



Draft Environmental Assessment

Gandy Dancer Box Culvert and State Trail over Little Balsam Creek

Town of Summit, Douglas County, WI

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Prepared by

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Disaster DR-4383-WI, Project 67097



FEMA

List of Acronyms, Chemical Formulas, and Abbreviations

AADT	Average Annual Daily Traffic
ACS	American Community Survey
APE	Area of Potential Effect
BCC	Birds of Conservation Concern
BMP	Best Management Practice
CAA	Clean Air Act
CBRS	Coastal Barrier Resource System
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CEQ	Council on Environmental Quality
C.F.R.	Code of Federal Regulations
CFS	Cubic Feet per Second
CO	Carbon Monoxide
CSAH	County State Aid Highway
cu yd	Cubic Yard
CWA	Clean Water Act
DOA	Department of Administration
EA	Environmental Assessment
EDSMapS	Early Detection and Distribution Mapping System
EFH	Essential Fish Habitat
EJ	Environmental Justice
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Endangered Species Act
ERR	Endangered Resources Review
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FONSI	Finding of No Significant Impact
GLRI	Great Lakes Restoration Initiative
IPaC	Information for Planning and Consultation
MBTA	Migratory Bird Treaty Act
NAAQS	National Ambient Air Quality Standards
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NO ₂	Nitrogen Dioxide
NO _x	Nitrogen Oxides
NOI	Notice of Intent
NPDES/SDS	National Pollution Discharge Elimination System/State Disposal System
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places

NWI National Wetland Inventory
NWP Nationwide Permit
OSHA Occupational Safety and Health Administration
O₃ Ozone
OGW WDNR Office of Great Waters
OHWM Ordinary High Water Mark
PA FEMA's Public Assistance Program
Pb Lead
PM Particulate Matter
PMP Private Nonprofit Organizations
RCRA Resource Conservation and Recovery Act
SHPO Minnesota State Historic Preservation Office
SMSC Shakopee Mdewakanton Sioux Community
SO₂ Sulfur Dioxide
SWPPP Stormwater Pollution Prevention Plan
THPO Tribal Historic Preservation Office
TMDL Total Daily Maximum Load
USC Upper Sioux Community of Minnesota
USACE U.S. Army Corp of Engineers
U.S.C. United States Code
USDA U.S. Department of Agriculture
USFWS U.S. Fish and Wildlife Service
USGS U.S. Geological Survey
VOC Volatile Organic Compound
WCMP Wisconsin Coastal Management Program
WDNR Wisconsin Department of Natural Resources

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1 BACKGROUND

1.1 Project Authority

Between June 15 to 19, 2018, severe storms caused flooding throughout the state of Wisconsin. President Trump issued a major disaster declaration, DR-4383-WI, for the state, including Douglas County on August 10, 2018. This declaration authorized the Federal Emergency Management Agency (FEMA) to provide disaster recovery assistance to eligible state, tribal and local government applicants pursuant to Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288), 42 U.S.C. §§ 5121 - 5207. The Wisconsin Department of Natural Resources (WDNR) applied for funding from FEMA's Public Assistance (PA) Program to rebuild a box culvert along Gandy Dancer State Trail located in Douglas County which will help to enhance and restore both the state trail and Little Balsam Creek.

This environmental assessment (EA) was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. §§ 4321 -4370h; President's Council on Environmental Quality (CEQ) regulations to implement NEPA (40 Code of Federal Regulations [C.F.R.] Parts 1500 to 1508); U.S. Department of Homeland Security (DHS) Directive No. 023-01; rev. 1, *Implementation of the National Environmental Policy Act* (Oct. 31, 2014); DHS Instruction Manual No. 023-01-001-01, rev. 1, *Implementation of the National Environmental Policy Act* (Nov. 6, 2014); FEMA Directive No. 108-01, *Environmental Planning and Historic Preservation Responsibilities and Program Requirements* (Aug. 22, 2016); and FEMA Instruction 108-01-1, *Instruction on Implementation of the Environmental and Historic Preservation Responsibilities and Program Requirements* (Aug. 22, 2016). FEMA is required to consider potential environmental impacts before funding or approving actions and projects. The purpose of this EA is to meet FEMA's responsibilities under NEPA and to analyze the potential environmental impacts of the proposed project. FEMA will use the findings in this EA to determine whether to prepare an environmental impact statement for the proposed project or to issue a finding of no significant impact (FONSI).

In accordance with federal laws and FEMA regulations, the EA process for a proposed federal action must include an evaluation of alternatives and a discussion of the potential environmental impacts. As part of this NEPA review, the requirements of other environmental laws and executive orders are addressed.

1.2 Project Location

The proposed project is located along the Gandy Dancer State Trail in Section 10 in the Town of Summit, Douglas County, Wisconsin (**Figure 1**). The Town of Summit consists of 147-square miles with a population of 1,042 based on the 2020 United States Census.

Figure 1. Project Location

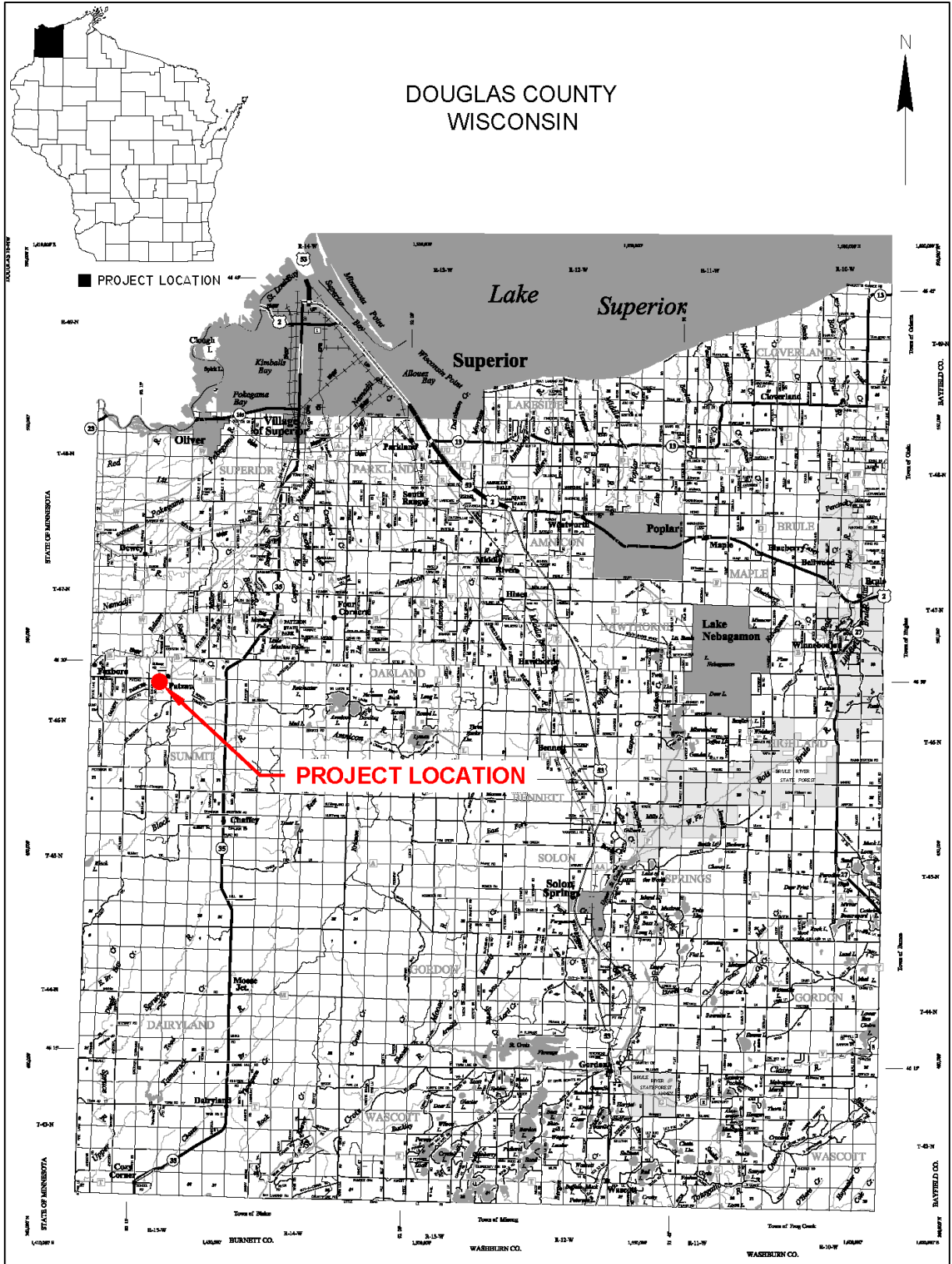


Table 1-1 Existing Road Location and Coordinates

Trail	Midpoint Latitude	Midpoint Longitude	Start Latitude	Start Longitude	End Latitude	End Longitude
Gandy Dancer	46.48788N	92.22788W	46.48274N	92.22968W	46.48851N	92.22609W

The project area includes approximately 1,000-linear feet of the Gandy Dancer State Trail and approximately 575-linear feet of Little Balsam Creek. The trail and creek provide various recreational activities to both residents and non-residents of the State of Wisconsin.

1.3 Purpose and Need

The Public Assistance Program provides grants to state, tribal, territorial, and local governments, and eligible private non-profit entities to assist communities responding to and recovering from major disasters or emergencies. Between June 15 and June 19, 2018, high winds and heavy rains caused flooding throughout the state of Wisconsin. President Trump issued a major disaster declaration, DR-4383-WI, for the state on August 10, 2018. This declaration authorized FEMA to provide PA grant funding to eligible applicants located in Ashland, Bayfield, Burnett, Clark, Douglas and Iron counties. The heavy rains and high velocity flood water levels of the Little Balsam Creek during this event caused slope failure, severe erosion of the creek bank along the Gandy Dancer State Trail and failure of a box culvert. The purpose of the proposed action is to enhance and restore Little Balsam Creek with a fish passage culvert as recommended in the Great Lakes Restoration Initiative (GLRI) Action Plan, which in turn will provide safe and reliable recreation opportunities to visitors of the Gandy Dancer State Trail.

In accordance with an international treaty between the United States and Canada, *Great Lakes Water Quality Agreement* (1987), the countries created the (GLRI) Action Plan as a commitment to restore and protect the waters of the Great Lakes. The GLRI identified geographically defined areas and sites within the Great Lakes region that need restoration to protect the waters of the Great Lakes. These areas are known as “Areas of Concern.” Wisconsin has five defined areas of concern, including the St. Louis River Area of Concern (SLRAOC). This area of concern includes the lower 39 miles of the St. Louis River, from upstream of Cloquet, Minnesota, to its mouth at the Duluth/Superior Harbor, including that portion of the watershed; the western portion of Lake Superior; and the Nemadji River watershed. The St. Louis River Area of Concern 2020 Remedial Action Plan identifies Little Balsam Creek as within the Upper Nemadji River watershed.

The SLRAOC identified the Little Balsam Creek system as a Tier 1 Priority Crossing, and WDNR Fisheries considers Little Balsam Creek as one of the most important brook trout waters within Wisconsin’s Nemadji River and far-western Lake Superior watersheds. Fisheries acknowledges that brook trout is a priority species in the GLRI Action Plan III. In addition, the SLRAOC addresses different types of significant environmental degradations, identified as Beneficial Use Impairments (BUIs). Little Balsam Creek has been identified as having BUIs pertaining to “Loss of Fish and Wildlife Habitat and Degraded Fish & Wildlife Populations.”

Three crossings downstream from the Gandy Dancer Trail were culverts that were replaced in 2018 and 2019 to gain fish passage and increase the ability of the structures to handle flood water. The Gandy Dancer Trail crossing is now the most constrictive primary stream crossing on Little Balsam Creek. The creek flows under the trail through a concrete box culvert (approximately 215-ft long by 10-ft wide by 10-ft high). At both the inlet and outlet of the culvert are concrete debris containment structures, 65 feet long at the inlet (Figure 2) and 35 feet long at the outlet (Figure 3). All components of the structure have been damaged and the outlet debris containment structure has collapsed.

Figure 2. Inlet debris containment structure

Photo credit: Cedar Corporation



Figure 3. Outlet debris containment structure

Photo credit: Cedar Corporation



The dimensions of the Gandy Dancer Trail box culvert are significantly inconsistent with the width, structure, and slope (i.e., dimension, pattern, and profile) of the natural channel and therefore is unstable relative to sediment transport, fish passage, and wood transport. The purpose of the project, to enhance and restore Little Balsam Creek, is best served by replacing the culvert with a bridge at the Gandy Dancer Trail to reestablish channel stability and natural geomorphic evolution relative to its dimension, pattern, and profile. In addition, WDNR Fisheries considers a bridge a more cost-effective crossing than a reconditioned or repaired box culvert, considering the maintenance and replacement costs along with risk to fishery, should the culvert fail.

The project is needed to minimize future risk and reduce maintenance of the trail, revert the stream to its natural state, remove a barrier for fish passage, and to reestablish this reach of Little Balsam Creek as a Class 1 trout stream. The results will also protect investments (\$1.2 million) made by the local community, FEMA and the WDNR's Office of Great Waters (OGW) that have replaced three downstream culverts.

2 ALTERNATIVE ANALYSIS

The National Environmental Policy Act (NEPA) requires FEMA to evaluate alternatives to the proposed project and describe the environmental impacts of each alternative. NEPA also requires an evaluation of the No Action alternative, which is the future condition without the project. This section describes the No Action alternative, the Proposed Action, and reviews the alternatives that were previously considered but dismissed.

2.1 Alternative 1 – No Action

The No Action Alternative is used as a baseline for comparison to estimate the benefits and impacts presented in the Proposed Action Alternative. Under the No Action Alternative, the existing box culvert would not be modified and would remain in its current state. Analysis by WDNR and its consultants indicates this alternative would result in an unacceptable risk to public safety for the users of the Gandy Dancer State Trail and health of the stream in the Little Balsam Creek System. The No Action Alternative would not address the Loss of Fish and Wildlife and Degraded Fish & Wildlife Populations BUIs as identified by the SLRAOC.

2.2 Alternative 2 – Proposed Action

The proposed action consists of the removal of the existing box culvert and debris containment structures, construction of a 140-ft. long single-span, prestressed I-girder bridge structure, and grading the adjacent surrounding area back to a more natural condition. This action will result in a clear span over Little Balsam Creek with approximately thirty feet from estimated highwater elevation to the bottom of the low chord of the bridge structure. The creek would be restored to its natural condition as a Class 1 trout stream and the impediment to upstream spawning will be removed. Removing the concrete structure installed during the initial railroad construction will return approximately 576 feet of re-built natural streambed to the environment. Returning this area to a more natural condition will require disturbance to approximately 3.55 acres of land including tree and brush removal in an area that was previously filled and graded during railroad construction.

The major components of this action (selected plans in Appendix C) are as follows:

1. **Remove the existing box culvert and upstream and downstream debris containment structures.**
2. **Realign the stream bed.** The new creek bed alignment will generally follow the course of the existing creek and the flow through the existing box culvert with a slight rotation from the existing box culvert alignment under the proposed bridge. To accomplish this, approximately 60,000 cubic yards of fill deposited during the railroad construction must be excavated and removed from the site. The total area of disturbance for the project is 3.55 acres with 2.29 of those acres involving clearing and grubbing of existing trees and foliage.

The new streambed will run at the same elevation as the existing route the water flows

from elevation 959.39 upstream to elevation 947.21 at the downstream match point. The area surrounding the re-established creek bed will be graded up to the existing ground at a slope of no greater than 2 feet horizontal to 1 foot vertical.

The new creek bed will consist of one foot of a sandy stone material with the banks up to the 2-YR flood elevation composed of the streambed material mixed with small boulders and large wood root wads for fish habitat. Above the 2-YR flood elevation the ground will be seeded and mulched, or an erosion mat will be applied. Additional erosion control measures include erecting silt fences and installing ditch checks. Heavy rip-rap will be placed up to 50 feet north and south of the proposed bridge and 20 feet up the stream bank to armor the bank around the bridge abutments.

- 3. Lower the trail grade as much as possible while conforming to ADA standards to minimize the bridge span and disturbance footprint.** The trail elevation will be lowered by approximately 30 feet from elevation 1024.40 to elevation 994.77 at the mid-span of the proposed bridge. The running grade of the trail will conform to ADA requirements with a 10% grade west, and a 7.62% grade east of the bridge. This will allow for a shorter bridge to be installed to clear span over Little Balsam Creek. The lowering of the trail will also give the opportunity to have flatter slopes from the reestablished stream bed up to finished ground surface.
- 4. Construct a bridge to span the stream. The single-span structure will eliminate the need for intermediate supports in the creek and will shorten construction time frames.**
- 5. Grade adjacent area back to a more natural stream and bank condition.** Real estate agreements are already in place for grading activities on the adjacent private property. The existing concrete box culvert will be removed in its entirety, soil within the site will be moved and removed to accommodate the new topography of the reestablished creek and to fill areas that the removed box culvert occupied.

2.3 Alternatives Considered and Eliminated from Further Consideration

Several other alternatives were analyzed to determine the best outcome aligned with the goals of the WDNR and OGW. Some alternatives resulted in similar overall environmental impacts. Due to their similarities, alternatives were further considered and eliminated based on key variations to the project scope. The overall least cost alternative for the project included repairing the debris containment structures at the inlet and outlet.

2.4 Repair Alternatives Not Selected

Repair alternatives that were considered but not selected included repairing the debris containment structures and lining the existing box culvert. With the walls deteriorating on the existing box culvert; a culvert pipe (liner pipe) would be inserted into the existing barrel. Once the liner pipe is in place, the void area between the pipe and box culvert would be grouted solid. The liner pipe could be corrugated metal, concrete, or plastic. A hydraulic study would be

required to verify that the new pipe could pass the required flood flows since the hydraulic area would be reduced. A series of weirs could be constructed inside the pipe to allow for fish passage.

This alternative was eliminated due to not addressing similar future flooding events, debris build-up, and stream restoration issues.

2.5 Replacement Alternatives Not Selected

Replacement alternatives that were considered but ultimately not chosen, included removing the existing structure and implementing an “in-kind” replacement. The “in-kind” replacement would require substantial earthwork and construction of a similar box culvert structure. This alternative would address the structural integrity issue.

This alternative was eliminated due to not addressing debris build-up, stream/habitat restoration and flood risk reduction.

2.6 Removal Alternatives Not Selected

Removal alternatives that were considered but not selected included removal of the existing box culvert and debris containment structures and relocation of the trail. This alternative would restore the creek to its natural condition but would require the Gandy Dancer Trail to be re-routed on a new alignment that practically would involve another crossing of this stream in a different location.

This alternative was eliminated due to the unknown costs and efforts involved in re-establishing the trail along a new alignment. Re-establishing of the trail could involve real estate acquisitions and disruption of the natural environment to an unknown extent.

2.7 Bridge Alternatives Not Selected

In addition to the Proposed Action, two other bridge options were considered. A two or three span structure with the possibility of leaving the box culvert and debris containment structures in place to naturally degrade and let the creek bed find its way around the structure.

These alternatives were eliminated due to higher costs as well as continued interference with the creek, debris buildup issues and erosion during storm events. These alternatives would also not provide optimal habitat and stream restoration goals.

3 AFFECTED ENVIRONMENT AND CONSEQUENCES

This section describes the natural and human environment of the study area potentially affected by the alternatives, evaluates potential impacts, and recommends measures to avoid or reduce those impacts. When possible, quantitative information is provided to establish potential impacts, but qualitative information may also be used where data are unavailable. Potential impacts are then evaluated qualitatively based on the criteria listed in **Table 3-1**.

The “study area” generally includes the improvements area and access and staging areas needed for the proposed action. If the study area for a particular resource category is different from the project area, the differences will be described in the appropriate subsection.

Table 3-1 Evaluation Criteria for Potential Impacts

Impact Scale	Criteria
None/Negligible	The resource area would not be affected, or changes or benefits would be either nondetectable or, if detected, would have effects that would be slight and local. Impacts would be well below regulatory standards, as applicable.
Minor	Changes to the resource would be measurable, although the changes would be small and localized. Impacts or benefits would be within or below regulatory standards, as applicable. Mitigation measures would reduce any potential adverse effects.
Moderate	Changes to the resource would be measurable and have either localized or regional scale impacts/benefits. Impacts would be within or below regulatory standards, but historical conditions would be altered on a short-term basis. Mitigation measures would be necessary, and the measures would reduce any potential adverse effects.
Major	Changes would be readily measurable and would have substantial consequences on a local or regional level. Impacts would exceed regulatory standards. Mitigation measures to offset the adverse effects would be required to reduce impacts, but long-term changes to the resource would be expected.

3.1 Preliminary Screening of Assessment Categories

Based on a preliminary screening of resources and the project’s geographic location, the following resources do not require a detailed assessment.

1. *Coastal Barrier Resources System (CBRS)*. The Coastal Barrier Resources Act, 16 U.S.C. §§ 3501-3510, is not applicable because the project is not within or near a CBRS unit.
2. *Seismic Risks*. EO 13717, Establishing a Federal Earthquake Risk Management Standard, does not apply because there is low seismic risk in the project area based on seismic hazard maps developed by the U.S. Geological Survey (USGS). This includes less than 1 percent chance of potentially minor damage ground shaking in the 2018 Short-Term Seismicity Model (2018), and the lowest hazard in the 2018 Long-Term National Seismic Hazard Map (2018).
3. *Sole Source Aquifers*. There are no sole-source aquifers regulated by the Safe Drinking Water Act of 1974, 42 U.S.C. §§ 300f *et seq.*, in the vicinity of the project area (EPA,

2019). See Section 7.3 for references listed by author or agency and year of publication.

4. *Essential Fish Habitat (EFH)*. The Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 *et seq.*, does not apply because there are no Habitat Areas of Particular Concern and no EFH Areas identified at the project site according to the NOAA Essential Fish Habitat Mapper (NOAA, 2020).
5. *Wild and Scenic Rivers*. The Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271 *et seq.*, is not applicable because federally designated wild and scenic rivers are not within the project area based on a review of the National Wild and Scenic Rivers System website maintained by the National Park Service (NPS, 2019).

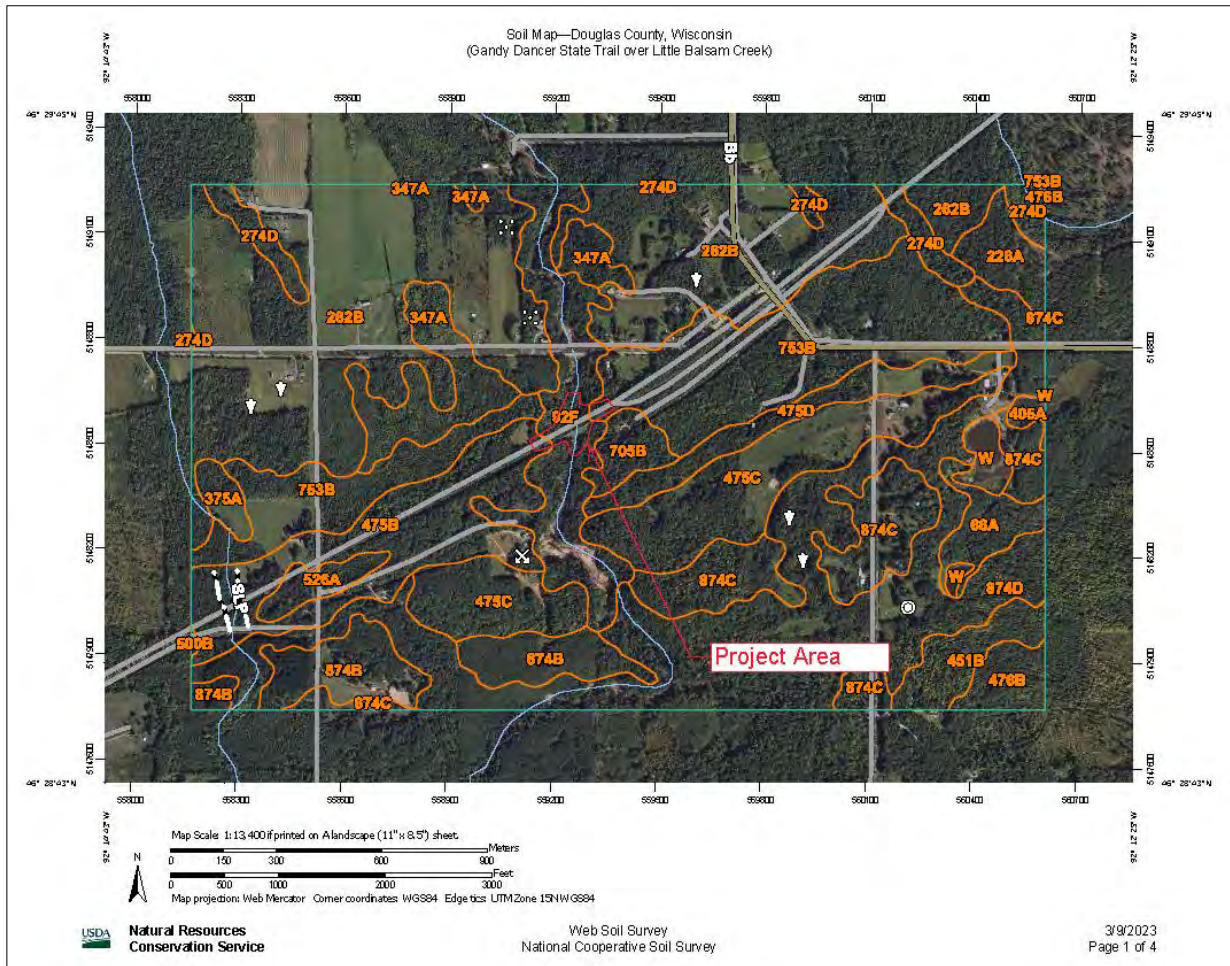
3.2 Physical Environment

3.2.1 Geology, Soils, and Topography

Bedrock geology was characterized using the Bedrock Geologic Map of Wisconsin, University of Wisconsin-Extension Geological and Natural History Survey 1982. Underlying bedrock in the project area is in the Keweenawan Supergroup and consists of upper volcanic sequence, basalt flows and minor interbedded sedimentary rocks. It includes Chengwatana Volcanic Group and dates to the Precambrian period (1000 to 1150 million years ago). Location varies from approximately 45 to 90 feet deep.

