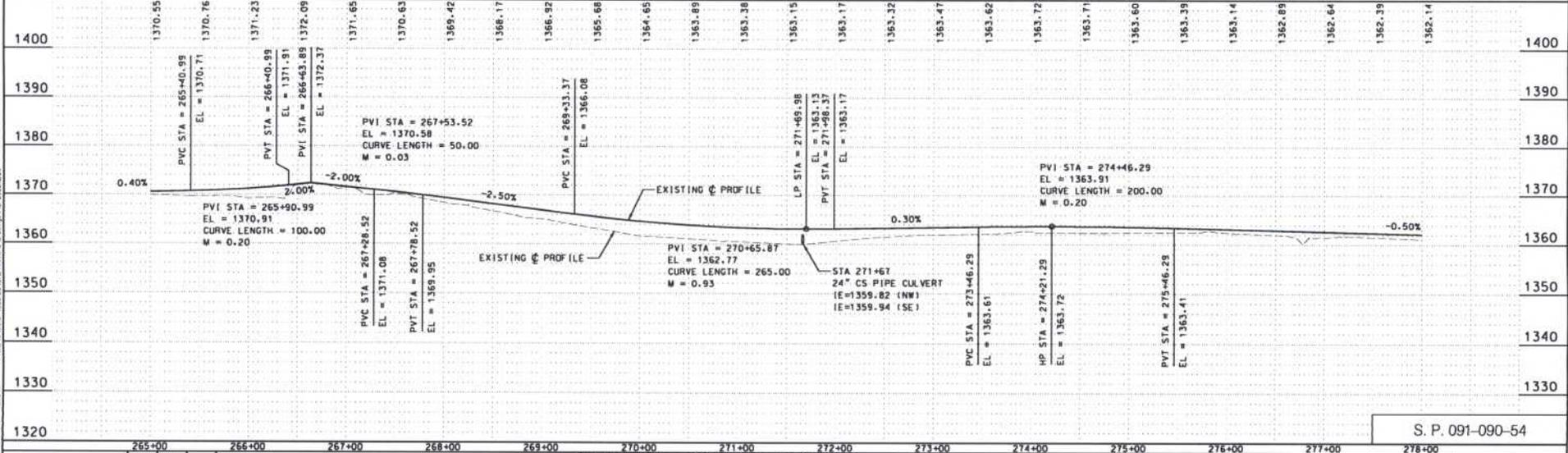
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MATCH LINE STATION 278+00
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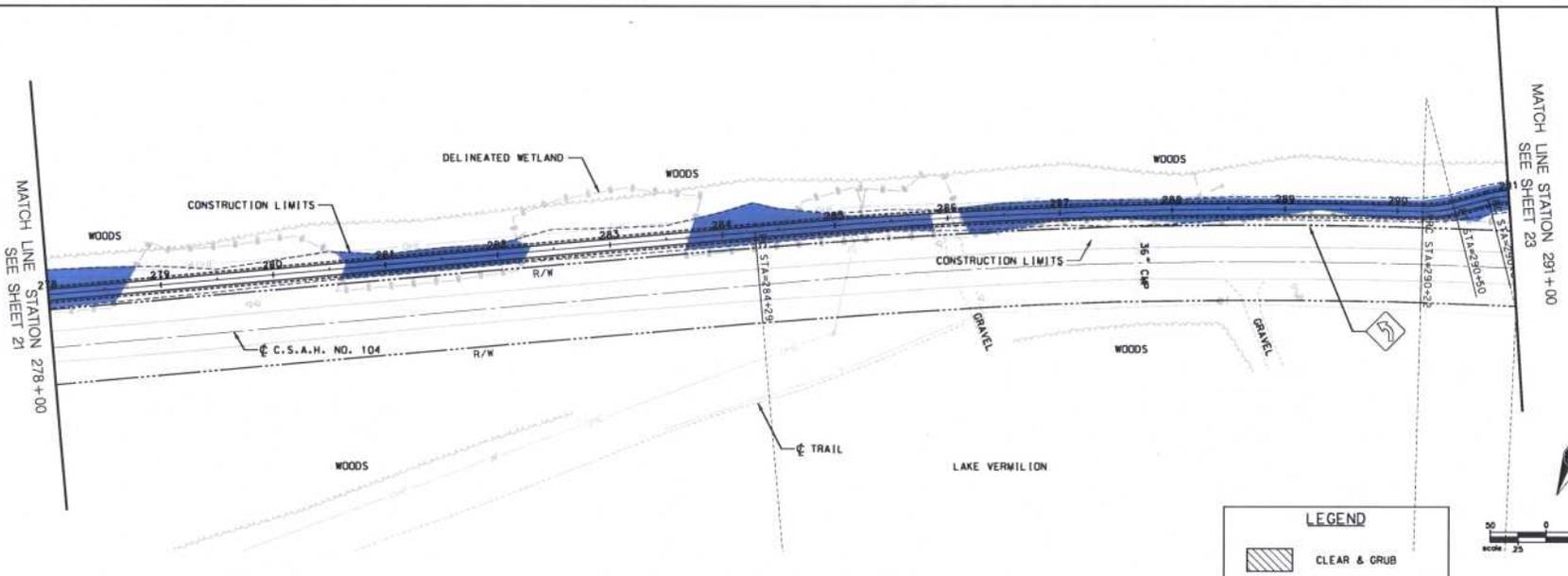
Matthew Wegert
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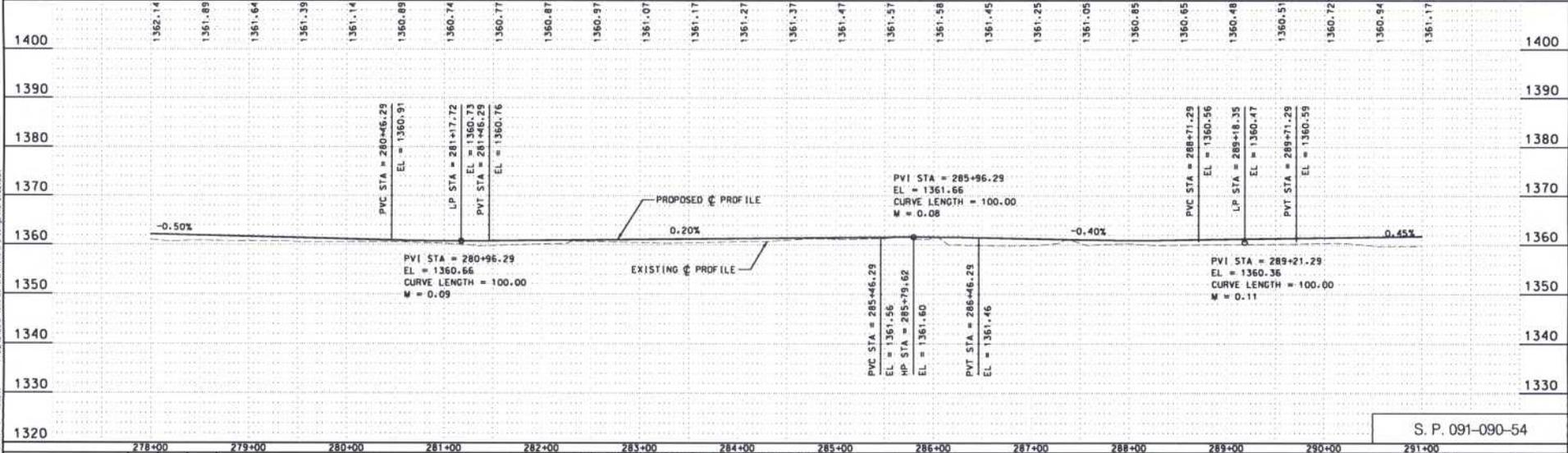
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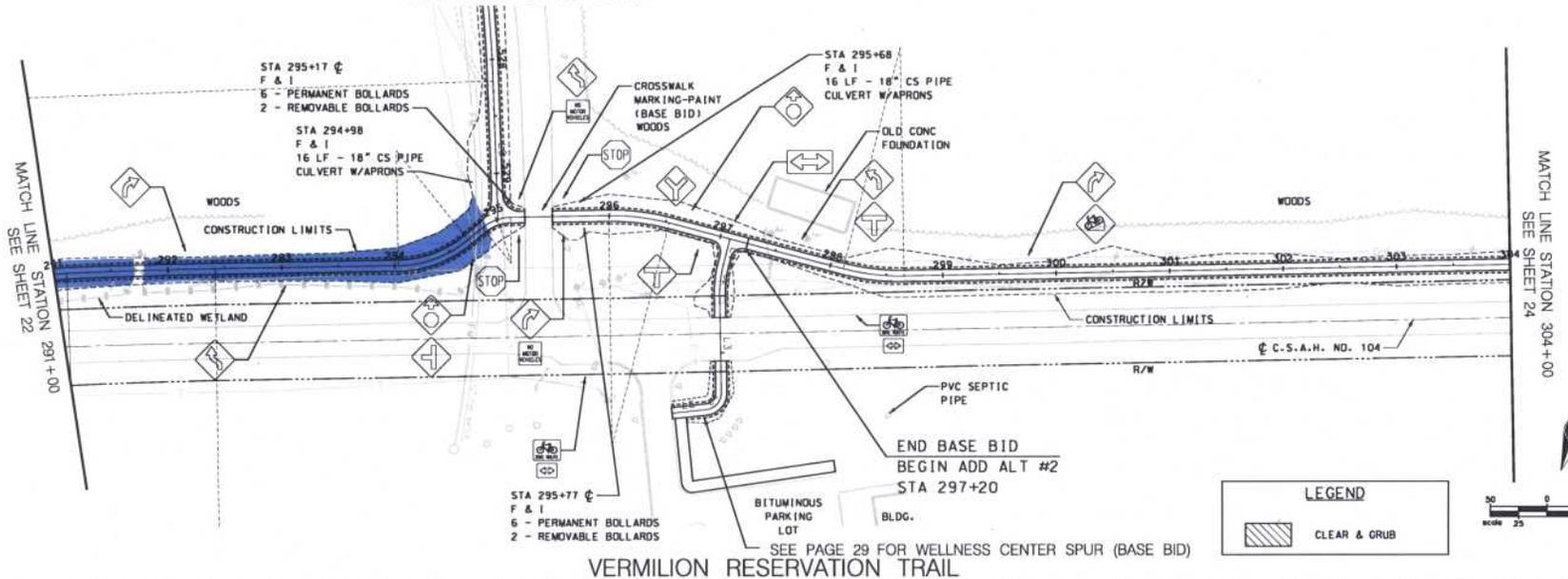
BOIS FORTE BAND
 OF CHIPPEWA
 TOWER, MN

PLAN & PROFILE
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 STA 278+00 TO STA 291+00