Soils in the project area were identified using the U.S. Department of Agriculture (USDA) Natural Resource and Conservation Service (NRCS) Web Soil Survey (accessed March 2023). The majority of the area on which the project disturbances occur is classified as Udorthents, ravines and escarpments (92F) with slopes ranging from 25 to 60 percent. This soil type consists of somewhat poorly drained, clayey till (NRCS, 2023). Soils within the west end of the site are classified as Rubicon-Sayner Complex (475B) with slopes ranging from 0 to 6 percent. This soil type consists of excessively drained, sandy and gravelly outwash (NRCS, 2023). Soils within the east end of the site are classified as Cublake-Croswell-Ashwabay (705B) and Sedgwick-Munsong complex (753B) with slopes ranging from 0 to 6 percent. This soil type consists of moderately well-drained, sandy outwash underlain by stratified silty, loamy, and sandy glaciofluvial deposits (NRCS, 2023). Soil types in the project area are identified in **Figure 4**.

Figure 4. Soils



The Farmland Protection Policy Act of 1981, 7 U.S.C. §§ 4201 *et seq.*, is meant to minimize the extent that federal programs contribute to the unnecessary and irreversible conversion of prime and important farmland to non-agricultural uses. The conversion of prime or unique farmland must be considered whenever Federal funding or time is used in the direct or indirect conversion of prime farmland unless an exemption exists (NRCS, 2012). All the soils within the project area are classified as not prime farmland by the NRCS.

Topography in the immediate project area was determined through field survey. The site sits atop an abandoned railroad grade with steep slopes descending to the creek elevation. Balsam Creek typically exhibits steep banks and ravines with relatively flat upland areas. The soils in the creek banks exhibit highly erodible behavior with water levels that fluctuate greatly during storm events. The field survey was used in the computer aided design, represented in elevations and grades shown on the plans. The drawings have elevations noted and cross sections that depict the surveyed elevations. Elevations range from 1030.00 atop the trail at the western limits of the project to 947.21 at the stream centerline at the north match point. A geotechnical evaluation was prepared to assist the design of the proposed Gandy Dancer Trail bridge and is available for review at [Fish, Wildlife and Parks Public Input Opportunities | Wisconsin DNR](#).

Alternative 1 – No Action

Under the No Action alternative, it is estimated that during significant rain events erosion will continue with debris making its way downstream from the headwaters and further damaging the existing structure. The debris will also potentially clog the inlet structure which will reduce the amount of water passing through and further flood and erode the areas upstream. With a potential restriction this could cause increased head above the structure thus increasing the velocity at the exit of the existing structure that would result in greater damage downstream.

Alternative 2 – Proposed Action

The Proposed Action requires significant earthwork and the installation of a clear span bridge over Little Balsam Creek to return the project area to a more natural state. The project will remove the existing box culvert structure and the fill that was placed during the construction of this structure for the railroad corridor. The total disturbed area is expected to be approximately 3.55 acres, including 2.29 acres of clearing and grubbing. Earthwork will include the removal of fill material previous placed during railroad construction lowering the railroad grade for approximately 1,000 feet by 30 feet in elevation at its greatest point. This excavation will yield approximately 60,000 cubic yards of waste material.

WDNR permitting is required for disturbances to more than one acre, and Douglas County requires a land use permit for any grading and filling, as well as shoreland and floodplain zoning ordinances, and the contractor is responsible for removing waste materials from the site and managing their disposal in accordance with applicable laws, regulations, codes, rules, and standards. The contractor must provide the Waste Management Plan for approval before construction providing the final 60,000 cubic yards of soil waste disposal location. The permits must be provided to FEMA and WDNR, giving the WDNR approval authority regarding disposal.

The uppermost formations of bedrock were encountered at approximately 85 feet below the surface at which the borings were taken. It is not anticipated that the geology would be impacted by the proposed action.

The replacement of the Gandy Dancer State Trail structure over Little Balsam Creek will have long-term, beneficial impacts on soils resulting from the excavation of previous placed fill materials. Approximately 60,000 cubic yards of fill material will be excavated. However, this material was deposited during the construction of the railroad grade and this project will return this area closer to the state it was in prior to the railroad construction.

Erosion control measures such as silt fence, ditch checks, and erosion mats will be put in place during construction to mitigate short term impacts. Long term protection measures such as riprap, planned log jam areas and engineered soil mixes will be used within the new stream and banks to try and establish a more resilient stream to mitigate erosion from future storm events.

See **Section 6.2** for project conditions related to soils.

3.2.2 Water Resources and Water Quality

Water resources include surface water, groundwater, stormwater, and drinking water (wetlands are evaluated in **Section 3.3.2**). Little Balsam Creek, approximately 5 miles in length, flows through the project area which is regulated as a water of the United States and water of the state of Wisconsin under federal and state law. Little Balsam Creek is a tributary to Balsam Creek which eventually discharges to the Nemadji River, all within the St. Louis River Area of Concern.

The Clean Water Act (CWA) of 1977, 33 U.S.C. §§ 1251 *et seq.*, regulates the discharge of pollutants into water, with various sections falling under the jurisdiction of U.S. Army Corps of Engineers (USACE) and the U.S. Environmental Protection Agency (EPA) or as delegated to the state. Section 404 of the CWA establishes USACE permit requirements for discharge of dredged or fill materials into waters of the United States. USACE regulation of activities within navigable waters is also authorized under the Rivers and Harbors Act of 1899, 33 U.S.C. §§ 403 *et seq.* Section 401 of the CWA is administered by WDNR and provides regulations for the protection of water quality on projects that involve dredge or fill in waters of the United States (Wis. Statutes, § 283.01(20)). Under the National Pollution Discharge Elimination System/SDS (NPDES/SDS) (Section 402 of the CWA), regulation of both point and nonpoint pollutant sources, including stormwater and stormwater runoff, has been delegated to the state and is administered by the WDNR. The construction site activities are regulated under ch. 283, Wis. Stats., ch. NR 216, Wis. Adm. Code, and in accordance with provided Wisconsin Pollutant Discharge Elimination System (WPDES) General Permit No. WI-S067831-06, Construction Site Storm Water Runoff. All erosion control and storm water management activities undertaken at the site must be done in accordance with the terms and conditions of the general permit.

Little Balsam Creek is classified as both Cool-Warm Headwater and Cool-Cold Headwater natural community-types under the WDNR's Natural Community Determinations. Cool (Warm-Transition) Headwaters are small, sometimes intermittent streams with cool to warm summer temperatures. Cool (Cold-Transition) Headwaters are small, usually perennial streams with cold to cool summer temperatures.

EPA defines “water quality” as “the condition of a water body as it relates to purposes such as recreation, scenic enjoyment, aquatic habitat, and human health.” Water quality is regulated by both the CWA and Wisconsin State Statutes.

Stormwater runoff affects water quality in surface waters, such as Little Balsam Creek. The watershed in which the project area is located is predominantly a rural forested area, and has minor agricultural use in adjacent upland areas. Contaminants, including eroded soils, fertilizers (synthetic and manure), herbicides, pesticides and road chemicals can be transported from adjacent farm fields and roads to Little Balsam Creek and adjacent waterways during storm events and flooding.

WDNR manages the Total Daily Maximum Load (TMDL) List and Inventory of Impaired Waters per Section 303(d) of the CWA. Little Balsam Creek listed as a Class 1 stream and is considered an Exceptional Resource Waters (ERW) under Chapter NR 102.11(1)(a). This is defined as surface

waters which provide valuable fisheries, hydrologically or geologically unique features, outstanding recreational opportunities, unique environmental settings, and which are not significantly impacted by human activities. Only 18.6% of Wisconsin's stream miles qualify as Outstanding Resource Waters ORW/ERW.

Little Balsam creek is a high-quality trout stream and it supports a reproducing brook and brown trout fishery in its five-mile length until it empties into Balsam Creek. Historically, some rainbow trout occurred, likely from Lake Superior. Most of the stream flows through steep ravines and it experiences annual damaging floods. Most of the streambed is sand, gravel and boulders. Historically, the major in-stream spawning areas have been south of the town road bridge and west of the village of Patzau. During survey work conducted as part of the coastal wetlands evaluation, two rare species of macroinvertebrate were found in the river and the overall taxa richness was moderate (5 to 24 species).

General permits for habitat structure and waterway crossings have been obtained through the WDNR. On May 26, 2023, USACE determined these activities are authorized by the Nationwide Permit (NWP) No. 27, Aquatic Habitat Restoration, Enhancement, and Establishment Activities. State and federal specific conditions associated with each permit will be followed.

Alternative 1 – No Action

Under the No Action alternative, it is estimated that during significant rain events erosion will continue with debris making its way downstream from the headwaters and further damaging the existing structure, adding turbidity in Little Balsam Creek. The No Action alternative would not have an impact on groundwater.

Alternative 2 – Proposed Action

Minor short-term impacts on water quality would occur for both the removal of the existing box culvert and the installation of the proposed bridge structure. The excavated areas and new stream alignment and banks will be stabilized using a combination of techniques for final stabilization including seeding, riprap, planned log jam areas and engineered soil mixes.

During construction, exposed soil is vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of habitat for aquatic species. Clearing and grading during construction would cause the temporary loss of vegetation and exposure of soil to the elements. To mitigate potential impacts from erosion during construction, erosion control best management practices (BMPs) will be specified within the construction documents and will include silt fence, silt logs or waddles, temporary seeding, erosion blankets, ditch checks and a temporary diversion channel.

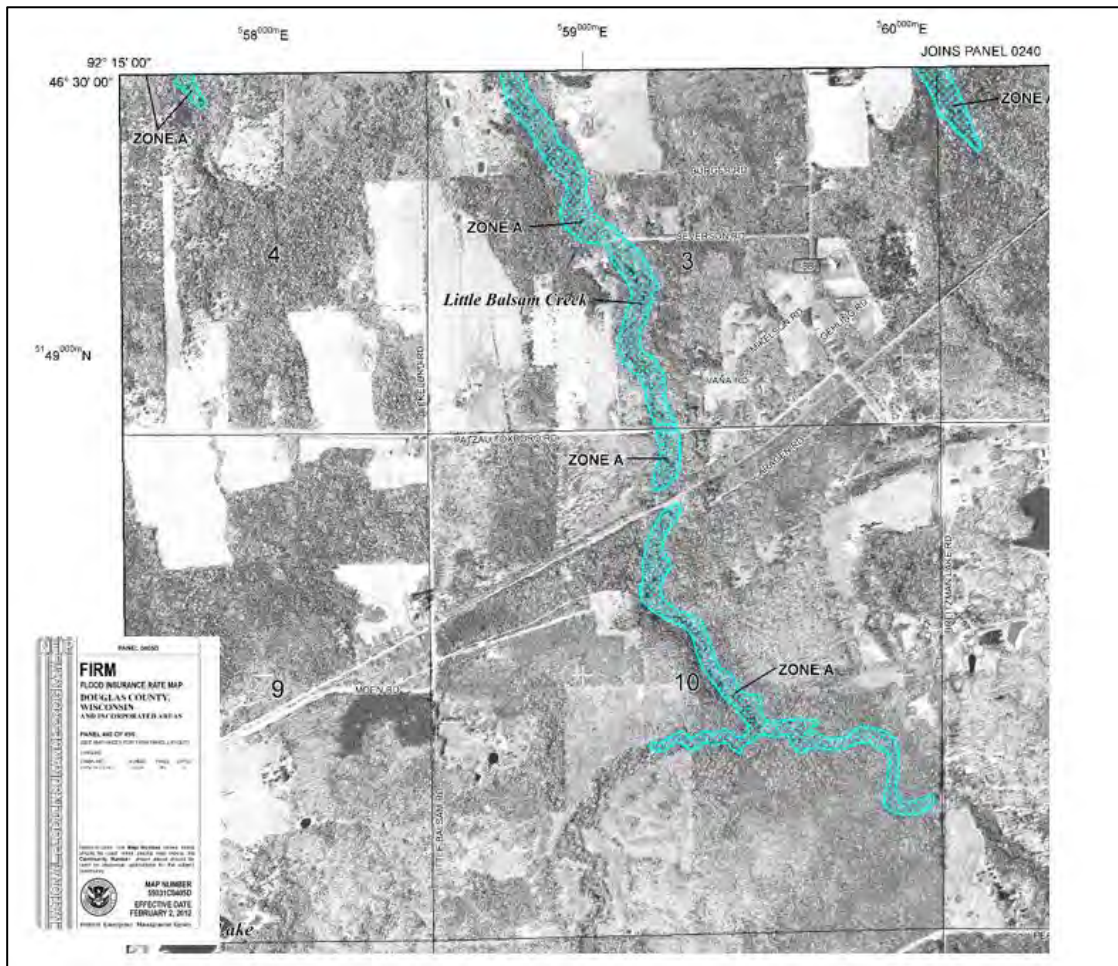
The proposed action does include bank stabilization along Little Balsam Creek within the project limits. Large riprap will be placed within the area. Little Balsam creek passes under the new structure. Log jams and engineered soil mixes will be used at the proposed bends. Erosion will be expected to continue due to storm events and flooding, though not as a result of the proposed action.

3.2.3 Floodplain Management (Executive Order 11988)

Executive Order (EO) 11988, Floodplain Management, requires federal agencies to minimize occupancy and modification of the floodplain. Specifically, EO 11988 prohibits federal agencies from funding construction in the 100-year floodplain unless there are no practicable alternatives. FEMA’s regulations for complying with EO 11988 are promulgated in 44 C.F.R Part 9. Based on those regulations, a Floodplain Management checklist is required and is included in **Appendix A**.

The current effective FIRM panel (55031C0405D, 2/2/2012) (**Figure 5**) shows the location of the existing Gandy Dancer State Trail and proposed project area. Although work will occur within the floodplain permanent structures will not be constructed within the floodplain. The existing culvert and debris containment structures will be removed, a bridge with a single-span will be constructed over the creek, having its supports outside of and the lowest element of the superstructure above the floodplain. The design flood or 1-percent-annual-chance (100-year) floodplain elevation within the proposed project area location has not been determined by FEMA and this location is classified as Zone A.

Figure 5. Flood Insurance Rate Map



Douglas County engaged WDNR on February 8, 2022, and requested assistance in reviewing a floodplain analysis for the proposed project. Cedar Corporation submitted a site-specific hydraulic analysis using HEC-RAS based on topographic surveys of the project site. The floodplain analysis shows a 100-yr water surface elevation decreases at river stations both upstream and downstream of the structure for the proposed conditions. This studies results show no increase in the 1-percent-annual-chance (100-year) floodplain elevation.

Floodplain staff from WDNR will evaluate if the Gandy Dancer hydraulic study will be incorporated into the Risk Map project for Douglas County. The study area will remain a Zone A floodplain as part of the Risk Map process. A letter of map revision is not necessary as floodplain elevations will not increase due to the proposed project. This information will be used as best available data for Douglas County floodplain zoning purposes.

The 100-year storm event flow in the Risk Map hydraulic model is 713 cubic feet per second (CFS). This flow meets the criteria of NR116 and therefore can be used in the site-specific flood study. Seventeen cross sections (eight upstream and nine downstream) normal to the centerline flow of Little Balsam Creek reestablishment were extracted from the surface model and modeled in HEC-RAS. Both the existing and proposed surface models were projected onto the hydraulic cross sections.

The hydraulic analysis studied two different conditions: Existing conditions (existing box culvert), and alternate proposed conditions (proposed structure). The hydraulic analysis used the 100-year storm event flow from the watershed WDNR hydraulic model (713 CFS). Floodway data is presented in **Figure 6**.

Figure 6. Floodway Data

FLOODING SOURCE		FLOODWAY			BASE FLOOD WATER SURFACE ELEVATION			
CROSS SECTION STATIONING	DISTANCE ¹	WIDTH (FEET)	SECTION AREA (SQ. FEET)	MEAN VELOCITY (FEET/SEC.)	REGULATORY (FEET NAVD)	WITHOUT FLOODWAY (FEET NAVD)	WITH FLOODWAY (FEET NAVD)	INCREASE (FEET)
LITTLE BALSAM CREEK								
A	0	54.43	120.36	5.92		946.62	946.62	0.0
B	50	53.05	135.06	5.28		947.36	947.36	0.0
C	75	61.56	183.70	3.88		947.98	947.98	0.0
D	125	63.16	118.66	6.01		948.26	948.26	0.0
E	215	38.50	88.45	8.06		951.12	951.12	0.0
F	250	39.18	107.50	6.63		951.81	951.81	0.0
G	350	77.37	125.12	5.70		953.60	953.60	0.0
H	365	82.49	131.46	5.42		953.90	953.90	0.0
I	380	75.61	128.56	5.55		954.49	954.49	0.0
J	610	52.31	148.61	4.80		961.68	961.68	0.0
K	620	50.40	137.60	5.18		961.67	961.67	0.0
L	850	39.66	90.21	7.90		961.40	961.40	0.0
M	700	40.58	90.75	7.86		962.47	962.47	0.0
N	755	42.41	107.99	6.80		963.98	963.98	0.0
O	800	68.93	212.68	3.35		965.42	965.42	0.0
P	860	29.92	62.61	8.63		965.66	965.66	0.0
Q	900	43.77	114.48	6.23		966.93	966.93	0.0

¹Feet Above Beginning of Study

TABLE 1	WISCONSIN DEPARTMENT OF NATURAL RESOURCES DOUGLAS COUNTY, WI AND INCORPORATED AREAS	FLOODWAY DATA GANDY DANCER STATE TRAIL LITTLE BALSAM CREEK

A floodplain map, hydraulic analysis, and flood profile are included in **Appendix A**.

Alternative 1 – No Action

Under the No Action alternative, there would be no construction, and therefore, no direct modification of the floodplain. There would be long term impacts from continued erosion and debris damaging the existing structure eventually leading to collapse.

Action Alternative 2 – Proposed Action

Replacement of existing concrete box culvert with a clear span bridge will require work within the FEMA mapped floodplain. Minor, short-term impacts on the floodplain are expected as a result of soil disturbance by excavators and other heavy equipment due to removal of the existing box culvert, removing the fill over the box culvert and construction of the proposed creek reestablishment. Bridge construction will occur entirely outside of the floodplain with the lowest elevation of the girders at 987.76 and the base flood elevation at the bridge being approximately 958.00.

Overall, the replacement of the structure will provide a long-term benefit by expanding the area and volume floodwaters can occupy, removing a manmade obstruction in the creek thereby decreasing chances for future erosion and restoring the creek to a natural state which will lead to an increase in habitat for terrestrial and aquatic species. The project proposed creates no increases in flood heights but will decrease flood heights around the Gandy Dancer Box Culvert both upstream and downstream.

Short-term impacts will be mitigated through erosion control best management practices. As a result of the proposed action there will not be any negative long-term impacts to the floodplain.

3.2.4 Air Quality

The Clean Air Act (CAA), 42 U.S.C. §§ 7401 *et seq.*, requires EPA to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment. The CAA established two types of national air quality standards. Primary standards set limits to protect public health, including the health of sensitive populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. Current criteria pollutants are carbon monoxide (CO), nitrogen dioxide (NO₂), ground-level ozone (O₃), lead (Pb), particulate matter (PM), and sulfur dioxide (SO₂).

Federally funded actions in nonattainment and maintenance areas are subject to EPA conformity regulations, 40 C.F.R. Parts 51 and 93. The air conformity analysis process ensures that emissions of air pollutants from planned federally funded activities would not affect the state's ability to achieve the CAA goal of meeting the NAAQS. Section 176(c) of the CAA requires that federally funded projects must not cause any violations of the NAAQS, increase the frequency or severity of NAAQS violations, or delay timely attainment of the NAAQS or any interim milestone. Activities that would cause emissions to exceed the NAAQS or cause an area to fall out of attainment status would be considered a significant impact. The emissions from construction activities are subject to air conformity review.

Under the general conformity regulations, a determination for federal actions is required for each criteria pollutant or precursor in nonattainment or maintenance areas where the action's direct and indirect emissions have the potential to emit one or more of the six criteria pollutants at rates equal to or exceeding the prescribed *de minimis* rates for that pollutant. The prescribed annual rates are 50 tons of volatile organic compounds (VOCs) and 100 tons of nitrogen oxides (NO_x) (O₃ precursors) and 100 tons of PM_{2.5}, SO₂, or NO_x (PM_{2.5} and precursors).

An area is classified as nonattainment when it does not meet NAAQS standards. According to EPA's NAAQS county attainment record, Douglas County is in attainment for all NAAQS criteria pollutants (EPA, 2023).

Alternative 1 – No Action

Construction activities would not occur under the No Action alternative. Gandy Dancer State Trail would eventually need to be closed for safety purposes. This could have a minor, long-term positive impact on air quality due to decreased emissions from recreational vehicles, but more than likely would have no impact as the trail would be detoured and use would not decrease.

Action Alternative 2 – Proposed Action

The Proposed Action would have short-term impacts on air quality owing to the use of construction equipment with diesel and gasoline engines. During the construction phase,

exposed soil could temporarily increase airborne particulate matter into the project area. Emissions from construction equipment could have minor temporary effects on the levels of some pollutants, including CO, VOCs, NO₂, O₃, and PM. Emissions would be temporary and localized, and only minor impacts to air quality in the project area would occur. BMPs and mitigation measures for air quality impacts are provided in **Section 6.2**.

Long-term operation of the trail would have negligible impacts on air quality with only localized recreational vehicle use. The Proposed Action would not increase capacity for recreational vehicles on the trail.

3.2.5 Coastal Zone Management

The Coastal Zone Management Act (CZMA), 16 U.S.C. § 1451 et seq., enacted in 1972, was established to preserve, protect, develop, and, where possible, restore or enhance the resources of the nation's coastal zone. Section 307 of the CZMA requires federal actions, within or outside of the coastal zone, to be consistent with the enforceable policies of a state's federally approved coastal management program (NOAA 2023). The Department of Administration (DOA) is responsible for managing the Wisconsin Coastal Management Program (WCMP). The WCMP has seven areas of focus (WCMP 2007):

- coastal water quality and quantity and air quality;
- coastal natural areas, wildlife habitat, and fisheries;
- erosion and flood hazard areas;
- community development;
- economic development;
- governmental interrelationships; and
- public involvement.

In Wisconsin, the coastal zone extends to the state boundary on the waterward side that includes the 15 counties, spanning the entire county, with frontage on Lake Superior and Lake Michigan. The project is in Douglas County, frontage on Lake Superior, and is subject to coastal management.

Alternative 1 – No Action

Under the No Action alternative, there would be long-term, minor impacts on the coastal zone in the project area. No erosion mitigation measures would be implemented, and the natural resources in the project area would continue to degrade. Flooding in the area would not be mitigated to reduce the risk of damage. Water quality, trail quality next to the project area, and wildlife habitat would deteriorate with no action taken. The degradation of a flood hazard area, continued erosion, and lack of community development is not consistent with the WCMP.

Action Alternative 2 – Proposed Action

Removal of the box culvert and installation of the bridge would result in minor short-term impacts on coastal resources because of ground disturbance by excavators and removal of trees in the project area. The construction staging area will also be located within the coastal zone and

would result in minor short-term impacts due to ground disturbance and possible sediment dispersal into Little Balsam Creek. In the long-term, however, the replacement of the culvert with a bridge will have long-term beneficial impacts on coastal resources and be consistent with the WCMP's strategic plan (WCMP 2007).

By installing erosion mitigation via silt fence, erosion mats, riprap, and geotextile fabric, the streambank will be stabilized, and less sediment will negatively impact the aquatic environment. The erosion mitigation will also make the stream and trail area more resilient to flooding. Natural realignment of the streambed will create a healthier aquatic environment needed to support wildlife habitat. The proposed action would be consistent with improving coastal resources and these WCMP areas of focus:

- wildlife habitat – the realignment of the streambed will expand the suitable aquatic and terrestrial environment for aquatic species and migratory birds.
- erosion and flood hazard areas – mitigating for erosion in a flood hazard area will prevent further sedimentation of Little Balsam Creek and waters downstream.
- community development – the bridge would support Gandy Dancer Trail and create an area more suitable for recreation.

FEMA provided the EA scoping document and Federal Consistency Determination to the DOA – Wisconsin Coastal Management Program on March 15, 2023. The DOA responded on June 23, 2023 with concurrence to the determination (See **Appendix A**, Federal Consistency and NEPA Scoping). FEMA finds this project will be consistent with the WCMP and will be conducted in a manner consistent with such program.

3.3 Biological Environment

3.3.1 Terrestrial and Aquatic Environment

The predominant use of land within the Town of Summit, surrounding the proposed project area, is Forest per the Douglas County 2020-2040 comprehensive plan. Slopes near Little Balsam Creek are forested and generally quite steep. The immediate vicinity around the proposed project area is zoned Rural Traditional. Characteristics of Rural Traditional zoning include:

- large lot residential
- resource based industrial including farming and forestry operations
- rural oriented recreational uses
- preferred density not greater than 1 dwelling unit per 10 acres

Terrestrial and aquatic environments include the native and invasive vegetation, fish and wildlife, and their habitats that can be found in the project area. The Little Balsam Creek Corridor terrestrial habitat consists primarily of wildlands with very little development in the upper balsam watershed. The area is mainly used for timber management with many small farms primarily cropping hay and raising cattle. The area is home to several rare wildlife species including pine martin (*Martes americana*), fisher (*Pekania pennanti*), gray wolf (*Canis lupus*), and an occasional moose (*Alces alces*).

These wildlands typically consist of red maple (*Acer rubrum*), black ash (*Fraxinus nigra*), ~~some~~ green ash (*Fraxinus pennsylvanica*), balsam fir (*Abies fraseri*), white poplar (*Populus alba*), and trembling (quaking) aspen (*Populus tremuloides*). Understory wetland plants are Canada blue joint (*Calamagrostis canadensis*), marsh marigold (*Caltha palustris*), swamp saxifrage (*Micranthes pensylvanica*), and Coltsfoot (*Petasites sagittatus*). Typical shrubs encountered would be speckled alder (*Alnus incana ssp. Rugosa*), various willows and dogwood, some vines but not at all common.

Aquatic habitat in the project area includes the Little Balsam Creek, designated as an exceptional water resource, and bank areas, and lowland/wetland areas subject to periodic flooding. Known fish species in the river include brook trout (*Salvelinus fontinalis*) with occasional rainbow trout (*Oncorhynchus mykiss*) and brown trout (*Salmo trutta*).

Alternative 1 – No Action

Under the No Action alternative, the terrestrial and aquatic environment would not be directly impacted because there would be no construction, however, there would be minor, long-term, adverse impacts on the terrestrial and aquatic environment resulting from the continued erosion of the creekbank due to debris clogging at the entrance structure as well as the inability for aquatic species to travel upstream. This is a naturally occurring process which will damage and destroy upland areas while adding sediment contributing to high turbidity in the creek. Over time, the loss of connectivity and habitats would result in degradation of biological resources. In addition, repetitive flooding in the area would cause erosion, potential loss of trees and vegetation, and adverse water quality impacts from contaminants released from the damaged culvert. In addition, invasive species could spread further with increased erosion and disturbance to native vegetation (see **Section 3.3.5** for an evaluation of invasive species). Note that in the area where recent erosion has occurred, very little viable aquatic habitat is present.

Alternative 2 – Proposed Action

Replacement of the concrete box culvert with a clear span bridge would cause minor short-term impacts on terrestrial habitat, such as soil disturbance and removal of vegetation, while the embankment is being excavated, the concrete box culvert being removed, and the creek reestablished. Construction will cause minor long-term impacts on terrestrial habitat through the removal of mature trees and shrubs, and the temporary loss of some forested areas in a 2.29-acre area through clearing and grubbing.

The natural realignment and reestablishment of Little Balsam Creek will add more valuable terrestrial habitat as well as improved aquatic habitat, both considered beneficial impacts. By replacing the culvert structure with a clear span bridge, Little Balsam Creek will naturally flow without obstructions to the passage of water and native species. Via incorporation of stream reestablishment in the proposed action, the existing streambed will be smoothly transitioned into the action area streambed to reconnect the downstream and upstream portions of the creek. Silt fence and erosion control through erosion mats, riprap, and geotextile fabric along the stream embankment will prevent further sedimentation and invasive species establishment if no

action was taken. Seeding with native vegetation will promote viable habitat for both the terrestrial and aquatic landscape around Little Balsam Creek.

3.3.2 Wetlands (Executive Order 11990)

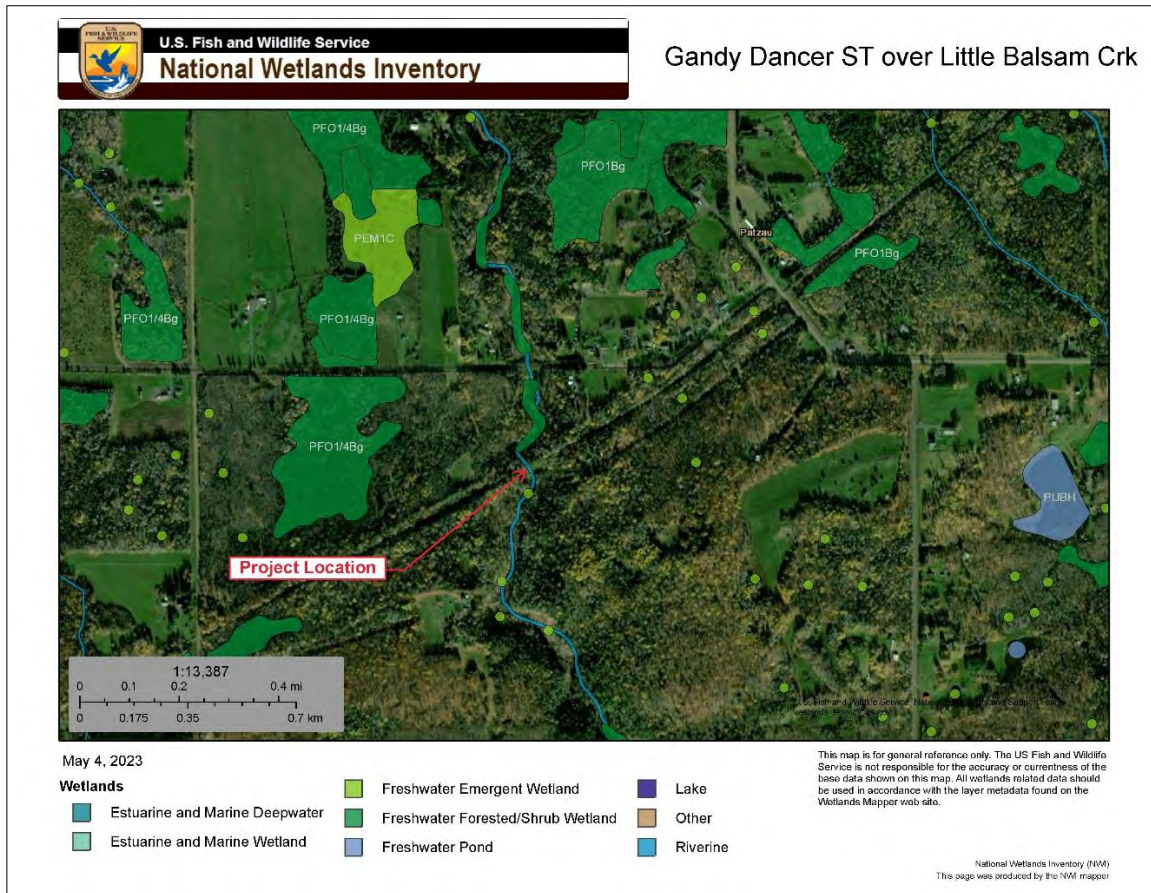
Executive Order (EO) 11990, Protection of Wetlands, requires federal agencies to take action to minimize the loss of wetlands. FEMA regulation 44 C.F.R. Part 9, *Floodplain Management and Protection of Wetlands*, sets forth the policy, procedures, and responsibilities to implement and enforce EO 11990. EO 11990 prohibits FEMA from funding activities in a wetland unless no practicable alternatives are available. The NEPA compliance process requires federal agencies to consider direct and indirect impacts on wetlands which may result from federally funded actions. Based on the requirements of 44 C.F.R. Part 9, a Floodplain Management Checklist to ensure compliance with EO 11990 is required.

USACE and EPA define wetlands as “areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions” (40 C.F.R. § 122.2).

The National Wetlands Inventory (NWI) was reviewed to identify potential wetlands in the project area (USFWS, 2023). The NWI classifies Little Balsam Creek as Riverine habitat, including “all wetlands and deep-water habitats contained within a channel, with the exception of wetlands dominated by trees, shrubs, persistent emergent, emergent mosses, or lichens; and habitats with water containing ocean-derived salts of 0.5 ppt or greater” (USFWS, 2013). A channel is a naturally or artificially created open conduit which periodically or continuously contains moving water, or which forms a connecting link between two bodies of standing water.

The NWI map identifies the area to the north as a 1.15-acre Freshwater Forested/Shrub Wetland and the area to the south as a 0.10-acre Freshwater Emergent Wetland, both part of the Palustrine classification. The Palustrine System includes all nontidal wetlands dominated by trees, shrubs, persistent emergent, emergent mosses or lichens, and all such wetlands that occur in tidal areas where salinity due to ocean-derived salts is below 0.5 ppt. These types of forested wetland are dominated by trees or shrubs. Woody vegetation is 6 meters tall or taller, consisting of woody angiosperms (trees and shrubs) with relatively wide, flat leaves that are shed in the cold or dry season. Surface water is present for brief periods (several days to several weeks) during the growing season, but the water table usually lies well below the ground surface most of the season. The NWI map is provided in **Figure 7**.

Figure 7. Wetlands



Alternative 1 – No Action

Under the No Action alternative, there would be no project-related short- or long-term impacts on the identified riverine wetland associated with Little Balsam Creek and nearby palustrine wetlands because there would be no construction activity. Natural erosion would be expected to continue, adding sediment to the creek contributing to higher levels of turbidity. Some of this material would likely be deposited in wetland areas alongside the creek channel.

Alternative 2 – Proposed Action

The Proposed Action includes the discharge of fill material into 0.10 acre below the plane of the ordinary high water mark (OHWM) of the Little Balsam Creek for the removal of the existing culvert box followed by stream restoration work. An approximately 140-foot single-span, prestressed "I" girder bridge with a concrete deck to span the stream is proposed to replace the removed box culvert. The streambed will then be re-established to represent a more natural streamflow through the site. The new streambed will be constructed with 1-foot depth-of-substrate material, and approximately 80 boulders will be placed with 5-8-foot spacing. Riprap will also be placed on the reestablished stream bank where the existing stream ties into the re-establishment profile, and at the outside bends of the stream; this will provide armoring and will

ensure the stream remains in place after flood events. Three locations of root wads will also be placed throughout the stream re-establishment for improved fish habitat.

On May 26, 2023, USACE determined these activities are authorized by the Nationwide Permit (NWP) No. 27, Aquatic Habitat Restoration, Enhancement, and Establishment Activities. On October 5, 2022, the WDNR concluded that the project will not impact wetlands and no wetland permitting was required. A water diversion plan is included in the construction documents and requires the contractor to submit exact details for WDNR approval before construction. This will allow the DNR to verify that appropriate erosion control measures will be in place, time frames are defined, and potential emergency measures have been identified. Additional impacts to water resources are discussed within Section 3.2.2.

Erosion control BMPs implemented during construction will limited short-term impacts. Long-term impacts to wetlands will be mitigated by grading and revegetating the disturbed areas once construction is complete. Erosion would be expected to continue due to storm events and flooding, though not as a result of the proposed action.

3.3.3 Threatened and Endangered Species

The Endangered Species Act (ESA) of 1973, 16 U.S.C. §§ 1531 - 1544, provides a framework for the conservation of endangered and threatened species and their habitats. Federal agencies are required to ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of any listed species (including plant species) or result in the destruction or adverse modification of designated critical habitats for such species.

In March 2023, via the Information for Planning and Consultation (IPaC) tool, FEMA obtained a list of federally threatened and endangered species (See **Appendix A**, USFWS Species List) with the potential to occur in the project vicinity. This search found that there is no critical habitat in the vicinity, but there is potential for impacts to one listed mammal – the Gray Wolf (*Canis Lupus*). This keystone predator is found across much of the northern United States and historically has ranged in all continental states, Canada, and Mexico.

The gray wolf is an endangered species. Gray wolf range and numbers throughout the lower 48 United States declined significantly during the 19th and 20th centuries as a result of humans killing wolves through poisoning, unregulated trapping and shooting, and government-funded wolf-extermination efforts. By the time subspecies were first listed under the Act in 1974, the gray wolf had been eliminated from most of its historical range within the lower 48 United States. Due to the vicinity of traffic and limited terrestrial environment in the project area, there is no suitable habitat for gray wolf.

Other species listed include the Canada Lynx (*Lynx canadensis*), the Northern Long-eared Bat (*Myotis septentrionalis*), the Tricolored Bat (*Permimyotis subflavus*), the Piping Plover (*Charadrius melodus*), the Monarch Butterfly (*Danaus plexippus*), and the Fassett's Locoweed (*Oxytropis campestris var. chartacea*). For these species either critical habitat has not been designated or the proposed project location does not overlap the critical habitat. Canada lynx is

not expected in the project area due to vicinity of traffic and limited terrestrial environment. Mature forest habitat suitable for the northern long-eared bat and tricolored bat is in the project area. Piping plover utilizes sandy beaches and mudflat habitats, but none are present in the project area. The Monarch butterfly is listed as a candidate species candidate species and therefore receives no statutory protection under the Endangered Species Act. Fassett's locoweed is not expected in the project area due to depending on sand-gravel shorelines around shallow lakes for habitat and none are present in the project area.

In February of 2022, the WDNR was contacted to determine if any state-listed threatened or endangered species exist within the project area. WDNR staff conducted an Endangered Resource Review (ERR Log #22-100) which identified that Sweet Colt's-foot (*Petasites sagittatus*), a state threatened species, has been known to occur in a ditch along Little Balsam Creek. Sweet Colt's-foot is found in cold marshes and swamp openings, often forming large clones. Blooming occurs throughout May; fruiting occurs throughout June. The optimal identification period for this species is late May through late August. The ERR required a survey to be performed to verify if the species was present in the project area. WDNR Ecologist surveyed the area in June of 2022 and noted that the site does include some marginally suitable habitat, but they did not find any individuals or populations (See **Appendix A**, WDNR Endangered Resources Review). Most of the construction footprint is not suitable habitat for this species.

Correspondence is included in **Appendix A**.

Alternative 1 – No Action

The No Action alternative would not directly impact federally listed threatened or endangered species because there would be no construction and no disturbance to forested habitat suitable for the northern long-eared bat and tricolored bat.

Alternative 2 – Proposed Action

The return of Little Balsam Creek to its natural state in this area would require the disturbance to approximately 3.55 acres of forested land to provide the slopes required for the Creek and the proposed clear span bridge structure. Northern long-eared bats and tricolored bats are known to make use of tree roosts during the summer, especially near water sources. Loose bark, broken tree limbs, cavities, cracks, and leaf clusters in a tree can all be used by bats as roosting sites. The removal of upland trees could remove existing or potential bat roosting sites. This would be considered a minor, permanent impact to an endangered species.

In April 2023, FEMA submitted an online Northern long-eared bat determination key and a determination of may affect not likely to adversely affect was reached and the USFWS did not respond within 15 days with an objection. FEMA's responsibilities for the project under ESA Section 7(a)(2) with respect to the Northern long-eared bat are concluded. The tricolored bat is listed as a proposed endangered species and removal of upland trees, suitable roosting habitat, would not jeopardize the continued existence of the bat, concluding FEMA's responsibilities for the project under ESA Section 7(a)(4) for the tricolored bat.

Canada lynx, gray wolf, piping plover, and Fassett's locoweed are not expected to be present in the project area due to lack of suitable habitat. FEMA made a "no effect" determination for these four federally listed species identified as having the potential to occur in the project area.

Sweet Colt's-foot was identified to possibly exist within the project area. WDNR ecologists surveyed the area and found no occurrences. Therefore, no impacts to this species are expected. However, several best management practices (BMPs) that will already be implemented, including providing erosion control and use of native seed mix and protection against invasive species prescribed for other environmental impacts, were also recommended to minimize potential impacts to this species.

3.3.4 Migratory Birds

A migratory bird is any species or family of birds that live, reproduce, or migrate within or across international borders at some point during their annual life cycle. The Migratory Bird Treaty Act (MBTA) of 1918, as amended, 16 U.S.C. §§ 703–712, protects migratory birds and their nests, eggs, and body parts from harm, sale, or other injurious actions. All native birds, including common species such as American robin (*Turdus migratorius*) and American crow (*Corvus brachyrhynchos*) are protected by the MBTA.

The Bald and Golden Eagle Protection Act of 1940, 16 U.S.C. §§ 668 *et seq.*, prohibits the take, possession, sale, or other harmful action of any golden (*Aquila chrysaetos*) or bald eagle (*Haliaeetus leucocephalus*), alive or dead, including any part, nest, or egg (16 U.S.C. § 668(a)).

The IPaC identified four migratory birds of concern either because they occur on the USFWS Birds of Conservation Concern (BCC) list or warrant special attention due to project location. The four birds are: the Black-billed Cuckoo (*Coccyzus erythrophthalmus*), Bobolink (*Dolichonyx oryzivorus*), Golden-winged Warbler (*Vermivore chrysoptera*), and the Wood Thrush (*Hylocichla mustelina*). The Black-billed Cuckoo and the Wood Thrush may be in the project area and/or breeding from June to July. The Bobolink and the Golden-winged Warbler may be in the project area and/or breeding in June (see **Appendix A** for related USFWS correspondence and IPaC results). The bald eagle and golden eagle are not listed as species of concern on the USFWS BCC list and are not expected to be in or near the project area.

Alternative 1 – No Action

The No Action alternative would not directly impact migratory birds because there would be no construction. Existing erosion would continue as well as the possibility of debris betting stuck in the culvert opening which could possibly affect other habitat in the riverbank area. Degraded conditions would persist and provide poor cover and foraging for migratory birds.

Alternative 2 – Proposed Action

Restoration of Little Balsam Creek and the construction of the clear span bridge would have minor, temporary impacts on migratory bird species through the removal of approximately 3.55 acres of forested area needed for the excavation and removal of the previously placed fill

material. Short term impacts to suitable foraging area from the construction and removal of forested area will have temporary adverse effects on migratory birds. However, once the construction is complete, the land has been re-forested and Little Balsam Creek is flowing in a natural channel, benefits will occur with birds being able to access more natural areas of the creek. Removing the culvert and reestablishing the creek in a natural alignment will expand the aquatic environment into suitable migratory bird habitat and will prevent the degradation of resources if the culvert was put back or no action was taken. The proposed action restores creekbank, therefore adding vegetation along Little Balsam Creek that could serve as habitat for migratory birds.

The proposed action will cause minor, short-term impacts from construction activities, disturbing bird activities in the project area. A BMP, restriction of vegetation removal during the migratory bird nesting season, to avoid and minimize impacts on migratory birds is provided in **Section 6.2** and will be implemented in the proposed action.

3.3.5 Invasive Species

Executive Order 13112, Invasive Species, requires federal agencies to prevent the introduction of invasive species and provide for their control to minimize the economic, ecological, and human health impacts caused by invasive species. The State of Wisconsin has also established rules to prevent and curb the spread of invasive species (Wis. Admin. Code NR 40). and the program is managed by the WDNR. At the local level, the Northwoods Cooperative Weed Management Area (NCWMA) supports the control of invasive species in Douglas County (NCWMA 2014).

Per the Early Detection and Distribution Mapping System (EDDSMapS) and Douglas County, several invasive plants and animals are present in Wisconsin and are also confirmed along the Gandy Dancer Trail. This includes Wild chervil (*Anthriscus sylvestris*), Common Tansy (*Tanacetum vulgare*), White willow (*Salix alba*), as well as Eurasian watermilfoil (*Myriophyllum spicatum*), zebra mussel (*Dreissena polymorpha*), reed canary grass (*Phalaris arundinacea*), and purple loosestrife (*Lythrum salicaria*) (Center for Invasive Species and Ecosystem Health, 2023; Douglas County, 2023).

Alternative 1 – No Action

The No Action alternative would have no project-related impacts because construction would not occur. However, there could be minor long-term, adverse impacts on the area as invasive plant species would continue to persist in open, disturbed areas.

Alternative 2 – Proposed Action

Restoring Little Balsam Creek to its natural state and constructing the clear span bridge could have minor, short-term impacts from the potential spread of invasive weeds caused by construction activities. Construction activities on land could result in the transport of reed canarygrass, purple loosestrife or other invasive weed species outside of the project area as both cuttings and attached to vehicles. Disturbed soils associated with both the removal of the previously deposited fill and creek re-establishment present invasive seeds with an opportunity

to germinate and become established. Per the proposed construction plans, disturbed soil will be stabilized, and native grass seed will be planted, preventing spread of invasive weed species. A long-term, beneficial effect of the removal of the culvert and construction of the bridge is restoring natural areas to Little Balsam Creek and encouraging the reestablishment of native plant and aquatic species. The proposed action would be very unlikely to spread or propagate aquatic invasive species or invasive wildlife.

BMPs to avoid and minimize the spread of invasive species are provided in **Section 6.2**.

3.4 Hazardous Materials

Hazardous materials are any items or agents (biological, chemical, radiological, or physical) that have the potential to cause harm to humans, animals, or the environment either by itself or through interaction with other factors. Sites within or adjacent to the project area, regulated by federal hazardous materials laws such as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601 - 9675, and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 *et seq.*, were identified using the EPA Envirofacts and NEPAassist websites (EPA, 2023; EPA, 2023).

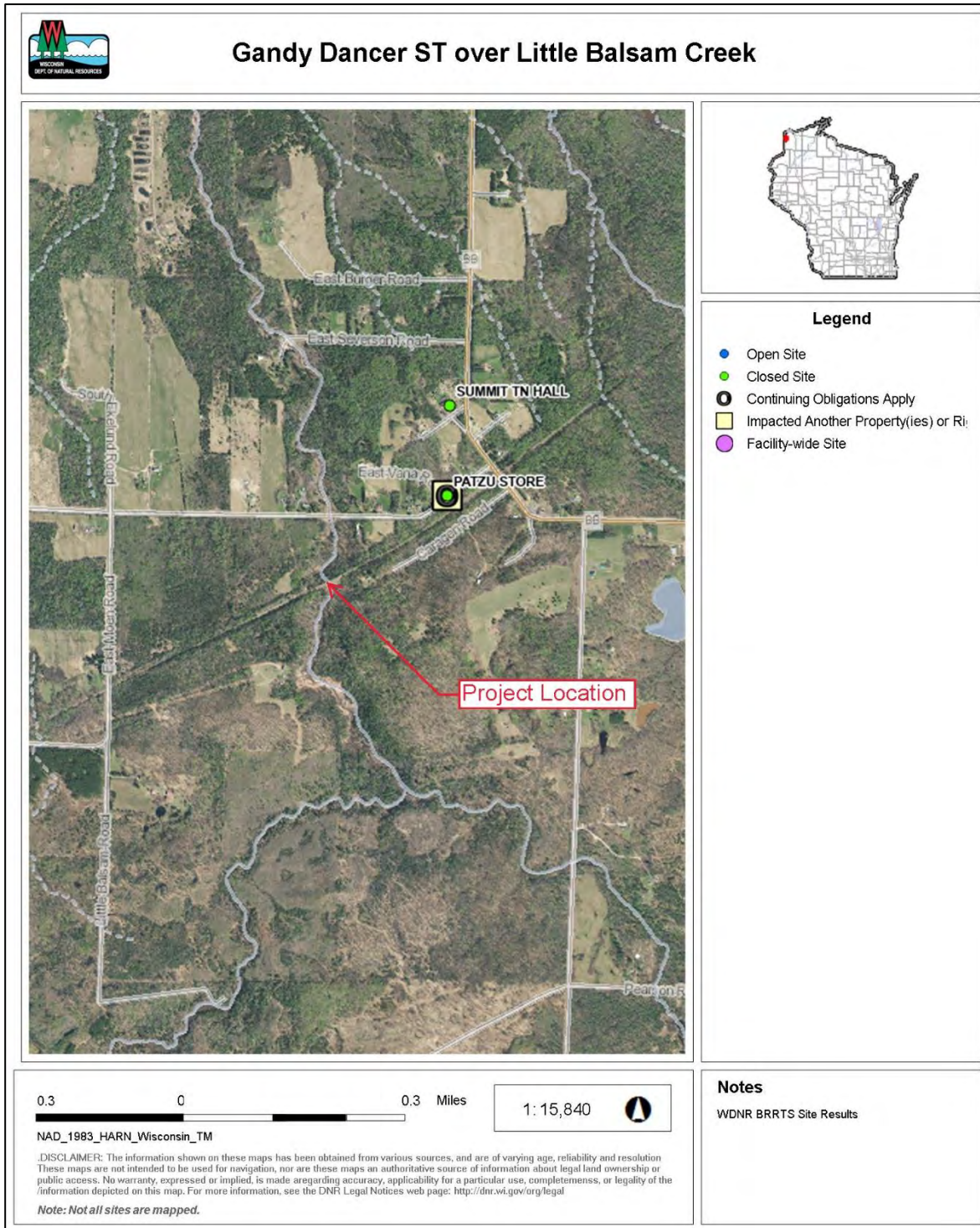
Envirofacts and NEPAassist did not identify any regulated sites within 0.5 miles of the project area. A search of the WDNR BRRS (Bureau for Remediation and Redevelopment Tracking System) site located a leaking underground storage tank (LUST) at the Patzu Store approximately 0.3 miles away and at the Summit Town Hall approximately 0.4 miles away. Both these cases are closed, the Patzu Store case was closed on 07/30/2012 and the Summit Town Hall case was closed on 5/21/1998.

Identified sites are depicted on **Figure 8** and **Figure 9**.

Figure 8. Potential Contaminant Sources EPA



Figure 9. Potential Contaminant Sources WDNR



Alternative 1 – No Action

The No Action alternative would have no effect on hazardous materials or chemical because there would be no construction under the No Action alternative, and no sites were identified.