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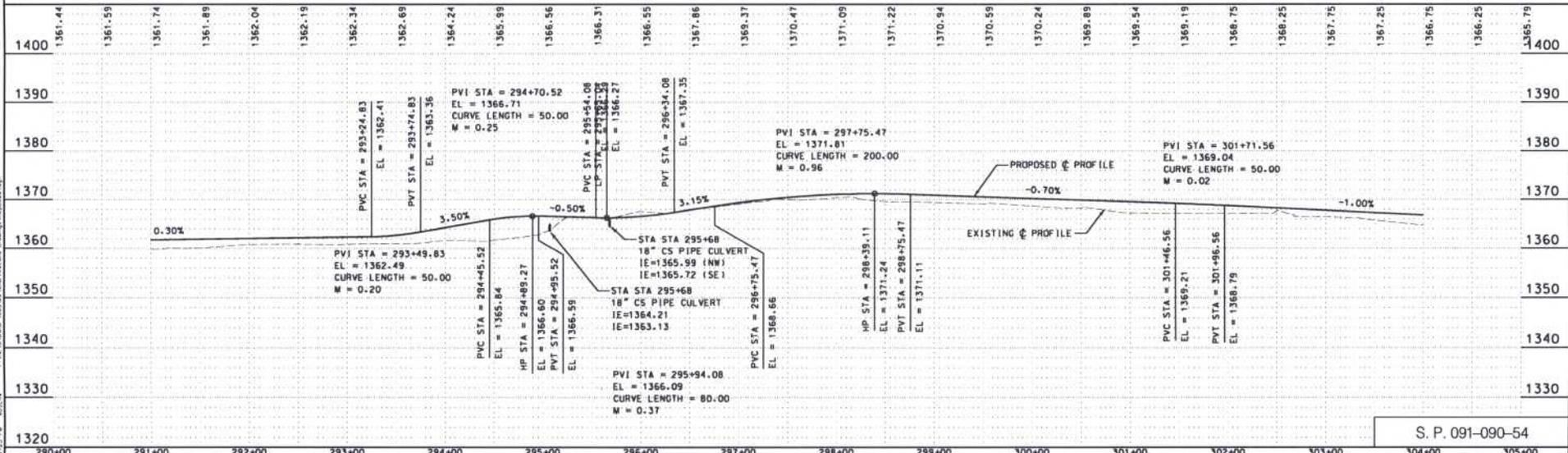
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SEE PAGE 23 FOR ADD ALT #1



SEE PAGE 29 FOR WELLNESS CENTER SPUR (BASE BID)

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