Alternative 2 – Proposed Action

The Proposed Action, including former fill removal and proposed structure construction, would not involve the addition of any hazardous materials or chemicals to the site, nor would it increase the overall risk of hazardous materials known to already exist in the environment. Construction equipment used for the project would have small quantities of gasoline and fuel, but no releases are anticipated from these machines as they would be kept in good working order in accordance with state and local ordinances.

Hazardous materials are not known to be present at concentrations that pose a risk to human health or the environment. The possibility exists that additional source material could be encountered that would represent a moderate short-term impact to onsite workers through direct, dermal contact and inhalation of VOCs emanating from the source material, and a potential minor impact to residents near the site through inhalation of VOCs.

The geotechnical investigation did not include hazmat testing of the soils, as the focus was on determining strength values and pile driving values needed for the structure's design. Although direct testing for hazardous materials was not conducted, incidental evidence of contamination (generally exhibited by odors or the presence of water) was recorded. Water was noted in some boreholes at certain elevations, but odors were not noted, suggesting contaminated soils were not present. The boring logs note the presence of sand, silt, sandy silt, gravel, some metal and wood debris in 2 out of the 4 borings at varying elevations. These results suggest soils used to fill the area were all native, though they likely included minor debris from manufactured materials.

Contingency plans, in the form of design specifications, would be prepared if source material is encountered in any part of the project area and submitted to WDNR for approval. These specifications would detail the procedures that would be implemented by the subrecipient to identify, manage, and dispose of source material in accordance with applicable local, state, and federal regulations. If source material is encountered and removed, its removal would positively impact the project area by removing a source of contaminant loading to groundwater.

See **Section 6.2** for project conditions related to hazardous materials.

3.5 Socioeconomics

3.5.1 Zoning and Land Use

The Project Area is located in an unincorporated part of Douglas County and is subject to the County Ordinances and the Douglas County Comprehensive Plan 2020-2040. The Zoning Ordinance specifies the permitted land uses within the project area, while the Comprehensive

Plan guides policy decisions about the physical development of the county. These documents were used to evaluate the project's consistency with local zoning and land use.

The Gandy Dancer State Trail right-of-way is zoned Right-of-Way. The Project Area located outside of the Gandy Dancer State Trail right-of-way, which the WDNR has obtained temporary easements to permit construction operations within, is zoned A-1 Agricultural to the south and R-2 Residential to the north. **Figure 10** depicts these zones. The county zoning ordinance specifies that the purpose of these districts is to provide:

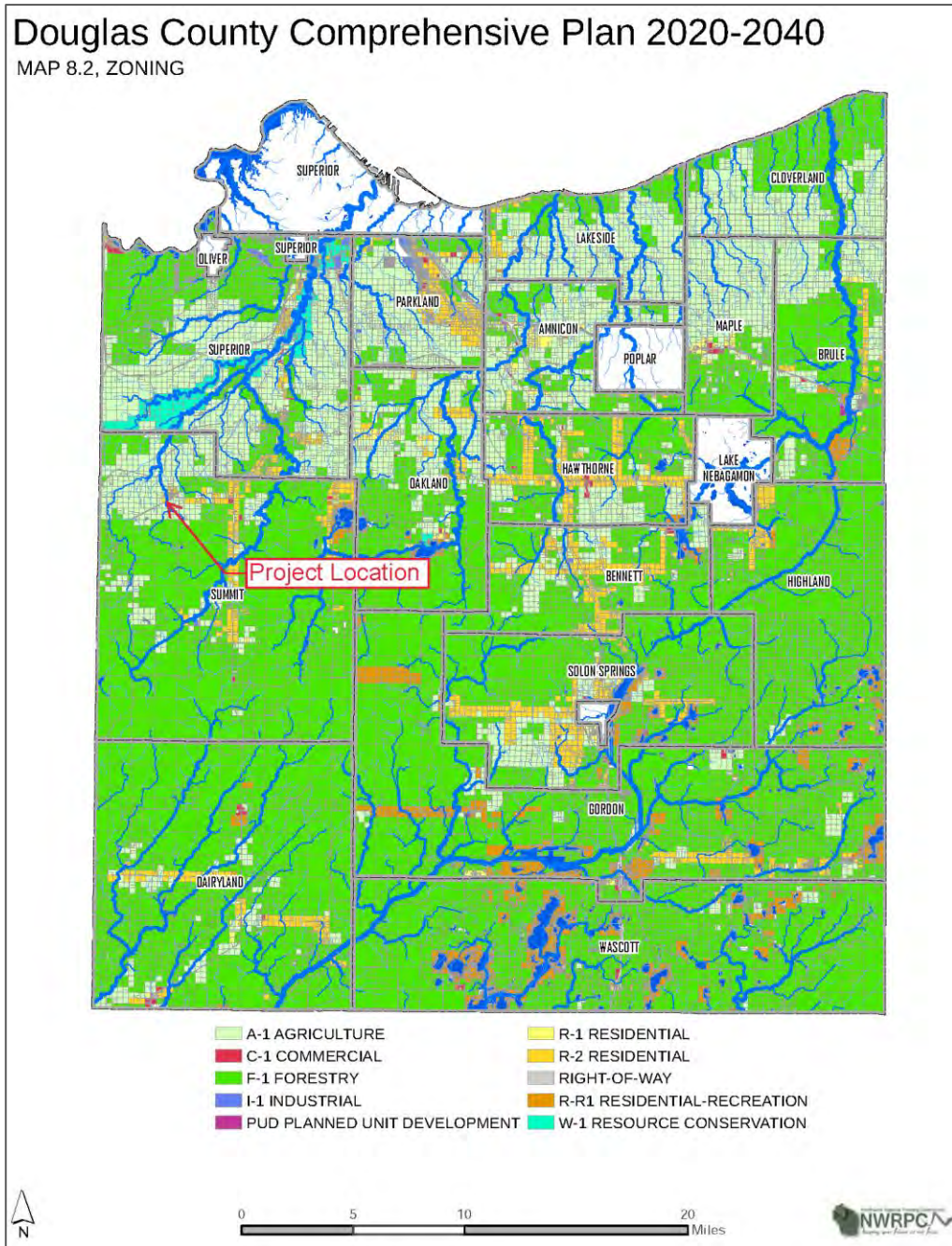
A1 Agricultural District

This district is intended to provide for the continuation of general farming and related activities in those areas best suited for such development; and to prevent the untimely and uneconomical scattering of residential, commercial, or industrial development into such areas.

R-2 Residential District

This district provides for one-family and two-family year-round residential development and for the continuation of forest programs. It is intended to encourage forest management programs and at the same time, allow large lot residential development.

Figure 10. Douglas County Zoning Map



The Comprehensive Plan adopted the following overarching vision for land use:

“In 2040, Douglas County will continue to maintain its rural character and natural resources through its policy development and responsibility to implement sound researched based resource management.

Douglas County will view their public land as held in public trust, wisely managed and maintained for forestry, recreation, agriculture, watershed protection, balance of wild land and resiliency to a changing climate. Furthermore, Douglas County will be widely

known for its dark skies, clean air, abundance of high-quality water and wild areas, recognizing that these elements are part of the excellent quality of life.” (Page 9-52)

The Gandy Dancer State Trail right-of-way is planned as Forestry, Wildlife Conservation & Outdoor Recreation. The Project Area located outside of the Gandy Dancer State Trail right-of-way, which the WDNR has obtained temporary easements to permit construction operations within, is planned Rural Traditional. The county land use code specifies that the purpose of these districts is to provide:

Rural Traditional

- Large lot residential
- Resource based industrial including farming and forestry operations
- Rural oriented recreational uses
- Preferred density not greater than 1 dwelling unit per 10 acres

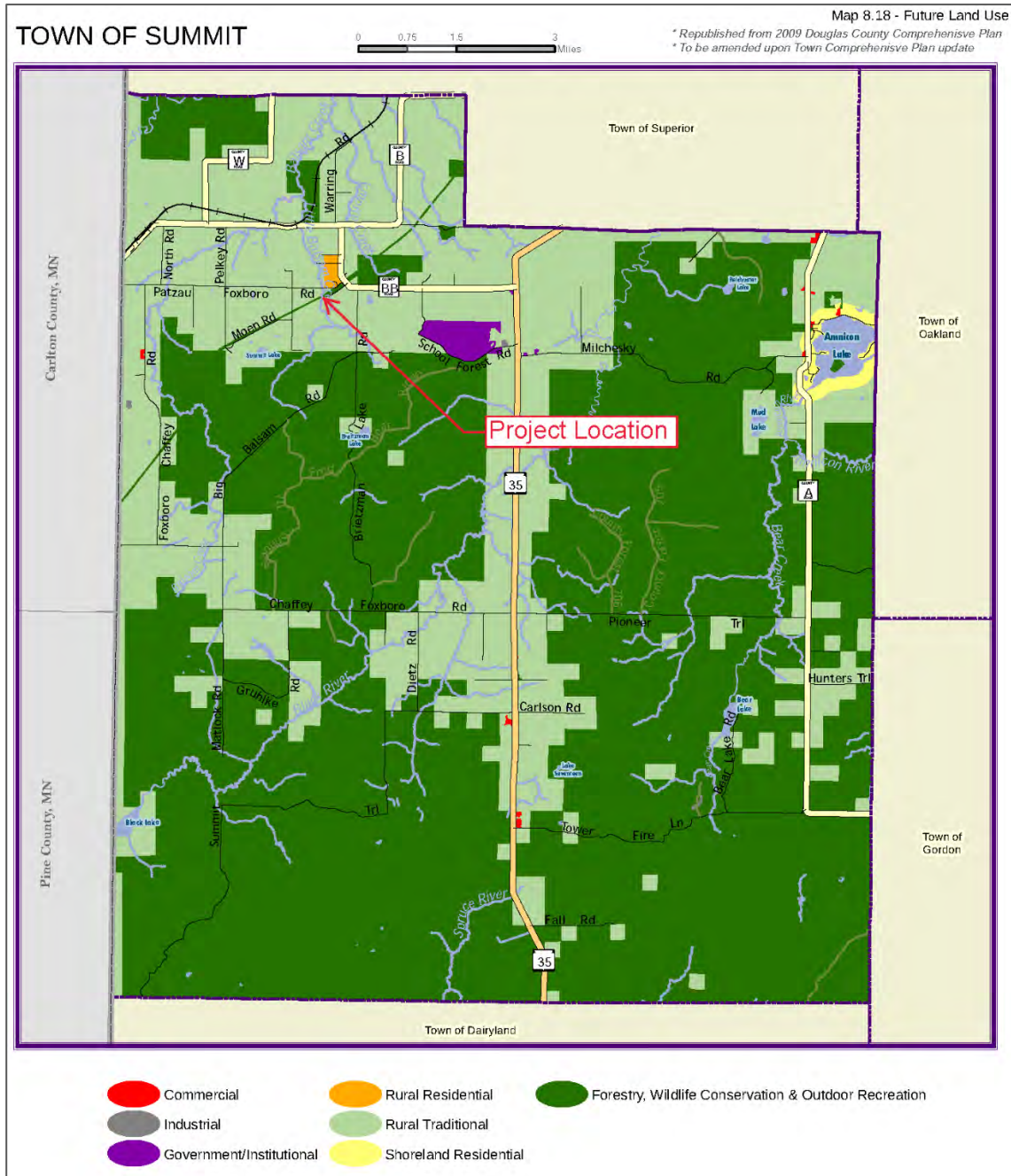
Forestry, Wildlife Conservation & Outdoor Recreation

- Production of timber
- Wildlife & waterfowl production
- Wildlife habitat
- Outdoor recreation

The zoning ordinance sets out the permitted and desired future uses for these zoning districts.

Figure 11 depicts the township future land use map.

Figure 11. Town of Summit Future Land Use Map



Alternative 1 – No Action

The No Action alternative would have no effect on conformity with the county’s land use plan as no changes would occur. The parcels would remain zoned as they are.

Alternative 2 – Proposed Action

The Proposed Action would conform with the Zoning Ordinances and the county’s Comprehensive Plan. Restoration of the creek and construction of the bridge align with the Rural

Traditional and the Forestry, Wildlife Conservation & Outdoor Recreation districts. Long-term moderate beneficial impacts will result from maintaining a rural character and natural resources. Elements discussed within the county's Comprehensive Plan. This project will address those directly with the creek re-establishment. Recreation is also part of the county's Comprehensive Plan. The addition of a bridge over the re-established creek will provide a safer passage, and more scenic outlook thus possibly making this location a special feature on the Gandy Dancer State Trail.

3.5.2 Noise

The Noise Control Act of 1972 defines "noise" as an undesirable sound. Noise is regulated at the federal level by the Noise Control Act of 1972, 42 U.S.C. §§ 4901, *et seq.* Noise standards developed by EPA (EPA, 1974) provide a basis for state and local governments' judgments in setting local noise standards. The Town of Summit and Douglas County do not have noise ordinances that limit construction noises. The nearest residence is approximately 450 feet east of the proposed project area. One additional residence is 740 feet northeast and one 1,200 feet southwest of the proposed project area. These residences are defined as noise-sensitive land uses using Federal Highway Administration noise abatement criteria (23 C.F.R. § 772.5).

Alternative 1 – No Action

The No Action alternative would not change ambient noise levels in the project area. There would be no short- or long-term changes in noise levels.

Alternative 2 – Proposed Action

The Proposed Action would cause short-term changes in the ambient noise levels in the area associated with former fill and culvert removals and construction activities. Short-term impacts related to removal and construction activities would include trucks hauling materials to and from the site and the operation of equipment for demolition, excavation, and fill activities. Minor traffic noise would also be expected from construction vehicles and haul trucks arriving and departing from the project area. It is anticipated that demolition and construction activities will take place during the less noise-sensitive daylight hours. Recreational vehicle traffic is not anticipated to increase on the Gandy Dancer State Trail, therefore there will be no long-term change in noise levels.

3.5.3 Public Services and Utilities

Summit township is served by the Douglas County Sheriff's Office and a Volunteer Fire Department. The public school district is the Superior School district, with elementary in Four Corners and middle and high schools in Superior, WI. The hospital closest to the project area, Essentia Health St. Mary's Hospital, is 18.6 miles north northeast in Superior, WI. No police, fire, public schools, or municipal facilities are located within or adjacent to the project area.

The Town of Summit and Douglas County provide street repair services to the bordering areas. The WDNR maintains the trail site. Homeowners maintain a typical septic and well system

permitted through Douglas County. Existing electric utilities are currently present in the project area.

Alternative 1 – No Action

The No Action alternative would have no impacts on public services in the project area. Erosion and possible collapse of the existing concrete box culvert would only affect trail users and the result would be a localized closure of the trail in the project area. Emergency vehicles or public utility vehicles would still be able to serve residences.

Alternative 2 – Proposed Action

The Proposed Action would have no impact on public services during the construction phase. Water and septic systems are currently located on each individual lot. Current electric utilities would not be expected to be shut down during construction, and construction would not cause any short-term impacts on utility services in the area. If utilities do need to be temporarily shut off during construction, the subrecipient would follow local ordinances regarding shut down procedures and notification.

The Proposed Action would provide no long-term benefits or detriments to public services as the project location does not overlap and service corridors nor roadway network route for emergency vehicle access.

3.5.4 Traffic and Circulation

This project will not have a direct effect on roadway networks as it is located on a recreation trail that was converted from railroad use. The project will not affect access to private residences.

The Gandy Dancer Trail currently has a gravel surface that accommodates bicycles, pedestrians and recreational vehicles year- round, no residences have direct access to the trail.

Alternative 1 – No Action

The No Action alternative would not impact vehicular traffic and circulation in the area. This alternative would have an impact on trail traffic as the concrete box culvert would continue to deteriorate and eventually fail. This would result in the closure of the trail in this area, limiting recreational possibilities, and creating a long-term moderate adverse effect.

Alternative 2 – Proposed Action

The construction of this project would result in minor, short-term increases in construction vehicle traffic on surrounding roadways resulting from the operation of construction vehicles and equipment to and from the site. This construction would have no long-term impacts on traffic and circulation in the area as the project involves work on the trail only. Traffic mitigation measures would not be required as the project is not expected to cause increased roadway traffic in the area. Replacing the culvert with a single-span bridge will prolong the life of the trail resulting in long-term moderate benefits to the community.

3.5.5 Environmental Justice (Executive Order 12898)

The purpose of Executive Order 12898 is to identify, address, and avoid disproportionately high and adverse human health or environmental effects on minority and low-income populations. Minorities are defined as anyone who identifies as black or African American, American Indian or Alaska Native, Asian American, Native Hawaiian or Pacific Islander, Hispanic, or multiracial. Low-income populations are those with incomes at or below the federal poverty level.

The Environmental Protection Agency’s (EPA) Environmental Justice Screening and Mapping tool (EJScreen) was used to investigate the presence of readily identifiable low income or minority populations within a 1-mile buffer of the project improvements. This 1-mile buffer is considered the “project area” for the environmental justice analysis as it extends across areas that will experience a change in flow due to the stream improvements. Low-income or minority populations in a project area can be identified by meeting either one or both of the following criteria:

- The affected area (e.g., census block group) contains 50 percent or more minority low-income persons compared to the statewide average.
- One or more of the Environmental Justice (EJ) Indexes for the census block group equals or exceeds the 80th percentile compared to the statewide average.

The affected area exceeds an average of 50 percent versus the state average for low-income population only. However, the affected area does not exceed the 80th percentile for any of the twelve (12) environmental justice indexes. Socioeconomic Indicators (minority and low-income population) for the affected area are summarized in **Table 3-2**, racial composition is summarized in **Table 3-3**.

Table 3-2 Socioeconomic Indicators

Socioeconomic Indicator	Percentile in State
People of Color	39
Low-Income	54

Source: EJScreen

Table 3-3 Environmental Justice Indexes

	Percentile in State
Particulate Matter 2.5 EJ Index	0
Ozone EJ Index	0
Diesel Particulate Matter EJ Index*	4
Air Toxics Cancer Risk EJ Index*	47
Air Toxics Respiratory HI EJ Index*	37
Traffic Proximity EJ Index	N/A
Lead Paint EJ Index	32
Superfund Proximity EJ Index	37
RMP Facility Proximity EJ Index	6
Hazardous Waste Proximity EJ Index	8
Underground Storage Tanks EJ Index	18
Wastewater Discharge EJ Index	N/A

Source: EJScreen

Alternative 1 – No Action

Low-income populations exist within a one-mile radius of the project location. Under the No Action alternative, Little Balsam Creek, a Class 1 stream will continue to be constricted, hindering fish passage and fishing opportunities. Gandy Dancer a public-accessible trail will remain susceptible to washouts and closures. Thus, the No-Action alternative will reduce the availability of outstanding public recreational resources. This will be long-term moderate adverse effect until the area is repaired.

Action Alternative 2 – Proposed Action

The Proposed Action will have beneficial effects to the local population that will outweigh minor, short-term construction-related adverse effects, such as noise and traffic. Replacing the damaged culvert and debris catchments with a single-span bridge has been determined by the WDNR to be the most cost-effective crossing for supporting the trail system and returning the streambed to its natural state to help restore it as a Class 1 trout stream. These cost-effective public works and improved recreational resources will provide moderate long-term benefits to the community.

3.5.6 Safety and Security

The Occupational Safety and Health Act, 29 U.S.C. §§ 651 – 678, requires safe and healthful conditions for working men and women by setting and enforcing standards; and providing training, outreach, and education and compliance assistance. The act created the Occupational

Safety and Health Administration (OSHA) which established construction standards under 29 C.F.R. Part 1926. Wisconsin has adopted The Wisconsin Department of Safety and Professional Services (DPS) as conferred by WI Statutes Chapter 101 Department of Safety and Professional Services – Regulation of Industry, Buildings and Safety. The construction and safety standards set forth general rules for the safe use, operation, and maintenance of equipment, and for safe work practices pertaining to all employers and employees performing construction operations.

Alternative 1 – No Action

Under the No Action alternative, Little Balsam Creek would continue to erode and deteriorate the concrete box culvert under the Gandy Dancer State Trail, perpetuating hazardous conditions which would have a long-term moderate negative impact on safety of the Gandy Dancer State Trail, until the crossing is repaired.

Alternative 2 – Proposed Action

Standard construction-related safety risks would occur for construction workers at the project site. To reduce any negative effects, during construction, site safety would be ensured by the contractors performing the work following standard industry safety practices and those stated in WI Statutes 101.

The project would reduce natural hazard impacts to the Gandy Dancer State Trail through replacing the damaged culvert with a single-span bridge and reestablishing Little Balsam Creek's natural flow. These improvements will reduce the possibilities of future flooding and the bridge will provide a safer crossing for the trail. These moderate beneficial effects will be long-term.

3.6 Historic and Cultural Resources

Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, 54 U.S.C. §§ 300101 - 307108, requires that federal agencies consider the potential effects on cultural resources of actions it proposes. Cultural resources are defined as prehistoric or historic archaeology sites, historic standing structures, historic districts, objects, artifacts, cultural properties of historic or traditional significance—referred to as Traditional Cultural Properties—that may have religious or cultural significance to federally-recognized Indian Tribes (Tribes), or any other physical evidence of human activity considered important to a culture, subculture, or community for scientific, traditional, religious, or other reasons.

Cultural resources listed, eligible for listing, or potentially eligible for listing on the National Register of Historic Places (NRHP) are subject to protection from adverse impacts resulting from a federally funded undertaking.

Pursuant to 36 C.F.R. § 800.4(a)(1), the Area of Protection Effects (APE) is defined as the geographic area(s) within which the undertaking may directly or indirectly affect cultural resources. Within the APE, impacts on cultural resources are evaluated for both historic structures (aboveground cultural resources) and archaeology (belowground cultural resources).

In addition to the NHPA, FEMA must also comply with other federal laws that relate to historic and cultural resources:

1. American Indian Religious Freedom Act of 1978, 42 U.S.C. § 1996, which provides for the protection and preservation of American Indian sites, possessions, and ceremonial and traditional rites.
2. Archaeological Resources Protection Act of 1979, 16 U.S.C. §§ 470aa–470 mm, which provides for the protection of archaeological resources on public lands and Indian lands.
3. Native American Graves Protection and Repatriation Act, 25 U.S.C. §§ 3001–3013, in cases where Native American cultural items are found on federal and tribal lands.

To comply with the NHPA, Commonwealth Heritage Group, Inc. (Commonwealth) completed a Phase I Archaeological Survey and an Investigation of Architecture/History in support of the proposed replacement of the culvert on the Gandy Dancer State Trail in Douglas County, WI in August 2022. The survey was conducted on behalf of the WDNR. WDNR requested archaeological and architecture/history surveys of the project APE in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations 36 C.F.R. Part 800. The APE includes the construction footprint and adjacent areas of potential ground disturbance where there could be effects to archaeological resources.

Ecologically, the project APE is located near the boundary of the Superior Coastal Plain and the Northwest Lowlands Ecological Landscapes of Wisconsin (Wisconsin Department of Natural Resources [WDNR] 2022). The Ecological Landscapes of Wisconsin are part of a hierarchical system developed by an interdisciplinary WDNR team to classify the state into ecoregions, or ecological landscapes with similar ecology and management opportunities. The Ecological Landscapes of Wisconsin defined by the WDNR are based substantially on the National Hierarchical Framework of Ecological Units (NHFEU) developed by the United States Forest Service (Cleland et al. 1997) and encompass the Landtype Associations (LTAs) of the NHFEU (WDNR 2022). LTAs are ecological areas that are much smaller than Ecological Landscapes, ranging in size from 10,000 and 300,000 acres. In Wisconsin, they are usually based on glacial features like individual moraines or outwash plains (WDNR 2022). The project APE is within the Pattison Moraines LTA of the Northwest Lowlands Ecological Landscape. The characteristic landform pattern of the Pattison Moraines LTA is rolling collapsed moraine. Soils consist of well drained sandy loam over loamy sand till. Common habitat types within the LTA includes forested lowlands.

3.6.1 Historic Structures

The culvert proposed for replacement appears to date from the rail line's construction (c.1911-1912). It is a single cell cast-in-place concrete box culvert with concrete side walls extending upstream and downstream that stabilize the steep embankments adjacent to the structure (**Figures 2 and 3**). The side walls have concrete cross beams for added support and to keep large

branches and other debris from falling into the creek channel and affecting water flow on both the inlet and outlet sides of the culvert. A large section of these walls has collapsed.

Commonwealth recommends the culvert is not eligible for the National Register. Box culverts such as this are ubiquitous drainage structures and there is nothing to suggest this one has potential architectural or historical significance. It is not an early example of its type, nor does it appear to have any distinctive design or engineering qualities. Further, portions of the overall structure have completely collapsed, compromising its historic integrity.

Alternative 1 – No Action

The No Action alternative would have no effect on historic structures listed or eligible for listing in the NRHP because none were identified in the APE.

Alternative 2 – Proposed Action

The Proposed Action would have no effect on historic structures listed or eligible for listing in the NRHP because none were identified in the APE. Consultation documentation is included in **Appendix A**.

3.6.2 Archaeological Resources

Prior to the initiation of the 2022 fieldwork, Commonwealth reviewed the Archaeological Site Inventory (ASI) files in the Wisconsin Historic Preservation Database (WHPD), maintained by the Division of Historic Preservation (DHP), Wisconsin Historical Society (WHS). There are no previously reported archaeological or cemetery/burial sites located within or within one mile (1.6 kilometers [km]) of the APE.

Archaeological investigations of the of the project APE were conducted on August 30, 2022, under Commonwealth's 2022 permit to conduct archaeological field work on Wisconsin Department of Natural Resources lands. The archaeological survey was conducted in accordance with the guidelines promulgated in the Guide for Public Archaeology in Wisconsin and included visual inspection and surface reconnaissance within the project APE. The project APE is located along a section of the existing trail and within a deep ravine formed by Little Balsam Creek. Visual inspection of the project APE found it to consist of the existing gravel trail and the steep sided ravine. At the bottom of the ravine, the existing concrete box culvert in Little Balsam Creek had collapsed and partially washed away north of the trail. The southern portion of the culvert was intact but had become tangled with deadfall. The steep slopes of the ravine exceeded 15 percent and were not shovel tested. Archaeological survey consisted entirely of visual inspection and surface reconnaissance of the ravine slopes and the bed of Little Balsam Creek. No artifacts, archaeological features, or cultural materials were identified within the APE during the survey.

Based on these results, Commonwealth concluded that the proposed replacement of the culvert will have no effects on archaeological historic properties under Section 106. No additional archaeological investigations were recommended for the project as currently designed.

Alternative 1 – No Action

The No Action alternative would have no effect on known archaeological resources as no artifacts, archaeological features, or cultural materials were identified.

Alternative 2 – Proposed Action

The Proposed Action would have no effect on any known archaeological sites or resources. Consultation documentation is included in **Appendix A**. The following project conditions, also included in **Section 6.2**, would provide additional protection to unknown archaeological sites:

1. The contactor will monitor ground disturbance during the construction phase. Should human skeletal remains or historic or archaeological materials be discovered during construction, all ground-disturbing activities on the project site shall cease and WDNR will notify the coroner's office (in the case of human remains), the Wisconsin State Police, and FEMA. FEMA will notify the SHPO and the Office of the State Archaeologist.
2. All borrow or fill material must come from pre-existing stockpiles, material reclaimed from maintained roadside ditches (provided the designed width or depth of the ditch is not increased), or commercially procured material from a source existing prior to the event. For any FEMA-funded project requiring the use of a non-commercial source or a commercial source that was not permitted to operate prior to the event (e.g., a new pit, agricultural fields, road ROWs, etc.) in whole or in part, regardless of cost, the WDNR must notify FEMA prior to extracting material. FEMA must review the source for compliance with all applicable federal environmental planning and historic preservation laws and executive orders prior to a subrecipient or their contractor commencing borrow extraction. Consultation and regulatory permitting may be required. Non-compliance with this requirement may jeopardize receipt of federal funding. Documentation of borrow sources utilized is required at closeout.

3.6.3 Tribal Coordination and Religious Sites

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, directs federal agencies, "to establish regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes...."

Requests for information on the presence or absence of known archaeological and Indian religious sites within the proposed project area were submitted to federally recognized tribal nations with potential interests in the project. On September 27, 2022, FEMA initiated consultation with the following tribal nations:

- Bad River Band of Lake Superior Tribe of Chippewa Indians
- Fond du Lac Band of Lake Superior Chippewa

- Grand Portage Band of Lake Superior Chippewa
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
- Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin
- Lac Vieux Desert Band of Lake Superior Chippewa Indians
- Leech Lake Band of Ojibwe
- Menominee Indian Tribe of Wisconsin
- Miami Tribe of Oklahoma
- Mille Lacs Band of Ojibwe Indians
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
- White Earth Band of Ojibwe

FEMA sent a letter to each tribe with details about the project location and proposed activity and requested comments from each tribal government within 30 days of the date of the letter. No responses were received. Furthermore, the Fond du Lac expressed an interest through the EPA, FEMA sent the scoping document directly to the THPO and on March 6, 2023, and no response was received.

Correspondence with the tribal nations is provided in **Appendix B**.

Alternative 1 – No Action

The No Action alternative would have no effect on known archaeological or Indian religious sites as no construction or ground disturbance activities would occur.

Alternative 2 – Proposed Action

The Proposed Action would have no effect on known archaeological or Indian religious sites. If any human or archaeological remains are encountered during project construction, work will stop immediately and FEMA and SHPO will be notified. FEMA will then notify the Tribal Nations.

1. The contactor will monitor ground disturbance during the construction phase. Should human skeletal remains or historic or archaeological materials be discovered during construction, all ground-disturbing activities on the project site shall cease and WDNR will notify the coroner's office (in the case of human remains), the Wisconsin State Police, and FEMA. FEMA will notify the SHPO and the Office of the State Archaeologist.

3.7 Comparison of Alternatives

Table 3-4 Comparison of Alternatives

No Action Impacts	Re-establishment of Little Balsam Creek and construction of a clear span bridge	Mitigation
Geology, Soils, and Topography		
<ul style="list-style-type: none"> • Long-term impacts from continued erosion. • No impacts to topography 	<ul style="list-style-type: none"> • Minor short-term impacts on soil during construction. • Minor impacts to topography by lowering the railroad grade for approximately 1,000 feet by 30 feet. • Long-term, beneficial impacts on soils from the removal of fill. • No farmland to be converted to non-agricultural use. 	<ul style="list-style-type: none"> • See Section 6.2, Condition 3 and 4.
Water Resources and Water Quality		
<ul style="list-style-type: none"> • Minor long-term impacts from sedimentation, soil erosion. • No impact on groundwater. 	<ul style="list-style-type: none"> • Minor short-term impact on water quality during construction caused by excavators and other heavy equipment for excavation. 	<ul style="list-style-type: none"> • See Section 6.2, Condition 3.
Floodplain Management		
<ul style="list-style-type: none"> • Minor long-term impacts from continued erosion of the soil and creekbank. 	<ul style="list-style-type: none"> • Minor short-term impacts from disturbance of sediments. • Minor long-term benefits from the increase in area and volume floodwaters can occupy. 	<ul style="list-style-type: none"> • None
Air Quality		
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Minor, short-term impacts from construction equipment emissions and exposed soils. • Negligible long-term impact. 	<ul style="list-style-type: none"> • See Section 6.2, Conditions 5 and 6.

No Action Impacts	Re-establishment of Little Balsam Creek and construction of a clear span bridge	Mitigation
Coastal Zone Management		
<ul style="list-style-type: none"> Does not meet goals of WCMP. Streambed and water quality will continue to degrade and affect downstream waters. 	<ul style="list-style-type: none"> Meets WCMP goals and improves areas of focus. Short-term impacts during construction from ground disturbance and tree removal. Long-term beneficial impacts to coastal resources from stabilization of the stream embankment, erosion mitigation, and improved terrestrial and aquatic habitat. 	<ul style="list-style-type: none"> None
Terrestrial and Aquatic Environment		
<ul style="list-style-type: none"> Minor long-term impacts from continued erosion of the creekbank, resulting in soil disturbance and surface runoff. 	<ul style="list-style-type: none"> Minor short-term impacts while the fill is being excavated and the bridge is being constructed resulting in soil disturbance and removal of vegetation. Minor long-term impacts from the removal of trees. The excavated embankment areas will be reseeded and erosion mat placed after final grading. 	<ul style="list-style-type: none"> None
Wetlands		
<ul style="list-style-type: none"> Natural erosion would be expected to continue, adding sediment to the creek and surrounding wetlands. 	<ul style="list-style-type: none"> Minor short-term impacts to riverine and palustrine wetlands from the disturbed soils associated with the removal of the existing embankment fill and reestablishment of Little Balsam Creek. Discharge of fill material into 0.10 acre below the plane of Balsam Creek's OHWM. 	<ul style="list-style-type: none"> See Section 3.3.2, Condition 3

No Action Impacts	Re-establishment of Little Balsam Creek and construction of a clear span bridge	Mitigation
Threatened and Endangered Species		
<ul style="list-style-type: none"> No Effect 	<ul style="list-style-type: none"> No impacts to the Canada Lynx, Monarch butterfly, Tricolored Bat, Piping Plover, Fassett’s locoweed, or Gray Wolf. May Affect, but not likely to adversely affect determination made for NLEB due to removal of suitable roosting habitat. 	<ul style="list-style-type: none"> None.
Migratory Birds		
<ul style="list-style-type: none"> No direct short- or long-term impacts. 	<ul style="list-style-type: none"> Minor short-term impacts on trees and vegetation that may serve as migratory bird habitat. The trees removed to perform excavations to reestablish Little Balsam Creek would not be replaced and area will reforest naturally. 	<ul style="list-style-type: none"> See Section 6.2, Condition 10.
Invasive Species		
<ul style="list-style-type: none"> No short- or long-term impacts. 	<ul style="list-style-type: none"> Minor short-term impact from the potential spread of invasive weeds outside of the project area as both cuttings and attached to construction equipment and vehicles. 	<ul style="list-style-type: none"> See Section 6.2, Conditions 11 through 13.

No Action Impacts	Re-establishment of Little Balsam Creek and construction of a clear span bridge	Mitigation
Hazardous Materials		
<ul style="list-style-type: none"> • No impact 	<ul style="list-style-type: none"> • The Proposed Action would not involve the addition of any hazardous materials or chemicals to the site, nor would it increase the overall risk of hazardous materials known to already exist in the environment. • Minor short-term impact from construction equipment used for the project will have small quantities of gasoline and fuel, but no releases are anticipated. 	<ul style="list-style-type: none"> • See Section 6.2, Conditions 8 and 9.
Zoning and Land Use		
<ul style="list-style-type: none"> • No impact on zoning and land use. 	<ul style="list-style-type: none"> • Long-term moderate beneficial impacts associated with land use. • Consistent with the Douglas County and Town of Summit land use plan. 	<ul style="list-style-type: none"> • None
Noise		
<ul style="list-style-type: none"> • No impacts to ambient noise levels. 	<ul style="list-style-type: none"> • Minor short-term impacts associated with construction. • No long-term impact. 	<ul style="list-style-type: none"> • See Section 6.2, Condition 7.
Public Services and Utilities		
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None
Traffic and Circulation		
<ul style="list-style-type: none"> • None to roadway traffic. • Long-term moderate adverse effect to trail traffic. 	<ul style="list-style-type: none"> • Minor short-term adverse impact from the operation of construction vehicles and equipment to and from the site. • Long-term moderate beneficial effect to trail traffic. 	<ul style="list-style-type: none"> • None

No Action Impacts	Re-establishment of Little Balsam Creek and construction of a clear span bridge	Mitigation
Environmental Justice		
<ul style="list-style-type: none"> • Long-term moderate adverse effect due to continued flooding of the area and reduced use of the trail. 	<ul style="list-style-type: none"> • Minor, short-term impact from construction. • Long-term moderate beneficial effect based on reduced flooding in the surrounding area and improved availability of recreational opportunities. 	<ul style="list-style-type: none"> • None
Safety and Security		
<ul style="list-style-type: none"> • Long-term moderate adverse impacts due to continued flooding of the area and damage to a support structure of the trail. 	<ul style="list-style-type: none"> • Short-term minor impact during construction. • Long-term moderate benefits by maintaining use of the trail and reducing flooding in the area. 	<ul style="list-style-type: none"> • See Section 6.2, Conditions 14 and 15.
Historic Structures		
<ul style="list-style-type: none"> • No Effect 	<ul style="list-style-type: none"> • No Effect 	<ul style="list-style-type: none"> • None
Archaeological Resources		
<ul style="list-style-type: none"> • No Effect 	<ul style="list-style-type: none"> • No Effect 	<ul style="list-style-type: none"> • See Section 6.2, Conditions 16 and 17.
Tribal and Religious Sites		
<ul style="list-style-type: none"> • No Effect 	<ul style="list-style-type: none"> • No Effect 	<ul style="list-style-type: none"> • See Section 6.2, Condition 16.

4 CUMULATIVE IMPACTS

This section evaluates the potential cumulative impacts associated with the implementation of the Proposed Action. Cumulative impacts are defined in CEQ regulations for implementing NEPA (40 C.F.R. § 1508.7) as:

“The impacts of a proposed action when combined with impacts of past, present, or reasonably foreseeable future actions undertaken by any agency or person.”

CEQ regulations require an assessment of cumulative effects during the decision-making process for federal projects. Cumulative impacts can result from individually minor but collectively significant actions.

The Proposed Action is an effort to mitigate from flooding and erosion damages of the Little Balsam Creek. Proposed mitigation has occurred directly downstream with the replacement of

structures at E. Patzau Foxborro Road, Severson Road and E. County Road B. This is the last crossing in this stretch of the Little Balsam Creek identified for work. The cumulative results of these projects have been to re-establish a more natural creek thus reducing flooding and erosion potentials and increasing fish passage and breeding potentials.

At this time, there are no reasonably foreseeable actions in the project vicinity to the Gandy Dancer State Trail or Little Balsam Creek.

5 PUBLIC PARTICIPATION

This EA is available for agency and public review and comment for a period of 30 days. The public information process includes publication of the EA on various media. This EA is available on FEMA's website at [Environmental Assessment for Gandy Dancer Box Culvert, Douglas County, Wisconsin, FEMA-DR-4383-WI, 2023 | FEMA.gov](#)

The EA is also available on the WDNR's website at [Fish, Wildlife and Parks Public Input Opportunities | Wisconsin DNR](#).

A hard copy of this EA is available for review at the Town of Summit Hall

Summit Town Hall
2731 E. Milchesky Road
Foxboro, WI 54836
Ph: (715) 399-2693

This EA reflects the evaluation and assessment of the federal government, the decision-maker for the federal action; however, FEMA will take into consideration any substantive comments received during the public review period to inform the final decision regarding grant approval and project implementation. The public is invited to submit written comments by emailing fema-r5-environmental@fema.dhs.gov or via mail to:

Duane Castaldi, Regional Environmental Officer
Attn: Gandy Dancer State Trail over Little Balsam Creek Project EA Comments
FEMA Region 5
536 South Clark Street, 6th Floor
Chicago, IL 60605

If FEMA receives no substantive comments from the public and/or agency reviewers, this EA will be adopted as final, and FEMA will issue a FONSI. If FEMA receives substantive comments, it will evaluate and address those comments as part of the FONSI documentation and may consider whether changes to the grant or project implementation are appropriate.

5.1 Subrecipient Outreach

The EA Scoping document was published on FEMA's and WDNR's website. This document discussed the disaster, the history of the area and initiatives within the St. Louis River Area of Concern, and this proposed action.

As well as the posting on the internet the EA Scoping document was distributed to the following agencies and other interested parties:

1. Town of Summit, Douglas County
2. Douglas County, Land Conservation
3. Douglas County, Forestry, Parks and Recreation
4. Douglas County, Trail Partner and Maintainer
5. Amnicon Drift Dodgers Snow Mobile Club
6. SWORDS ATV Club
7. Friends of Gandy Dancer
8. US Environmental Protection Agency Region 5
9. US Fish and Wildlife Service
10. US Army Corps of Engineers, St. Paul Regulatory District
11. Wisconsin Department of Natural Resources, Bureau of Environmental Analysis and Sustainability
12. Wisconsin Department of Natural Resources, Office of Great Waters
13. Wisconsin Department of Natural Resources, Transportation Liaison
14. Wisconsin Department of Administration, Coastal Management Program

The following were notified of this project through FEMA Region 5 Standard consultation procedures as directed under individual Environmental laws and Executive Orders.

1. Wisconsin State Historic Preservation Office
2. Bad River Band of Lake Superior Tribe of Chippewa Indians
3. Fond du Lac Band of Lake Superior Chippewa
4. Grand Portage Band of Lake Superior Chippewa
5. Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
6. Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin
7. Lac Vieux Desert Band of Lake Superior Chippewa Indians
8. Leech Lake Band of Ojibwe
9. Menominee Indian Tribe of Wisconsin
10. Miami Tribe of Oklahoma
11. Mille Lacs Band of Ojibwe Indians
12. Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
13. White Earth Band of Ojibwe

Comments of substantial nature were not received from any of the above listed parties.

6 MITIGATION MEASURES AND PERMITS

6.1 Permits

The Proposed Action would require a number of permits and clearances from local, state, and federal agencies. Table 6-1 summarizes the necessary permits that have been issued or will need to be issued in order to implement the Proposed Action. Any additional permits or clearances necessary will be obtained by the responsible party prior to construction commencement.

Table 6-1 Permit Summary

Issuing Agency	Resource	Permit Title	Applicable Regulation/Law	Status
WDNR	Wetlands and Waterways	Waterway Crossing and Habitat Structure	Wis. Stats. Ch 30 Wis. Adm. Code NR 320	Issued. See Appendix A.
WDNR	Erosion, Sedimentation, and Stormwater	Wisconsin Pollutant Discharge Elimination System (WPDES)	Wis. Stats. Ch 283 Wis. Adm. Code NR 216	Issued. See Appendix A
U.S. Army Corps of Engineers	Wetlands and Waterways	General Permit and Water Quality Certification	s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344	Issued. See Appendix A

6.2 Project Conditions

The subrecipient is responsible for compliance with federal, state, and local laws and regulations, including obtaining any necessary permits prior to beginning construction activities, and adhering to any conditions laid out in these permits. Any substantive change to the scope of work will require re-evaluation by FEMA for compliance with NEPA and any other laws or EOs. Failure to comply with FEMA grant conditions may jeopardize federal funding.

General Project Conditions

1. The subrecipient is responsible for obtaining and complying with all required local, state, and federal permits and approvals.
2. If deviations from the proposed scope of work result in substantial design changes, the need for additional ground disturbance, additional removal of vegetation, or any other unanticipated changes to the physical environment, the subrecipient must contact FEMA so that the revised project scope can be evaluated for compliance with NEPA and other applicable environmental laws.

The following conditions address mitigation of impacts to **Water Resources and Water Quality, Wetlands, and Soils**:

3. A water diversion plan is included in the construction documents and requires the contractor to submit exact details for WDNR approval before construction.

4. Waste Management Plan must be submitted to WDNR for approval before construction providing the final soil waste disposal location. The permits must be provided to FEMA and WDNR, giving the WDNR approval authority regarding disposal.

Air Quality

5. To reduce the emission of criteria pollutants, construction equipment engine idling will be minimized to the extent practicable, and engines will be kept properly maintained.
6. Open construction areas will be minimized and watered as needed to minimize particulates such as fugitive dust.

Noise

7. Construction activities to take place during the less noise-sensitive daylight hours.

Hazardous Materials

8. If hazardous source materials are encountered during excavation, culvert removal, or construction activities for the proposed action, contingency plans will be prepared that detail the procedures that the contractors will follow to identify, manage, and dispose of source materials, or other heavily contaminated materials, in accordance with all local, state, and federal regulations. These specifications sections should include, but are not limited to, procedures that address Safety, Health, and Emergency Response Procedures; Environmental Protection Procedures; Contaminated Soil Excavation; Transportation and Disposal of Contaminated Material; and Contaminated Dewatering and Drainage.
9. WDNR will be notified if source material or other heavily contaminated material is encountered.

Migratory Birds

10. Vegetation removal should be avoided during the migratory bird nesting season (approximately February 15 to August 15) to the extent practicable.

Invasive Species

11. Graded areas will be revegetated with native grasses and forbs, or native seed mixes.
12. All equipment will be cleaned (including but not limited to vehicles, clothing, and gear) at a site prior to moving to another site. All soil, aggregate material, mulch, vegetation, seeds, animals, etc. need to be removed using a hand tool, brush, compressed air, pressure washer, or otherwise.
13. If equipment is not cleaned before arriving to the work site, then clean the equipment in the parking or staging area, ensuring no material is deposited at the new site. Material cleaned from equipment should be disposed of legally.

Safety and Security

14. To minimize risks to safety and human health, construction activities will be performed using qualified personnel trained to use the required equipment properly.
15. All construction activities will be conducted in accordance with the standards specified in the Occupational Safety and Health Administration (OSHA) regulations.

Archaeological, Tribal, and Religious Sites

16. The contactor will monitor ground disturbance during the construction phase. Should human skeletal remains or historic or archaeological materials be discovered during construction, all ground-disturbing activities on the project site shall cease and WDNR will notify the coroner's office (in the case of human remains), the Wisconsin State Police, and FEMA. FEMA will notify the SHPO and the Office of the State Archaeologist.

17. Borrow or Fill material is not anticipated for this project. If needed all borrow or fill material must come from pre-existing stockpiles, material reclaimed from maintained roadside ditches (provided the designed width or depth of the ditch is not increased), or commercially procured material from a source existing prior to the event. For any FEMA-funded project requiring the use of a non-commercial source or a commercial source that was not permitted to operate prior to the event (e.g., a new pit, agricultural fields, road ROWs, etc.) in whole or in part, regardless of cost, the subrecipient must notify FEMA and WDNR prior to extracting material. FEMA must review the source for compliance with all applicable federal environmental planning and historic preservation laws and executive orders prior to a subrecipient or their contractor commencing borrow extraction. Consultation and regulatory permitting may be required. Non-compliance with this requirement may jeopardize receipt of federal funding. Documentation of borrow sources utilized is required at closeout.

7 CONSULTATIONS AND REFERENCES

The following agencies were consulted during the preparation of this EA:

7.1 Federal, State, and Local Agencies

- Wisconsin Department of Administration, Coastal Management Program
- Wisconsin Department of Natural Resources (WDNR)
- Wisconsin Emergency Management (WEM)
- Wisconsin State Historic Preservation Office (SHPO)
- U.S. Fish and Wildlife Service, Minnesota-Wisconsin Ecological Services Field Office
- U.S. Environmental Protection Agency Region V, NEPA Implementation Section
- U.S. Army Corps of Engineers, St. Paul District

7.2 Tribal Nations

- Bad River Band of Lake Superior Tribe of Chippewa Indians
- Fond du Lac Band of Lake Superior Chippewa
- Grand Portage Band of Lake Superior Chippewa
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
- Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin
- Lac Vieux Desert Band of Lake Superior Chippewa Indians
- Leech Lake Band of Ojibwe
- Menominee Indian Tribe of Wisconsin
- Miami Tribe of Oklahoma
- Mille Lacs Band of Ojibwe Indians
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
- White Earth Band of Ojibwe

7.3 References

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8 LIST OF PREPARERS

Table 8-1 Federal Emergency Management Agency Preparers

Reviewers	Experience and Expertise	Role in Preparation
Kathryn Jaekel	Public Assistance	Program Delivery Manager
Karen Poulson	Environmental and Historic Preservation Advisor	Project Lead
Duane Castaldi	Regional Environmental Officer (REO)	Project Monitor
Maureen Cunningham	Regional Counsel	Legal Review
Nicholas Dorochoff	Environmental Protection Specialist	Technical Editor
Nancy Orth	Environmental Protection Specialist	Technical Editor
Portia Caldwell	Environmental Protection Specialist	Subject Matter Expert
Leslie Schroeder	Environmental Protection Specialist	Subject Matter Expert
Aubri Urbanek	Environmental Protection Specialist	Subject Matter Expert

Table 8-2 WDNR Preparers

Preparers	Experience and Expertise	Role in Preparation
Kurt Feuerstein, P.E.	Civil Engineer	Project Manger
Allyson McMurray	Parks and Recreation Specialist	Project Coordinator and Preparer

APPENDICES

Appendix A Agency Consultation

Appendix B Tribal Nation Consultation

Appendix C Engineering Plans

Appendix D Public Comments and Notice

**Appendix A:
Agency Consultations**

FEMA-R5-Environmental

From: alexander.eginton@wisconsinhistory.org
Sent: Wednesday, October 12, 2022 12:21 PM
To: FEMA-R5-Environmental
Subject: SHPO Review: 22-1648/DG - DR 4383 Project 67097- Gandy Dancer Box Culvert

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Please select the Phish Alert Report button on the top right of your screen to report this email if it is unsolicited or suspicious in nature.

Dear FEMA Region 5,

We have completed our review of WHS #22-1648, DR 4383 Project 67097- Gandy Dancer Box Culvert and find that no eligible properties will be affected (i.e. none are present or there are historic properties present but the project will have no effect upon them).

If your plans change or cultural materials/human remains are found during the project, please halt all work and contact our office.

Please use this email as your official SHPO concurrence for the project. If you require a hard copy signed form, please contact me and I will provide you a signed copy as soon as possible.

Sincerely,
Alex Eginton
State Historic Preservation Office
Wisconsin Historical Society
816 State Street, Madison, WI 53706

alexander.eginton@wisconsinhistory.org

Wisconsin Historical Society
[Collecting, Preserving, and Sharing Stories Since 1846](#)



WISCONSIN OFFICE
8669 North Deerwood Drive
Milwaukee, WI 53209
(414) 446-4121

September 21, 2022
W-2250

Richard H. Kubicek
Departmental Historic Preservation Officer
Bureau of Environmental Analysis & Sustainability
Wisconsin Department of Natural Resources
1027 W. St. Paul Avenue
Milwaukee, WI 53233

**RE: Results of Architecture/History Investigations
DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin**

Dear Mr. Kubicek,

The Wisconsin Department of Natural Resources (DNR) proposes to replace an existing box culvert on the Gandy Dancer State Trail with a new bridge structure. The culvert is located just southwest of the unincorporated community of Patzau, where the trail passes over Little Balsam Creek (Figure 1). The project will be funded by a Federal Emergency Management Agency (FEMA) improvement grant and, therefore, must comply with Section 106 of the National Historic Preservation Act (Section 106) and its implementing regulations 36 CFR 800. Section 106 requires the consideration of effects to properties listed on, or determined eligible for listing on, the National Register of Historic Places (National Register).

Commonwealth Heritage Group, Inc. (Commonwealth) was contracted by the DNR to complete archaeological and architecture/history investigations for the project in accordance with Section 106. This letter provides the results of the latter, which was conducted to determine if the project may affect significant above-ground resources. The Area of Potential Effects (APE) includes the existing culvert and adjacent areas where the project could have direct or indirect effects to buildings or structures (Figure 2). A review of the Wisconsin Historic Preservation Database (WHPD) indicated there are no previously surveyed resources in the APE.

An architecture/history survey was completed for the project in August 2022. The existing culvert is the only above-ground resource in the APE. The Gandy Dancer State Trail follows an abandoned Soo Line rail corridor extending from Danbury in Burnett County, Wisconsin, to Bolyston Junction in Douglas County, Wisconsin. The tracks were originally laid in 1911-1912 and the line was

OTHER LOCATIONS:

Dexter, Michigan (HQ) | Tuscaloosa, Alabama | Tempe, Arizona | Tucson, Arizona | Gainesville, Florida | Lakeland, Florida
Columbus, Georgia | Traverse City, Michigan | Littleton, Massachusetts | Minneapolis, Minnesota | Tarboro, North Carolina
Buffalo, New York | Columbus, Ohio | West Chester, Pennsylvania | Memphis, Tennessee | Ogden, Utah | Chantilly, Virginia

www.commonwealthheritagegroup.com

abandoned in the 1980s.¹ Soon thereafter, the DNR converted the former rail corridor into a recreational trail.

The culvert proposed for replacement appears to date from the rail line's construction (c.1911-1912). It is a single cell cast-in-place concrete box culvert with concrete side walls extending upstream and downstream that stabilize the steep embankments adjacent to the structure (Figures 3 and 4). The side walls have concrete cross beams for added support and to keep large branches and other debris from falling into the creek channel and affecting water flow on both the inlet and outlet sides of the culvert. A large section of these walls has collapsed.

Commonwealth recommends the culvert is not eligible for the National Register. Box culverts such as this are ubiquitous drainage structures and there is nothing to suggest this one has potential architectural or historical significance. It is not an early example of its type, nor does it appear to have any distinctive design or engineering qualities. Further, portions of the overall structure have completely collapsed, compromising its historic integrity.

Commonwealth concludes that the proposed culvert replacement on the Gandy Dancer State Trail will have no effects on above-ground historic properties under Section 106. Please let me know if you have any questions or concerns regarding the results of our architecture/history survey. As always, the project may need to be reassessed if plans change.

Sincerely,



Greg Rainka
Architectural Historian

Enclosures

¹ *The Wisconsin State Rail Plan* (Madison, Wis.: Wisconsin Department of Transportation, 1983).

DNR Project #DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin

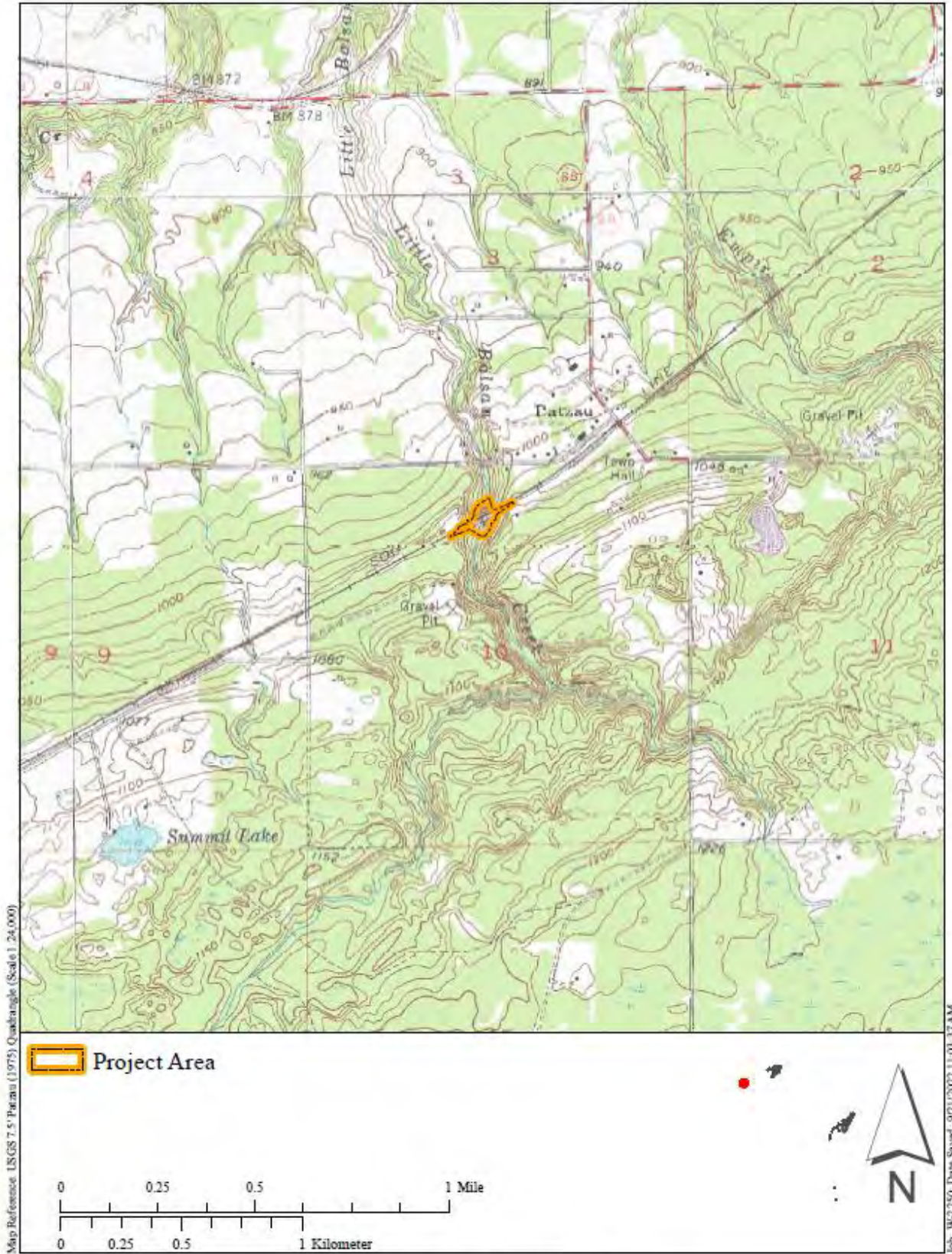


Figure 1. Project Location Map

DNR Project #DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin



Figure 2. Aerial Overview of Project Area

DNR Project #DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin



Figure 3. Existing Box Culvert and Collapsed Channel Side Walls, View Southeast



Figure 4. Existing Box Culvert and Channel Side Walls, View Northwest



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Milwaukee, WI 53209
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September 21, 2022
W-2250

Richard H. Kubicek
Departmental Historic Preservation Officer
Bureau of Environmental Analysis & Sustainability
Wisconsin Department of Natural Resources
1027 W. St. Paul Avenue
Milwaukee, WI 53233

**RE: Results of Phase I Archaeological Survey
DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin**

Dear Mr. Kubicek,

In August 2022, Commonwealth Heritage Group, Inc. (Commonwealth) completed a Phase I archaeological survey in support of the proposed replacement of a culvert on the Gandy Dancer State Trail in Douglas County, Wisconsin (Figures 1 and 2). Archaeological survey was conducted on behalf of the Wisconsin Department of Natural Resources (WDNR), who is pursuing federal grant funding for the project through the Federal Emergency Management Agency (FEMA). Due to the federal funding of the project, WDNR requested archaeological and architecture/history surveys of the project Area of Potential Effects (APE) in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations 36 CFR Part 800. This letter provides the results of the archaeological investigations. The APE includes the construction footprint and adjacent areas of potential ground disturbance where there could be effects to archaeological resources.

Environmental Background and Soils

Ecologically, the project APE is located near the boundary of the Superior Coastal Plain and the Northwest Lowlands Ecological Landscapes of Wisconsin (Wisconsin Department of Natural Resources [WDNR] 2022). The Ecological Landscapes of Wisconsin are part of a hierarchical system developed by an interdisciplinary WDNR team to classify the state into ecoregions, or ecological landscapes with similar ecology and management opportunities. The Ecological Landscapes of Wisconsin defined by the WDNR are based substantially on the National Hierarchical Framework of Ecological Units (NHFEU) developed by the United States Forest Service (Cleland et al. 1997), and encompass the Landtype Associations (LTAs) of the NHFEU (WDNR 2022). LTAs are ecological areas that are much smaller than Ecological Landscapes, ranging in size from 10,000 and 300,000 acres. In Wisconsin, they are usually based on glacial features like individual moraines or outwash plains (WDNR 2022). The project APE is within the Pattison Moraines LTA of the Northwest

OTHER LOCATIONS

Dexter, Michigan (HQ) | Tuscaloosa, Alabama | Tempe, Arizona | Tucson, Arizona | Gainesville, Florida | Lakeland, Florida
Columbus, Georgia | Traverse City, Michigan | Littleton, Massachusetts | Minneapolis, Minnesota | Tarboro, North Carolina
Buffalo, New York | Columbus, Ohio | West Chester, Pennsylvania | Memphis, Tennessee | Ogden, Utah | Chantilly, Virginia

www.commonwealthheritagegroup.com

Lowlands Ecological Landscape. The characteristic landform pattern of the Pattison Moraines LTA is rolling collapsed moraine. Soils consist of well drained sandy loam over loamy sand till. Common habitat types within the LTA include forested lowlands.

Archaeological Pre-Field Methods and Prehistoric Background

Prior to the initiation of the 2022 fieldwork, Commonwealth reviewed the Archaeological Site Inventory (ASI) files in the Wisconsin Historic Preservation Database (WHPD), maintained by the Division of Historic Preservation (DHP), Wisconsin Historical Society (WHS). There are no previously reported archaeological or cemetery/burial sites located within or within one mile (1.6 kilometers [km]) of the APE (Figure 1).

Archaeological Survey Methods and Results

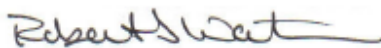
Archaeological investigations of the of the project APE were conducted on August 30, 2022, under Commonwealth's 2022 permit to conduct archaeological field work on Wisconsin Department of Natural Resources lands (Attachment 1). Archaeological survey was conducted in accordance with the guidelines promulgated in the *Guide for Public Archaeology in Wisconsin* (Dudzick, et al. 2012) and included visual inspection and surface reconnaissance within the project APE. The project APE is located along a section of the existing trail and within a deep ravine formed by Little Balsam Creek (Figures 3-8). Visual inspection of the project APE found it to consist of the existing gravel trail and the steep sided ravine. At the bottom of the ravine, the existing concrete box culvert in Little Balsam Creek had collapsed and partially washed away north of the trail. The southern portion of the culvert was intact, but had become tangled with deadfall. The steep slopes of the ravine exceeded 15 percent and were not shovel tested. Archaeological survey consisted entirely of visual inspection and surface reconnaissance of the ravine slopes and the bed of Little Balsam Creek. No artifacts, archaeological features, or cultural materials were identified within the APE during the survey.

Conclusions and Recommendations

In August 2022, Commonwealth conducted archaeological survey in support of the proposed replacement of a culvert on the Gandy Dancer State Trail in Douglas County, Wisconsin. No archaeological sites, artifacts, or features were identified during survey. Based on these results, Commonwealth concludes that the proposed replacement of the culvert will have no effects on archaeological historic properties under Section 106. No additional archaeological investigations are recommended for the project as currently designed.

If you have any questions or concerns, please contact me directly at (414) 446-4121 (ext. 104), or electronically at rwatson@chg-inc.com.

Sincerely,



Robert J. Watson, PhD
Regional Director

References Cited

- Cleland, D. T., P.E. Avers, W.H. McNab, M.E. Jensen, R.G. Bailey, T. King, and W.E. Russell.
1997 National Hierarchical Framework of Ecological Units. In: *Ecosystem Management: Applications for Sustainable Forest and Wildlife Resources*, edited by M.S. Boyce and A. Haney, pp. 181–200. Yale University Press, New Haven.
- Dudzik, Mark, Joseph A. Tiffany, and Katherine P. Stevenson
2012 *Guide for Public Archaeology in Wisconsin*. Wisconsin Archaeological Survey, Inc., Madison.
- Wisconsin Department of Natural Resources (WDNR)
2022 Ecological Landscapes of Wisconsin. Electronic document, <https://dnr.wi.gov/topic/Landscapes/>, accessed May 2022.

DNR Project #DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin

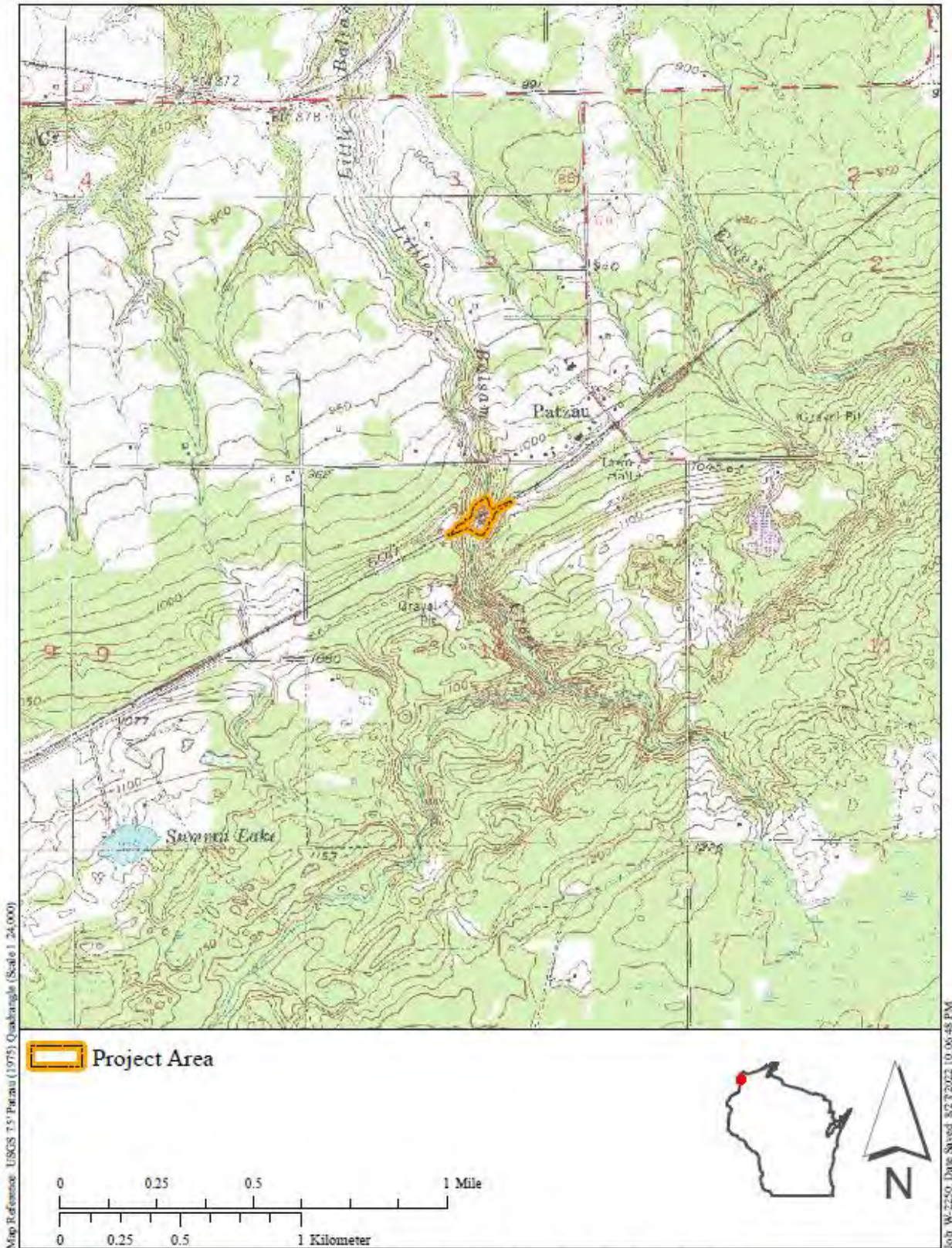


Figure 1. Project Area Location and Previously Identified Archaeological and Cemetery/Burial Sites within One Mile

DNR Project #DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin



Figure 2. Project Area and Survey Coverage

DNR Project #DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin



Figure 3. Project Area along Trail, View Southwest



Figure 4. Slope North of Trail Leading to Little Balsam Creek, View East

DNR Project #DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin



Figure 5. Excessive Slope and Culvert in Little Balsam Creek North of Trail, View Southwest



Figure 6. Culvert in Little Balsam Creek North of Trail, View Southwest

DNR Project #DPS 16575
Gandy Dancer State Trail Culvert Replacement
Douglas County, Wisconsin



Figure 7. Excessive Slope and Culvert in Little Balsam Creek South of Trail, View Northwest



Figure 7. Culvert in Little Balsam Creek South of Trail, View North

ARCHAEOLOGICAL REPORT INVENTORY FORM

WHS/SHSW #

COUNTY: Douglas

AUTHORS: Watson, Robert J.

REPORT TITLE: Results of Phase I Archaeological Survey, Gandy Dancer State Trail Culvert Replacement Project, Douglas County, Wisconsin

DATE OF REPORT: September 2022

SERIES/NUMBER: W-2250/WR-2309

PLACE OF PUBLICATION: Commonwealth Heritage Group, Inc., Milwaukee, Wisconsin

LOCATIONAL INFORMATION: T46N - R15W - S10

U.S.G.S. QUAD MAP(S): Patzau 7.5' Series (1975)

SITE(S) INVESTIGATED: None

ACRES INVESTIGATED: 2.2

AGENCY # DNR Project DPS 16575

INVESTIGATION TECHNIQUES COMPLETED (Check all that apply.)

- | | | |
|--|---|--|
| <input type="checkbox"/> Historical Research | <input type="checkbox"/> Surface Survey | <input type="checkbox"/> Geomorphology |
| <input type="checkbox"/> Interview/Informant | <input type="checkbox"/> Soil Core | <input type="checkbox"/> Underwater |
| <input checked="" type="checkbox"/> Records/Background | <input checked="" type="checkbox"/> Walk Over/Visual Inspection | <input type="checkbox"/> Avocational Survey |
| <input checked="" type="checkbox"/> Literature Background Research | <input type="checkbox"/> Mechanical Stripping | <input type="checkbox"/> Chance Encounter |
| <input type="checkbox"/> Traditional Knowledge | <input type="checkbox"/> Test Excavation/Phase II | <input type="checkbox"/> Osteological Analysis |
| <input type="checkbox"/> Monitoring | <input type="checkbox"/> Major Excavation/Phase III | <input type="checkbox"/> Faunal Analysis |
| <input type="checkbox"/> Shovel Testing/Probing | <input type="checkbox"/> Remote Sensing | <input type="checkbox"/> Floral Analysis |

ABSTRACT: Included in report Written in space below

In August 2022, Commonwealth conducted archaeological survey in support of the proposed replacement of a culvert on the Gandy Dancer State Trail in Douglas County, Wisconsin. The project APE is located along a section of the existing trail and within a deep ravine formed by Little Balsam Creek. At the bottom of the ravine, the existing concrete box culvert in Little Balsam Creek is collapsed and has partially washed away north of the trail. The southern portion of the culvert is intact but has become tangled with deadfall. The steep slopes of the ravine exceeded 15 percent and were not shovel tested. Archaeological survey consisted entirely of visual inspection and surface reconnaissance of the ravine slopes and the bed of Little Balsam Creek. No artifacts, archaeological features, or cultural materials were identified within the APE during the survey. Based on these results, Commonwealth concludes that the proposed replacement of the culvert will have no effects on archaeological historic properties. No additional archaeological investigations are recommended for the project as currently designed..

WISCONSIN PUBLIC LANDS FIELD ARCHAEOLOGICAL PERMIT 2022
 REQUIRED TO CONDUCT ARCHAEOLOGY ON ALL NON-FEDERAL PUBLIC LAND UNDER WIS. STAT. § 44.47
 Wisconsin Historical Society

Name/Organization/Contact Robert J. Watson Telephone (414) 446-4121 x104

Address 8669 N Deerwood Dr City Milwaukee State WI Zip 53209

E-mail rwatson@chg-inc.com

Institutional Affiliation Commonwealth Heritage Group, Inc.

Location: County Wisconsin DNR Lands Civil Town _____

Town _____ Range _____ Section _____ Quarter Sections _____

Hwy/Rd Hwy/Rd: _____ Other Type of Project: _____

Project Description: _____

Type of fieldwork: Phase I/Survey Phase II/Testing Phase III/Excavation Monitoring

Purpose of the fieldwork: Federal Compliance State Compliance Education Other

Site # _____ Burial Site # _____ Burial Permit Secured? Y N WHS #: _____

Dates of field work: Begin date: January 1, 2022 End date: December 31, 2022

What institution will curate recovered artifacts, notes, and records? UW-Milwaukee or MVAC
 (A curation agreement must be on file with WHS; all materials must be curated in an appropriate, staffed facility.)

Print name Robert J. Watson see attachments

Signature of Archaeologist  Date February 7, 2022

Maps and/or Letters of explanation can accompany this application

Landowner or custodian name Richard Kubicek Phone 608-445-8395

Affiliation: Wisconsin Department of Natural Resources - Historic Preservation Unit

Signature of Landowner _____ Date _____

Administrative use only below this line.

Permit Approved  Date 02/08/2022

PLP # 22- 0213

Dr. James Skibo
 State Archaeologist
 Wisconsin Historical Society
 816 State Street, Madison, WI 53706
 608-264-6496
 statearchaeologist@wisconsinhistory.org



**WISCONSIN
 HISTORICAL
 SOCIETY**

One paper copy and one PDF copy of the final report must be submitted to the State Historic Preservation Office.

Additional authorization or permitting is necessary to conduct work within the boundaries of uncataloged and cataloged human burial sites under Wis. Stat. § 157.70. For more information, wihist.org/Request-to-Disturb



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Minnesota-Wisconsin Ecological Services Field Office
3815 American Blvd East
Bloomington, MN 55425-1659
Phone: (952) 858-0793 Fax: (952) 646-2873

In Reply Refer To:
Project Code: 2023-0034016
Project Name: Gandy Dancer Culvert

March 07, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

This response has been generated by the Information, Planning, and Conservation (IPaC) system to provide information on natural resources that could be affected by your project. The U.S. Fish and Wildlife Service (Service) provides this response under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d), the Migratory Bird Treaty Act (16 U.S.C. 703-712), and the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*).

Threatened and Endangered Species

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and may be affected by your proposed project. The species list fulfills the requirement for obtaining a Technical Assistance Letter from the U.S. Fish and Wildlife Service under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS IPaC system by completing the same process used to receive the enclosed list.

Consultation Technical Assistance

Please refer to our [Section 7 website](#) for guidance and technical assistance, including [step-by-step instructions](#) for making effects determinations for each species that might be present and for specific guidance on the following types of projects: projects in developed areas, HUD, CDBG, EDA, USDA Rural Development projects, pipelines, buried utilities, telecommunications, and requests for a Conditional Letter of Map Revision (CLOMR) from FEMA.

We recommend running the project (if it qualifies) through our **Minnesota-Wisconsin Federal Endangered Species Determination Key (Minnesota-Wisconsin ("D-key"))**. A [demonstration video](#) showing how-to access and use the determination key is available. Please note that the Minnesota-Wisconsin D-key is the third option of 3 available d-keys. D-keys are tools to help Federal agencies and other project proponents determine if their proposed action has the potential to adversely affect federally listed species and designated critical habitat. The Minnesota-Wisconsin D-key includes a structured set of questions that assists a project proponent in determining whether a proposed project qualifies for a certain predetermined consultation outcome for all federally listed species found in Minnesota and Wisconsin (except for the northern long-eared bat- see below), which includes determinations of "no effect" or "may affect, not likely to adversely affect." In each case, the Service has compiled and analyzed the best available information on the species' biology and the impacts of certain activities to support these determinations.

If your completed d-key output letter shows a "No Effect" (NE) determination for all listed species, print your IPaC output letter for your files to document your compliance with the Endangered Species Act.

For Federal projects with a "Not Likely to Adversely Affect" (NLAA) determination, our concurrence becomes valid if you do not hear otherwise from us after a 30-day review period, as indicated in your letter.

If your d-key output letter indicates additional coordination with the Minnesota-Wisconsin Ecological Services Field Office is necessary (i.e., you get a "May Affect" determination), you will be provided additional guidance on contacting the Service to continue ESA coordination outside of the key; ESA compliance cannot be concluded using the key for "May Affect" determinations unless otherwise indicated in your output letter.

Note: Once you obtain your official species list, you are not required to continue in IPaC with d-keys, although in most cases these tools should expedite your review. If you choose to make an effects determination on your own, you may do so. If the project is a Federal Action, you may want to review our section 7 step-by-step instructions before making your determinations.

Using the IPaC Official Species List to Make No Effect and May Affect Determinations for Listed Species

1. If IPaC returns a result of "There are no listed species found within the vicinity of the project," then project proponents can conclude the proposed activities will have **no effect** on any federally listed species under Service jurisdiction. Concurrence from the Service is not required for **no effect** determinations. No further consultation or coordination is required. Attach this letter to the dated IPaC species list report for your records.
 2. If IPaC returns one or more federally listed, proposed, or candidate species as potentially present in the action area of the proposed project – other than bats (see below) – then project proponents must determine if proposed activities will have **no effect** on or **may affect** those species. For assistance in determining if suitable habitat for listed, candidate, or proposed species occurs within your project area or if species may be affected by project activities, you can obtain [Life History Information for Listed and Candidate Species](#) on our office website. If no impacts will occur to a species on the IPaC species list (e.g., there is no habitat present in the project area), the appropriate determination is **no effect**. No further consultation or coordination is required. Attach this letter to the dated IPaC species list report for your records.
-

3. Should you determine that project activities **may affect** any federally listed, please contact our office for further coordination. Letters with requests for consultation or correspondence about your project should include the Consultation Tracking Number in the header. Electronic submission is preferred.

Northern Long-Eared Bats

Northern long-eared bats occur throughout Minnesota and Wisconsin and the information below may help in determining if your project may affect these species.

This species hibernates in caves or mines only during the winter. In Minnesota and Wisconsin, the hibernation season is considered to be November 1 to March 31. During the active season (April 1 to October 31) they roost in forest and woodland habitats. Suitable summer habitat for northern long-eared bats consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags ≥ 3 inches dbh for northern long-eared bat that have exfoliating bark, cracks, crevices, and/or hollows), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet (305 meters) of forested/wooded habitat. Northern long-eared bats have also been observed roosting in human-made structures, such as buildings, barns, bridges, and bat houses; therefore, these structures should also be considered potential summer habitat and evaluated for use by bats. If your project will impact caves or mines or will involve clearing forest or woodland habitat containing suitable roosting habitat, northern long-eared bats could be affected.

Examples of unsuitable habitat include:

- Individual trees that are greater than 1,000 feet from forested or wooded areas,
- Trees found in highly developed urban areas (e.g., street trees, downtown areas),
- A pure stand of less than 3-inch dbh trees that are not mixed with larger trees, and
- A monoculture stand of shrubby vegetation with no potential roost trees.

If IPaC returns a result that northern long-eared bats are potentially present in the action area of the proposed project, project proponents can conclude the proposed activities **may affect** this species **IF** one or more of the following activities are proposed:

- Clearing or disturbing suitable roosting habitat, as defined above, at any time of year,
- Any activity in or near the entrance to a cave or mine,
- Mining, deep excavation, or underground work within 0.25 miles of a cave or mine,
- Construction of one or more wind turbines, or
- Demolition or reconstruction of human-made structures that are known to be used by bats based on observations of roosting bats, bats emerging at dusk, or guano deposits or stains.

If none of the above activities are proposed, project proponents can conclude the proposed activities will have **no effect** on the northern long-eared bat. Concurrence from the Service is not required for **No**

Effect determinations. No further consultation or coordination is required. Attach this letter to the dated IPaC species list report for your records.

If any of the above activities are proposed, and the northern long-eared bat appears on the user's species list, the federal project user will be directed to either the northern long-eared bat 4(d) D-key or the Federal Highways Administration, Federal Railways Administration, and Federal Transit Administration Indiana bat/ Northern long-eared bat D-key, depending on the type of project and federal agency involvement. Similar to the Minnesota-Wisconsin D-key, these d-keys helps to determine if prohibited take might occur and, if not, will generate an automated verification letter. The 4(d) D-key streamlines consultation under the 2016 range-wide programmatic biological opinion for the 4(d) rule.

Please note: On November 30, 2022, the Service published a proposal final rule to reclassify the northern long-eared bat as endangered under the Endangered Species Act. On January 26, 2023, the Service published a 60-day extension for the final reclassification rule in the Federal Register, moving the effective listing date from January 30, 2023, to March 31, 2023. This extension will provide stakeholders and the public time to preview interim guidance and consultation tools before the rule becomes effective. When available, the tools will be available on the Service's northern long-eared bat website (<https://www.fws.gov/species/northern-long-eared-bat-myotis-septentrionalis>). Once the final rule goes into effect on March 31, 2023, the 4(d) D-key will no longer be available (4(d) rules are not available for federally endangered species) and will be replaced with a new Range-wide NLEB D-key (range-wide d-key). For projects not completed by March 31, 2023, that were previously reviewed under the 4(d) d-key, there may be a need for reinitiation of consultation. For these ongoing projects previously reviewed under the 4(d) d-key that may result in incidental take of the northern long-eared bat, we recommend you review your project using the new range-wide d-key once available. If your project does not comply with the range-wide d-key, it may be eligible for use of the Interim (formal) Consultation framework (framework). The framework is intended to facilitate the transition from the 4(d) rule to typical Section 7 consultation procedures for federally endangered species and will be available only until spring 2024. Again, when available, these tools (new range-wide d-key and framework) will be available on the Service's [northern long-eared bat website](#).

Whooping Crane

Whooping crane is designated as a non-essential experimental population in Wisconsin and consultation under Section 7(a)(2) of the Endangered Species Act is only required if project activities will occur within a National Wildlife Refuge or National Park. If project activities are proposed on lands outside of a National Wildlife Refuge or National Park, then you are not required to consult. For additional information on this designation and consultation requirements, please review "[Establishment of a Nonessential Experimental Population of Whooping Cranes in the Eastern United States.](#)"

Other Trust Resources and Activities

Bald and Golden Eagles - Although the bald eagle has been removed from the endangered species list, this species and the golden eagle are protected by the Bald and Golden Eagle Act and the Migratory Bird Treaty Act. Should bald or golden eagles occur within or near the project area please contact our office for further coordination. For communication and wind energy projects, please refer to additional guidelines below.

Migratory Birds - The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically

authorized by the Service. The Service has the responsibility under the MBTA to proactively prevent the mortality of migratory birds whenever possible and we encourage implementation of [recommendations that minimize potential impacts to migratory birds](#). Such measures include clearing forested habitat outside the nesting season (generally March 1 to August 31) or conducting nest surveys prior to clearing to avoid injury to eggs or nestlings.

Communication Towers - Construction of new communications towers (including radio, television, cellular, and microwave) creates a potentially significant impact on migratory birds, especially some 350 species of night-migrating birds. However, the Service has developed [voluntary guidelines for minimizing impacts](#).

Transmission Lines - Migratory birds, especially large species with long wingspans, heavy bodies, and poor maneuverability can also collide with power lines. In addition, mortality can occur when birds, particularly hawks, eagles, kites, falcons, and owls, attempt to perch on uninsulated or unguarded power poles. To minimize these risks, please refer to [guidelines](#) developed by the Avian Power Line Interaction Committee and the Service. Implementation of these measures is especially important along sections of lines adjacent to wetlands or other areas that support large numbers of raptors and migratory birds.

Wind Energy - To minimize impacts to migratory birds and bats, wind energy projects should follow the Service's [Wind Energy Guidelines](#). In addition, please refer to the Service's [Eagle Conservation Plan Guidance](#), which provides guidance for conserving bald and golden eagles in the course of siting, constructing, and operating wind energy facilities.

State Department of Natural Resources Coordination

While it is not required for your Federal section 7 consultation, please note that additional state endangered or threatened species may also have the potential to be impacted. Please contact the Minnesota or Wisconsin Department of Natural Resources for information on state listed species that may be present in your proposed project area.

Minnesota

[Minnesota Department of Natural Resources - Endangered Resources Review Homepage](#)

Email: Review.NHIS@state.mn.us

Wisconsin

[Wisconsin Department of Natural Resources - Endangered Resources Review Homepage](#)

Email: DNRRERReview@wi.gov

We appreciate your concern for threatened and endangered species. Please feel free to contact our office with questions or for additional information.

Attachment(s):

- Official Species List
 - USFWS National Wildlife Refuges and Fish Hatcheries
 - Migratory Birds
 - Wetlands
-

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Minnesota-Wisconsin Ecological Services Field Office

3815 American Blvd East

Bloomington, MN 55425-1659

(952) 858-0793

PROJECT SUMMARY

Project Code: 2023-0034016
Project Name: Gandy Dancer Culvert
Project Type: Culvert Repair/Replacement/Maintenance
Project Description: Remove box culvert, return Little Balsam Creek to natural alignment.

WI DNR Fisheries recommends a bridge at the Gandy Dancer Trail to restore channel stability and natural geomorphic evolution relative to its dimension, pattern, and profile. WI DNR Fisheries considers a bridge as a more cost-effective crossing than a reconditioned or repaired box culvert, taking into account the maintenance and replacement costs along with risk to fishery, should the culvert fail.

Project specifics include installation prefabricated 140-foot truss bridge, removal of concrete culvert structure over Little Balsam Creek, clear and grub 2.2 acres which includes staging areas, stream realignment to its natural channel, install riprap and geotechnical fabric, and install erosion control mats.

This project is a partnership between the WI DNR Parks and Recreation (PRM) Department and the WI DNR Office of Great Waters (OGW). The project is needed to minimize future risk and reduce maintenance of the trail, revert the stream to its natural state, remove a barrier for fish passage, and to reestablish this reach of Little Balsam Creek as a Class 1 trout stream. The results will also protect investments (\$1.2 million) made by the local community, FEMA and OGW that have replaced three downstream culverts.

Rehabilitation or replacement of the structure is needed to address mitigating future disaster potential, to bring the area into compliance with planning efforts and address necessary upgrades or repairs for safety of recreational users. The project anticipates a useful life of at least 75 years with scheduled maintenance.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@46.4879002,-92.22795986632923,14z>



Counties: Douglas County, Wisconsin

ENDANGERED SPECIES ACT SPECIES

There is a total of 7 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Canada Lynx <i>Lynx canadensis</i> Population: Wherever Found in Contiguous U.S. There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3652	Threatened
Gray Wolf <i>Canis lupus</i> Population: U.S.A.: All of AL, AR, CA, CO, CT, DE, FL, GA, IA, IN, IL, KS, KY, LA, MA, MD, ME, MI, MO, MS, NC, ND, NE, NH, NJ, NV, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, and WV; and portions of AZ, NM, OR, UT, and WA. Mexico. There is final critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/4488	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

BIRDS

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Great Lakes watershed DPS] - Great Lakes, watershed in States of IL, IN, MI, MN, NY, OH, PA, and WI and Canada (Ont.) There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

FLOWERING PLANTS

NAME	STATUS
Fassett's Locoweed <i>Oxytropis campestris var. chartacea</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/209	Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

MIGRATORY BIRDS

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

-
1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern \(BCC\) list](#) or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Black-billed Cuckoo <i>Coccyzus erythrophthalmus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9399	Breeds May 15 to Oct 10
Bobolink <i>Dolichonyx oryzivorus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 20 to Jul 31
Golden-winged Warbler <i>Vermivora chrysoptera</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/8745	Breeds May 1 to Jul 20

NAME	BREEDING SEASON
Wood Thrush <i>Hylocichla mustelina</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Aug 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

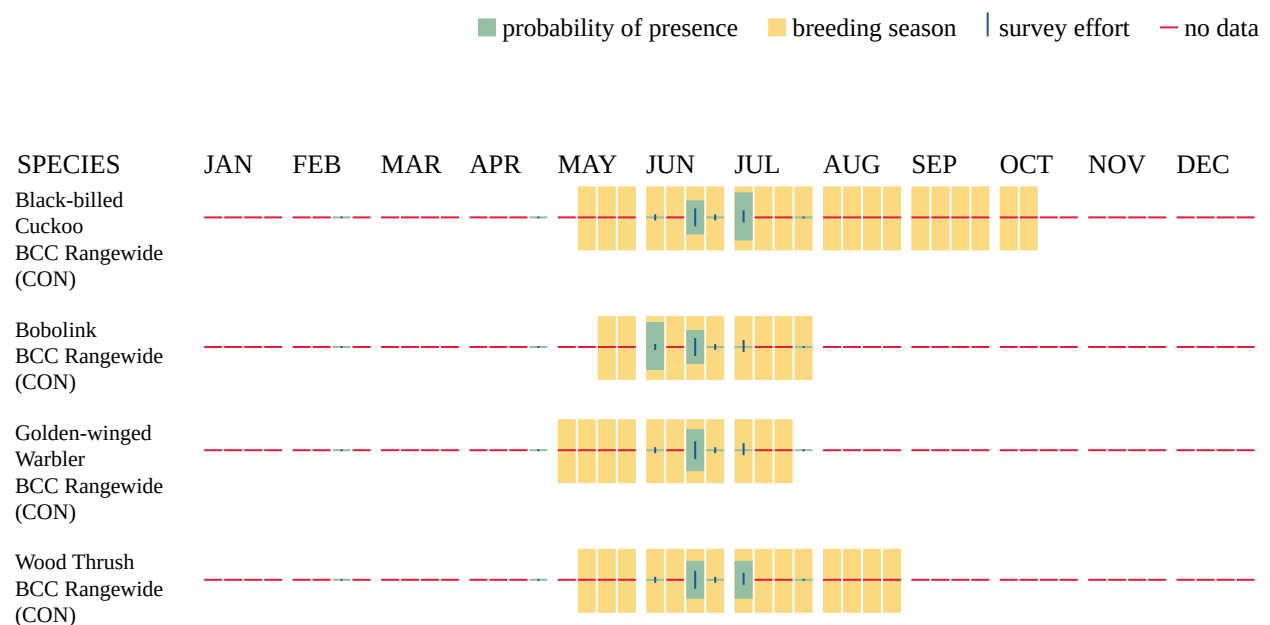
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

No Data (–)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



Additional information can be found using the following links:

- Birds of Conservation Concern <https://www.fws.gov/program/migratory-birds/species>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>

MIGRATORY BIRDS FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#)

may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the [RAIL Tool](#) and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
-

2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities,

should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

RIVERINE

- [R5UBH](#)

FRESHWATER FORESTED/SHRUB WETLAND

- [PFO1Bg](#)
-

IPAC USER CONTACT INFORMATION

Agency: Department of Homeland Security

Name: Karen Poulson

Address: 536 S. Clark Street, 6th Floor

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State of Wisconsin / DEPARTMENT OF NATURAL RESOURCES

Tony Evers, Governor
Preston D. Cole, Secretary
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101 S. Webster St.
Box 7921
Madison, WI 53707-7921

February 28, 2022

Anna Beckman
Cedar Corporation
604 Wilson Ave
Menomonie, WI 54751

SUBJECT: Endangered Resources Review (ERR Log # 22-100)

Proposed Gandy Dancer S.T. Repair/Replace Box Culvert Under Trail, Douglas County, WI (T46N R15W S10)

Dear Anna Beckman,

The Bureau of Natural Heritage Conservation has reviewed the proposed project described in the Endangered Resources (ER) Review Request received February 9, 2022. The complete ER Review for this proposed project is attached and follow-up actions are summarized below:

Required Actions: 1 species

Recommended Actions: 0 species

No Follow-Up Actions: 0 species

Additional Recommendations Specified: Yes

This ER Review may contain Natural Heritage Inventory data (<http://dnr.wi.gov/topic/NHI>), including specific locations of endangered resources, which are considered sensitive and are not subject to Wisconsin's Open Records Law. Information contained in this ER Review may be shared with individuals who need this information in order to carry out specific roles in the planning, permitting, and implementation of the proposed project. **Specific locations of endangered resources may not be released or reproduced in any publicly disseminated documents.**

The attached ER Review is for informational purposes and only addresses endangered resources issues. **This ER Review does not constitute DNR authorization of the proposed project and does not exempt the project from securing necessary permits and approvals from the DNR and/or other permitting authorities.** Please contact the ER Review Program whenever the project plans change, new details become available, or more than a year has passed to confirm if results of this ER Review are still valid.

Please contact me at 608-264-8968 or via email at anna.rossler@wi.gov if you have any questions about this ER Review.

Sincerely,

Anna Rossler

Endangered Resources Review Program

cc:

**Endangered Resources Review for the Proposed Gandy Dancer S.T. Repair/Replace Box Culvert Under Trail, Douglas County
(ER Log # 22-100)**

Section A. Location and brief description of the proposed project

Based on information provided by the ER Review Request form and attached materials, the proposed project consists of the following:

Location	Douglas County - T46N R15W S10
Project Description	The proposed project involves the removal of an existing box culvert at the crossing of the Gandy Dancer State Trail and Little Balsam Creek in the Town of Summit, Douglas County, WI. An approximately 140 ft single-span, prestressed I girder bridge with a concrete deck to span the stream is proposed to replace the removed box culvert. Debris accumulated at the inlet and outlet of the box culvert will be removed and facilitated by WDNR. At the suggestion of WDNR Fisheries, the streambed will be realigned to represent a more natural streamflow through the site. Some grubbing and clearing of trees and brush will be required to facilitate this project. Approximately 3.55 acres are anticipated to be disturbed. Erosion control measures included silt fence, erosion matting, and ditch checks will be utilized at the site during construction.
Project Timing	approx May 1, 2023- Nov 1, 2023
Current Habitat	The entire project area is primarily hardwood forest with some conifers with the exception of the footprint of Little Balsam Creek flowing through it.
Impacts to Wetlands or Waterbodies	Little Balsam Creek flows through the project area. A mapped wetland is present on the north end of the project area and a wetland too small to delineate is present on the south end of the site.
Property Type	Public, Private
Federal Nexus	Unknown

It is best to request ER Reviews early in the project planning process. However, some important project details may not be known at that time. Details related to project location, design, and timing of disturbance are important for determining both the endangered resources that may be impacted by the project and any necessary follow-up actions. Please contact the ER Review Program whenever the project plans change, new details become available, or more than a year has passed to confirm if results of this ER Review are still valid.

Section B. Endangered resources recorded from within the project area and surrounding area

	Group	State Status	Federal Status
Sweet Colt's-foot (<i>Petasites sagittatus</i>)	Plant~	THR	

For additional information on the rare species, high-quality natural communities, and other endangered resources listed above, please visit our Biodiversity (<http://dnr.wi.gov/topic/EndangeredResources/biodiversity.html>) page. For further definitions of state and federal statuses (END=Endangered, THR=Threatened, SC=Special Concern), please refer to the Natural Heritage Inventory (NHI) Working List (<http://dnr.wi.gov/topic/nhi/wlist.html>).

Section C. Follow-up actions

Actions that need to be taken to comply with state and/or federal endangered species laws:

- **Sweet Colt's-foot (*Petasites sagittatus*) - Plant~**

State Status: THR

Impact Type	Impact possible
Required Measures	Surveys
Description of Required Measures	Sweet Colt's-foot has been known to occur in a ditch along Little Balsam Creek and suitable habitat on public land may be impacted by this project. To avoid take of this species, the following survey must be implemented on public land. For any areas within private property, the below actions are strongly recommended. Conduct plant surveys at the site to determine species presence/absence (see list of pre-qualified surveyors). If the Sweet Colt's-foot is

not found on site, there will be no project restrictions related to this/these species. However, if surveys are conducted and Sweet Colt's-foot is recorded on site, all impacts to the species must be avoided; if take cannot be avoided an incidental take permit/authorization shall be applied for. Survey results should be submitted to the Endangered Resources Review Program.

Sweet Colt's-foot (*Petasites sagittatus*), a Wisconsin Threatened plant, is found in cold marshes and swamp openings, often forming large clones. Blooming occurs throughout May; fruiting occurs throughout June. The optimal identification period for this species is late May through late August.

Actions recommended to help conserve Wisconsin's Endangered Resources: None

Remember that although these actions are not required by state or federal endangered species laws, they may be required by other laws, permits, granting programs, or policies of this or another agency. Examples include the federal Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, State Natural Areas law, DNR Chapter 30 Wetland and Waterway permits, DNR Stormwater permits, and Forest Certification.

Additional Recommendations

The project site is located along Little Balsam Creek and we strongly recommend implementing erosion and runoff prevention measures during the course of the project.

Please note that erosion control netting (also known as erosion control blankets, erosion mats or erosion mesh netting) used to prevent erosion during the establishment of vegetation can have detrimental effects on local snake and other wildlife populations. Plastic netting without independent movement of strands can easily entrap snakes moving through the area, leading to dehydration, desiccation, and eventually mortality. Netting that contains biodegradable thread with the "leno" or "gauze" weave (contains strands that are able to move independently) appears to have the least impact on snakes and should be used in areas adjacent to or near any waterbody.

If erosion matting will be used for this project, use the following matting (or something similar): American Excelsior "FibreNet" or "NetFree" products; East Coast Erosion biodegradable jute products; Erosion Tech biodegradable jute products; ErosionControlBlanket.com biodegradable leno weave products; North American Green S75BN, S150BN, SC150BN or C125BN; or Western Excelsior "All Natural" products.

No actions are required or recommended for the following endangered resources: None

Section D. Next Steps

1. Evaluate whether the **'Location and brief description of the proposed project'** is still accurate. All recommendations in this ER Review are based on the information supplied in the ER Review Request. If the proposed project has changed or more than a year has passed and you would like your letter renewed, please contact the ER Review Program to determine if the information in this ER Review is still valid.
2. Determine whether the project can incorporate and implement the **'Follow-up actions'** identified above:
 - o 'Actions that need to be taken to comply with state and/or federal endangered species laws' represent the Department's best available guidance for complying with state and federal endangered species laws based on the project information that you provided and the endangered resources information and data available to us. If the proposed project has not changed from the description that you provided us and you are able to implement all of the 'Actions that need to be taken to comply with state and/or federal endangered species laws', your project should comply with state and federal endangered species laws. Please remember that if a violation occurs, the person responsible for the taking is the liable party. Generally this is the landowner or project proponent. For questions or concerns about individual responsibilities related to Wisconsin's Endangered Species Law, please contact the ER Review Program.
 - o If the project is unable to incorporate and implement one or more of the 'Actions that need to be taken to comply with state and/or federal endangered species laws' identified above, the project may potentially violate one or more of these laws. Please contact the ER Review Program immediately to assist in identifying potential options that may allow the project to proceed in compliance with state and federal endangered species laws.
 - o 'Actions recommended to help conserve Wisconsin's Endangered Resources' may be required by another law, a policy of this or another Department, agency or program; or as part of another permitting, approval or granting process. Please make sure to carefully read all permits and approvals for the project to determine whether these or other measures may be required. Even if these actions are not required by another program or entity for the proposed project to proceed, the Department strongly encourages the implementation of these conservation measures on a voluntary basis to help prevent future listings and protect Wisconsin's biodiversity for future generations.
3. No federally-protected species or habitats are involved.

Section E. Standard Information to help you better understand this ER Review

Endangered Resources (ER) Reviews are conducted according to the protocols in the guidance document Conducting Proposed Endangered Resources Reviews: A Step-by-Step Guide for Wisconsin DNR Staff.

How endangered resources searches are conducted for the proposed project area: An endangered resources search is performed as part of all ER Reviews. A search consists of querying the Wisconsin Natural Heritage Inventory (NHI) database for endangered resources records for the proposed project area. The project area evaluated consists of both the specific project site and a buffer area surrounding the site. A 1 mile buffer is considered for terrestrial and wetland species, and a 2 mile buffer for aquatic species. Endangered resources records from the buffer area are considered because most lands and waters in the state, especially private lands, have not been surveyed. Considering records from the entire project area (also sometimes referred to as the search area) provides the best picture of species and communities that may be present on your specific site if suitable habitat for those species or communities is present.

Categories of endangered resources considered in ER Reviews and protections for each: Endangered resources records from the NHI database fall into one of the following categories:

- Federally-protected species include those federally listed as Endangered or Threatened and Designated Critical Habitats. Federally-protected animals are protected on all lands; federally-protected plants are protected only on federal lands and in the course of projects that include federal funding (see Federal Endangered Species Act of 1973 as amended).
- Animals (vertebrate and invertebrate) listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on all lands and waters of the state (s. 29.604, Wis. Stats.).
- Plants listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on public lands and on land that the person does not own or lease, except in the course of forestry, agriculture, utility, or bulk sampling actions (s. 29.604, Wis. Stats.).
- Special Concern species, high-quality examples of natural communities (sometimes called High Conservation Value areas), and natural features (e.g., caves and animal aggregation sites) are also included in the NHI database. These endangered resources are not legally protected by state or federal endangered species laws. However, other laws, policies (e.g., related to Forest Certification), or granting/permitting processes may require or strongly encourage protection of these resources. The main purpose of the Special Concern classification is to focus attention on species about which some problem of abundance or distribution is suspected before they become endangered or threatened.
- State Natural Areas (SNAs) are also included in the NHI database. SNAs protect outstanding examples of Wisconsin's native landscape of natural communities, significant geological formations, and archeological sites. Endangered species are often found within SNAs. SNAs are protected by law from any use that is inconsistent with or injurious to their natural values (s. 23.28, Wis. Stats.).

Please remember the following:

1. This ER Review is provided as information to comply with state and federal endangered species laws. By following the protocols and methodologies described above, the best information currently available about endangered resources that may be present in the proposed project area has been provided. However, the NHI database is not all inclusive; systematic surveys of most public lands have not been conducted, and the majority of private lands have not been surveyed. As a result, NHI data for the project area may be incomplete. Occurrences of endangered resources are only in the NHI database if the site has been previously surveyed for that species or group during the appropriate season, and an observation was reported to and entered into the NHI database. As such, absence of a record in the NHI database for a specific area should not be used to infer that no endangered resources are present in that area. Similarly, the presence of one species does not imply that surveys have been conducted for other species. Evaluations of the possible presence of rare species on the project site should always be based on whether suitable habitat exists on site for that species.
2. This ER Review provides an assessment of endangered resources that may be impacted by the project and measures that can be taken to avoid negatively impacting those resources based on the information that has been provided to ER Review Program at this time. Incomplete information, changes in the project, or subsequent survey results may affect our assessment and indicate the need for additional or different measures to avoid impacts to endangered resources.
3. This ER Review does not exempt the project from actions that may be required by Department permits or approvals for the project. Information contained in this ER Review may be shared with individuals who need this information in order to carry out specific roles in the planning, permitting, and implementation of the proposed project.

From: [Magana, Ryan J - DNR](#)
To: [Yankowiak, Daniel J - DNR](#)
Subject: RE: Gandy Dancer Site Info
Date: Thursday, June 30, 2022 11:54:39 AM
Attachments: [image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)

Dan – We checked out this site earlier this week. With the depth of overburden on that culvert, that is going to be an impressively big project to undertake!

The site does contain some marginally suitable habitat for *Petasites sagittatus* but we scoured those areas and I believe beyond the construction footprint, not finding any individuals or populations. Much of the construction footprint is not suitable habitat for this species. We did not find any other species of concern.

RJM

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Ryan J. Magana

Northwest Region Ecologist
Wisconsin Department of Natural Resources
810 W. Maple St.
Spooner WI 54801
Phone: (715) 416-5045
Email: Ryan.Magana@wisconsin.gov



dnr.wi.gov



From: Yankowiak, Daniel J - DNR <Daniel.Yankowiak@wisconsin.gov>
Sent: Tuesday, June 14, 2022 2:15 PM
To: Magana, Ryan J - DNR <Ryan.Magana@wisconsin.gov>
Subject: RE: Gandy Dancer Site Info

Just got this one from Tom – red lines show disturbance area in distance from center of trail. Hopefully that helps a bit more.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Dan Yankowiak

Phone: 715-699-4342

Daniel.Yankowiak@wisconsin.gov

From: Magana, Ryan J - DNR <Ryan.Magana@wisconsin.gov>
Sent: Tuesday, June 14, 2022 1:53 PM
To: Yankowiak, Daniel J - DNR <Daniel.Yankowiak@wisconsin.gov>
Subject: RE: Gandy Dancer Site Info

OK, just to be clear, the yellow highlighted area is the project footprint, correct? We can certainly look at a wider area around there but just wanted to confirm that I'm on the right track.

Thanks

RJM

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Ryan J. Magana

Northwest Region Ecologist
Wisconsin Department of Natural Resources
810 W. Maple St.
Spooner WI 54801
Phone: (715) 416-5045
Email: Ryan.Magana@wisconsin.gov



From: Yankowiak, Daniel J - DNR <Daniel.Yankowiak@wisconsin.gov>
Sent: Wednesday, June 8, 2022 3:38 PM
To: Magana, Ryan J - DNR <Ryan.Magana@wisconsin.gov>
Subject: Gandy Dancer Site Info

Thanks again for helping out with this one! Let me know if you need a better map or any additional info.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Dan Yankowiak

Recreation Liaison – Bureau of Parks and Recreation Management
Wisconsin Department of Natural Resources
10220 N State Road 27 S
Hayward, WI 54843
Phone: 715-634-7438
Cell Phone: 715-699-4342
Fax: 715-634-9232

Daniel.Yankowiak@wisconsin.gov



dnr.wi.gov





May 17, 2023

Zach DeVoe
Douglas County Land Services Director
1313 Belknap St., Room 206
Superior, WI 54880

Subject: Department Review of Gandy Dancer Trail Project, Little Balsam Creek, Zone A Floodplain Development, FAD #20881

Dear Mr. DeVoe,

Douglas County emailed the Department on February 8, 2022 and requested assistance in reviewing a floodplain analysis for the proposed bridge project at Gandy Dancer Trail over Little Balsam Creek. The project is located in the NE ¼ of the NW ¼ of Section 10, T46N, R15W in the Town of Summit, WI. The proposed project is located in the Little Balsam Creek Zone A floodplain. There is no current floodway delineated at the project location. The Department concluded on the basis of Douglas County's Floodplain Zoning Ordinance as well as Administrative Code NR116, that a floodplain analysis was necessary to delineate the floodway and determine the effects on water surface elevations due to the proposed project.

The proposed project is to remove a failed box culvert and replace it with a prestressed girder bridge. The streambed will also be re-established to provide a natural flow path under the bridge. The project incorporates specific grade changes in the stream profile as well as a benched area on the downstream side of the crossing.

The Department's review found that the revised study submitted on March 31, 2023 under the professional seal of Joseph M. Pingel, P.E. — Cedar Corporation, meets the requirements of NR 116, Wisconsin Administrative Code and has therefore gained the Department's approval.

The floodplain analysis shows a 100-yr water surface elevation decreases at river stations 1200, 1150, 1120, 1110, 880, 865, 850, 750, 715 for the proposed conditions. The elevations reflected by the study reference benchmarks listed on sheet C102 of the bridge construction plans.

The floodplain map, floodway data table, and flood profile (enclosed) can be used for Douglas County floodplain zoning purposes.

This approval does not account for any local ordinance variations. If you have any questions, please contact me at (715) 461-0159 or jacob.druffner@wisconsin.gov.

Jacob D. Druffner
Water Management Engineer

Cc.

Kurt Feuerstein, P.E., Engineering and Construction Management Section Chief (WNDR)
Joseph M. Pingel, P.E., Cedar Corporation

From: [Feuerstein, Kurt E - DNR](#)
To: [Feuerstein, Kurt E - DNR](#)
Subject: FW: Site visit
Date: Thursday, May 18, 2023 3:57:25 PM

From: LaValley, Steven A - DNR <Steven.LaValley@wisconsin.gov>
Sent: Wednesday, October 5, 2022 3:40 PM
To: Dettle, Thomas C - DNR <Thomas.Dettle@wisconsin.gov>; Holte, Travis W - DNR <Travis.Holte@wisconsin.gov>
Cc: Walker, Nathan K - DNR <nathan.walker@wisconsin.gov>; Steiger, Matthew B - DNR <Matthew.Steiger@wisconsin.gov>; Yankowiak, Daniel J - DNR <Daniel.Yankowiak@wisconsin.gov>; Will, Ryder S - DNR <Ryder.Will@wisconsin.gov>; Punke, Emily M - DNR <Emily.Punke@wisconsin.gov>; Markowski, Brian - DNR <Brian.Markowski@wisconsin.gov>
Subject: Site visit

Tom

thanks for meeting to show me the site on the Gandy dance trail where there is a reroute or the section of stream where the department is looking at replacing the culverts (Which have failed often) with a bridge which will be more resilient to the flooding events. The question being asked is will wetlands be impacted. I looked at the area to be disturbed and there are no wetlands that could be impacted. The "reroute " is likely returning the stream to its channel before the railroad bent the stream to go through culvert The channel is basically an open top box culvert. There was cutting behind the channel the railroad placed if not maintained the culvert were kept the stream would likely take out the grade the trail is on. In the long run the bridge and returning taking the 90 degree bends out of the approach should reduce maintenance and increase resilience to storm damage.

Again No wetland permit is needed no impacts will happen.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Steven LaValley

Phone: [(715) 392-0803]

Steven.lavalley@wisconsin.gov

FLOODING SOURCE		FLOODWAY			BASE FLOOD WATER SURFACE ELEVATION			
CROSS SECTION STATIONING	DISTANCE ¹	WIDTH (FEET)	SECTION AREA (SQ.FEET)	MEAN VELOCITY (FEET/SEC.)	REGULATORY (FEET NAVD)	WITHOUT FLOODWAY (FEET NAVD)	WITH FLOODWAY (FEET NAVD)	INCREASE (FEET)
LITTLE BALSAM CREEK								
A	0	54.43	120.36	5.92		946.62	946.62	0.0
B	50	53.05	135.06	5.28		947.36	947.36	0.0
C	75	61.56	183.70	3.88		947.98	947.98	0.0
D	125	63.16	118.66	6.01		948.26	948.26	0.0
E	215	38.50	88.45	8.06		951.12	951.12	0.0
F	250	39.18	107.50	6.63		951.81	951.81	0.0
G	350	77.37	125.12	5.70		953.60	953.60	0.0
H	365	82.49	131.46	5.42		953.90	953.90	0.0
I	380	75.61	128.56	5.55		954.49	954.49	0.0
J	610	52.31	148.61	4.80		961.68	961.68	0.0
K	620	50.40	137.60	5.18		961.67	961.67	0.0
L	650	39.66	90.21	7.90		961.40	961.40	0.0
M	700	40.58	90.75	7.86		962.47	962.47	0.0
N	755	42.41	107.99	6.60		963.98	963.98	0.0
O	800	68.93	212.68	3.35		965.42	965.42	0.0
P	860	29.92	82.61	8.63		965.66	965.66	0.0
Q	900	43.77	114.48	6.23		966.93	966.93	0.0

¹Feet Above Beginning of Study

TABLE 1

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

DOUGLAS COUNTY, WI
AND INCORPORATED AREAS

FLOODWAY DATA GANDY DANCER STATE TRAIL

LITTLE BALSAM CREEK



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Minnesota-Wisconsin Ecological Services Field Office
3815 American Blvd East
Bloomington, MN 55425-1659
Phone: (952) 858-0793 Fax: (952) 646-2873

In Reply Refer To:
Project code: 2023-0034016
Project Name: Gandy Dancer Culvert

April 03, 2023

Federal Nexus: yes
Federal Action Agency (if applicable): Department of Homeland Security

Subject: Federal agency coordination under the Endangered Species Act, Section 7 for 'Gandy Dancer Culvert'

Dear Karen Poulson:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on April 03, 2023, for 'Gandy Dancer Culvert' (here forward, Project). This project has been assigned Project Code 2023-0034016 and all future correspondence should clearly reference this number. **Please carefully review this letter. Your Endangered Species Act (Act) requirements may not be complete.**

Ensuring Accurate Determinations When Using IPaC

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into the IPaC must accurately represent the full scope and details of the Project. Failure to accurately represent or implement the Project as detailed in IPaC or the Northern Long-eared Bat Rangewide Determination Key (DKey), invalidates this letter.

Determination for the Northern Long-Eared Bat

Based upon your IPaC submission and a standing analysis completed by the Service, your project has reached the determination of “May Affect, Not Likely to Adversely Affect” the northern long-eared bat. Unless the Service advises you within 15 days of the date of this letter that your IPaC-assisted determination was incorrect, this letter verifies that consultation on the Action is complete and no further action is necessary unless either of the following occurs:

- new information reveals effects of the action that may affect the northern long-eared bat in a manner or to an extent not previously considered; or,
- the identified action is subsequently modified in a manner that causes an effect to the northern long-eared bat that was not considered when completing the determination key.

15-Day Review Period

As indicated above, the Service will notify you within 15 calendar days if we determine that this proposed Action does not meet the criteria for a “may affect, not likely to adversely affect” (NLAA) determination for the northern long-eared bat. If we do not notify you within that timeframe, you may proceed with the Action under the terms of the NLAA concurrence provided here. This verification period allows the identified Ecological Services Field Office to apply local knowledge to evaluation of the Action, as we may identify a small subset of actions having impacts that we did not anticipate when developing the key. In such cases, the identified Ecological Services Field Office may request additional information to verify the effects determination reached through the Northern Long-eared Bat DKey.

Other Species and Critical Habitat that May be Present in the Action Area

The IPaC-assisted determination for the northern long-eared bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Canada Lynx *Lynx canadensis* Threatened
- Fassett's Locoweed *Oxytropis campestris* var. *chartacea* Threatened
- Gray Wolf *Canis lupus* Endangered
- Monarch Butterfly *Danaus plexippus* Candidate
- Piping Plover *Charadrius melodus* Endangered
- Tricolored Bat *Perimyotis subflavus* Proposed Endangered

You may coordinate with our Office to determine whether the Action may affect the species and/or critical habitat listed above. Note that reinitiation of consultation would be necessary if a new species is listed or critical habitat designated that may be affected by the identified action before it is complete.

If you have any questions regarding this letter or need further assistance, please contact the Minnesota-Wisconsin Ecological Services Field Office and reference Project Code 2023-0034016 associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

Gandy Dancer Culvert

2. Description

The following description was provided for the project 'Gandy Dancer Culvert':

Remove box culvert, return Little Balsam Creek to natural alignment.

WI DNR Fisheries recommends a bridge at the Gandy Dancer Trail to restore channel stability and natural geomorphic evolution relative to its dimension, pattern, and profile. WI DNR Fisheries considers a bridge as a more cost-effective crossing than a reconditioned or repaired box culvert, taking into account the maintenance and replacement costs along with risk to fishery, should the culvert fail.

Project specifics include installation prefabricated 140-foot truss bridge, removal of concrete culvert structure over Little Balsam Creek, clear and grub 2.2 acres which includes staging areas, stream realignment to its natural channel, install riprap and geotechnical fabric, and install erosion control mats.

This project is a partnership between the WI DNR Parks and Recreation (PRM) Department and the WI DNR Office of Great Waters (OGW). The project is needed to minimize future risk and reduce maintenance of the trail, revert the stream to its natural state, remove a barrier for fish passage, and to reestablish this reach of Little Balsam Creek as a Class 1 trout stream. The results will also protect investments (\$1.2 million) made by the local community, FEMA and OGW that have replaced three downstream culverts.

Rehabilitation or replacement of the structure is needed to address mitigating future disaster potential, to bring the area into compliance with planning efforts and address necessary upgrades or repairs for safety of recreational users. The project anticipates a useful life of at least 75 years with scheduled maintenance.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@46.4879002,-92.22795986632923,14z>



DETERMINATION KEY RESULT

Based on the answers provided, the proposed Action is consistent with a determination of “may affect, but not likely to adversely affect” for the Endangered northern long-eared bat (*Myotis septentrionalis*).

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of the northern long-eared bat or any other listed species?

Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

No

2. Do you have post-white nose syndrome occurrence data that indicates that northern long-eared bats (NLEB) are likely to be present in the action area?

Bat occurrence data may include identification of NLEBs in hibernacula, capture of NLEBs, tracking of NLEBs to roost trees, or confirmed acoustic detections. With this question, we are looking for data that, for some reason, may have not yet been made available to U.S. Fish and Wildlife Service.

No

3. Does any component of the action involve construction or operation of wind turbines?

Note: For federal actions, answer ‘yes’ if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

4. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

Yes

5. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) funding or authorizing the proposed action, in whole or in part?

No

6. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

Yes

7. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

No

8. Have you determined that your proposed action will have no effect on the northern long-eared bat? Remember to consider the [effects of any activities](#) that would not occur but for the proposed action.

If you think that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, answer “No” below and continue through the key. If you have determined that the northern long-eared bat does not occur in your project’s action area and/or that your project will have no effects whatsoever on the species despite the potential for it to occur in the action area, you may make a “no effect” determination for the northern long-eared bat.

Note: Federal agencies (or their designated non-federal representatives) must consult with USFWS on federal agency actions that may affect listed species [50 CFR 402.14(a)]. Consultation is not required for actions that will not affect listed species or critical habitat. Therefore, this determination key will not provide a consistency or verification letter for actions that will not affect listed species. If you believe that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, please answer “No” and continue through the key. Remember that this key addresses only effects to the northern long-eared bat. Consultation with USFWS would be required if your action may affect another listed species or critical habitat. The definition of [Effects of the Action](#) can be found here: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

No

9. Does the action area contain any caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating northern long-eared bats?

No

10. Is suitable summer habitat for the northern long-eared bat present within 1000 feet of project activities?
(If unsure, answer "Yes.")

Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats (i.e., live trees and/or snags ≥ 3 inches (12.7 centimeter) dbh), answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat can be found at: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

Yes

11. Will the action cause effects to a bridge?

No

12. Will the action result in effects to a culvert or tunnel?

Yes

13. Do the interior dimensions of the culvert or tunnel equal or exceed 4.0 feet (1.3 meters) in height and 130 feet (40 meters) in length? Answer "No" if the affected culvert(s) or tunnel is smaller in either of these two dimensions.

Yes

14. Has a site-specific bridge/structure (e.g., culvert) assessment following USFWS guidelines been completed?

Note: For information on conducting a bridge/structure assessment see [Appendix D of the User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat and the associated Bridge/Structure Bat Assessment Form?](#)

No

15. Will the proposed action result in the cutting or other means of knocking down, bringing down, or trimming of any trees suitable for northern long-eared bat roosting?

Note: Suitable northern long-eared bat roost trees are live trees and/or snags ≥ 3 inches dbh that have exfoliating bark, cracks, crevices, and/or cavities.

Yes

PROJECT QUESTIONNAIRE

Enter the extent of the action area (in acres) from which trees will be removed - round up to the nearest tenth of an acre. For this question, include the entire area where tree removal will take place, even if some live or dead trees will be left standing.

2.2

In what extent of the area (in acres) will trees be cut, knocked down, or trimmed during the inactive (hibernation) season for northern long-eared bat? **Note:** Inactive Season dates for spring staging/fall swarming areas can be found here: <https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas>

0

In what extent of the area (in acres) will trees be cut, knocked down, or trimmed during the active (non-hibernation) season for northern long-eared bat? **Note:** Inactive Season dates for spring staging/fall swarming areas can be found here: <https://www.fws.gov/media/inactive-season-dates-swarming-and-staging-areas>

2.2

Will all potential northern long-eared bat (NLEB) roost trees (trees ≥ 3 inches diameter at breast height, dbh) be cut, knocked, or brought down from any portion of the action area greater than or equal to 0.1 acre? If all NLEB roost trees will be removed from multiple areas, select 'Yes' if the cumulative extent of those areas meets or exceeds 0.1 acre.

Yes

Enter the extent of the action area (in acres) from which all potential NLEB roost trees will be removed. If all NLEB roost trees will be removed from multiple areas, entire the total extent of those areas. Round up to the nearest tenth of an acre.

2.2

For the area from which all potential northern long-eared bat (NLEB) roost trees will be removed, on how many acres (round to the nearest tenth of an acre) will trees be allowed to regrow? Enter '0' if the entire area from which all potential NLEB roost trees are removed will be developed or otherwise converted to non-forest for the foreseeable future.

2.2

Will any snags (standing dead trees) ≥ 3 inches dbh be left standing in the area(s) in which all northern long-eared bat roost trees will be cut, knocked down, or otherwise brought down?

No

Will all project activities be completed by April 1, 2024?

Yes

IPAC USER CONTACT INFORMATION

Agency: Department of Homeland Security

Name: Karen Poulson

Address: 536 S. Clark Street, 6th Floor

City: Chicago

State: IL

Zip: 60605

Email: karen.poulson@fema.dhs.gov

Phone: 7328047365



FEMA

June 2023

Executive Order 11988
Floodplain Management Checklist
(44 CFR Part 9)

BACKGROUND

Project Information

Title: Gandy Dancer State Trail over Little Balsam Creek

Proposed Action: Wisconsin Department of Natural Resources Gandy Dancer State Trail over Little Balsam Creek. Project scope of work includes removing the existing concrete box culvert and debris catching structures, excavation of previous placed fill for railroad construction, construction of a 140-foot clear span concrete bridge structure over Little Balsam Creek and grading the adjacent area to reestablish Little Balsam's Creek natural state (46. 48274, -92.22968 to 46.48851, -92.22609).

Applicability

This review is applicable to actions which have the potential to affect floodplains or their occupants, or which are subject to potential harm by location in floodplains.

Could the proposed action potentially adversely affect the floodplain or support floodplain development? **YES**

Could the proposed action potentially be adversely affected by the floodplain? **YES.**

Critical Action

Determine whether the proposed action is an action for which even a slight chance of flooding is too great. Critical actions must be reviewed against the 500-year floodplain.

Is the action a critical action? **NO.**

Critical actions are to be reviewed against the 500-year floodplain, others against the 100-year floodplain.

Review will be conducted against the **100-year** floodplain.

Scope of Work: See proposed action detail above.

The following review steps are required: all 8

STEP 1: DETERMINE PROPOSED ACTION LOCATION

Determine whether the proposed action is in the 100-year floodplain (500-year floodplain for critical actions); and whether it has the potential to affect or be affected by a floodplain or wetland (44 CFR Section 9.7).

Floodplain Determination

Flood Hazard Data

Is the project located in a **100-year** floodplain as mapped by a FEMA FIRM? **YES**.

FIRM Panel 55031C0405D, dated 2/2/2012, Zone A

Is the project located in a floodplain as mapped by a FEMA draft/preliminary study? **YES**

Is the project located in a floodplain as mapped by another Agency (State, Corps, USGS, NRCS, local community, etc.)? **YES**

Is the project outside the floodplain but has potential to affect the floodplain, including support of floodplain development? **NO**

Is the proposed action subject to flooding based on evaluation from soil surveys, aerial photos, site visits and other available data? **NO**

Does FEMA assume the proposed action is subject to flooding based upon previous flooding of the facility/structure? **YES**

Wetland Determination

Is the proposed action located in a wetland as mapped by the U.S. Fish and Wildlife Service's National Wetlands Inventory? **NO**

Might the proposed action be in a wetland based on evaluation from soil surveys, aerial photographs, site visit or other data? **NO**

Is the proposed action outside of a designated wetland but has potential to affect the wetland, including support or encouragement of wetland development? **YES**

STEP 2: EARLY PUBLIC NOTICE

Notify the public at the earliest possible time of the intent to carry out an action in a floodplain and involve the affected and interested public in the decision-making process (44 CFR Section 9.8).

Project-specific Public Notice provided

Publication: EA Scoping document was shared with local units of government, community groups, and posted on WDNR website.

Date: 03/10/2023

STEP 3: ANALYSIS OF PRACTICABLE ALTERNATIVES

Identify and evaluate practicable alternatives to locating the proposed action in a floodplain (including the "no action" alternative). If a practicable alternative exists outside the floodplain, FEMA must locate the proposed action at the alternative site (44 CFR Section 9.9).

See Section 2 of the EA, which describes the no action alternative, the proposed action, and alternatives considered and dismissed.

Alternatives

Is there a practicable alternative site location outside the 100-year floodplain (or 500-year floodplain for critical actions?) **NO**. There is not a practicable alternative site location outside of the floodplain where the facility is able to carry out its function of stormwater conveyance for the surrounding area. Additionally, the bridge provides access on a recreation trail use for the community,

Is there a practicable alternative action outside of the floodplain / wetland that will not affect the floodplain / wetland? **NO**.

Is the “no action” alternative the most practicable alternative? **NO**. The no action alternative is not practicable. The facility will continue to deteriorate and may cause a human safety issue.

STEP 4: IDENTIFY IMPACTS

Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplains and the potential direct and indirect support of floodplain development that could result from the proposed action (44 CFR Section 9.10).

Is the proposed action based on incomplete information? **NO**.

Is the proposed action in compliance with the NFIP? **YES**.

Does the proposed action increase the risk of flood loss? **NO**.

Will the proposed action result in an increased base discharge or increase the flood hazard potential to other properties or structures? **NO**.

Does the proposed action minimize the impact of floods on human health, safety, or welfare? **YES**.

Will the proposed action induce future growth and development, which will potentially adversely affect the floodplain? **NO**.

Does the proposed action involve dredging and/or filling of a floodplain? **YES**.

Will the proposed action result in the discharge of pollutants into the floodplain? **NO**.

Does the proposed action avoid the long- and short-term impacts associate with the occupancy and modification of floodplains? **NO**.

Will the proposed action result in any indirect impacts that will affect the natural values and functions of floodplains or wetlands? **NO**.

Will the proposed action forego an opportunity to restore the natural and beneficial values served by floodplains? **NO**.

Does the proposed action restore and/or preserve the natural and beneficial values served by floodplains? **YES**.

Will the proposed action result in an increase to the useful life of a structure or facility? **YES**.

Removing the existing structure, constructing a clear span bridge, and reestablishing Little Balsam Creek to a natural state will not impact the natural values of the floodplain. This crossing is integral in stormwater conveyance for the area, thus minimizing potential future flooding. Additionally, the bridge will provide continued operation of the trail for community use.

STEP 5: MINIMIZE IMPACTS

Minimize the potential adverse impacts and support to or within floodplains as identified under Step 4; restore and preserve the natural and beneficial values served by floodplains (44 CFR Section 9.11).

For sites in the 100-Year floodplain, were flood hazard reduction techniques applied to the proposed action to minimize the flood impacts? **YES**.

Were avoidance and minimization measures applied to the proposed action to minimize the short and long-term impacts on the 100-Year floodplain? **NO**.

Were measures implemented to restore and preserve the natural and beneficial values of the floodplain? **YES**.

Within the area of the bridge abutments armoring of the creek bed was used to prevent erosion and possibly failure of the abutments. This project will restore the immediate area to pre-railroad construction landscape thus preserving the original floodplain.

STEP 6: REEVALUATE PRACTICABLE ALTERNATIVES

Reevaluate the proposed action to first determine if it is still practicable in light of its exposure to flood hazards, the extent to which it will aggravate the hazards to others, and its potential to disrupt floodplain values. Second, evaluate if alternatives preliminarily rejected at Step 3 are practicable in light of the information gained in Steps 4 and 5. FEMA shall not act in a floodplain unless it is the only practicable location (44 CFR Section 9.9)

Is the action still practicable at a floodplain site considering the exposure to flood risk and ensuing disruption of natural values? **YES**.

Is the floodplain site the only practicable alternative? **YES**.

Is there any potential to limit the action to increase the practicability of previously- rejected non-floodplain sites or alternative actions? **NO**.

Can minimization of harm to or within the floodplain be achieved using all practicable means? **YES**.

Does the need for action in a floodplain clearly outweigh the requirements of Executive Order 11988? **YES**.

STEP 7: FINAL PUBLIC NOTICE

Prepare and provide the public with a finding and public explanation of any final decision that the floodplain is the only practicable alternative (44 CFR Section 9.12).

Per allowances noted at 44 CFR Part 9.12(d)6, notice provided under Step 2 is understood to meet the requirements of both Steps 2 and 7.

Publication: EA Scoping document was shared with local units of government, community groups, and posted on WDNR website.

Date: 3/10/2023

After providing the final notice, FEMA shall, without good cause shown, wait at least 15 days before carrying out the proposed action.

STEP 8: IMPLEMENTATION

Review the implementation and post-implementation phases of the proposed action to ensure that the requirements stated in 44 CFR Section 9.11 are fully implemented. Oversight responsibility shall be integrated into existing processes (44 CFR §9.11).

This grant was not conditioned on review of implementation and post-implementation phases to ensure compliance of Executive Order 11988.



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

May 26, 2023

Regulatory File No. 2023-00257-JMB

Wisconsin Department of Natural Resources
Attn: Ryder Will
P.O. Box 7921
Madison, WI 53707

Dear Mr. Will:

We are responding to your request for authorization to replace an existing box culvert at the crossing of Gandy Dancer State Trail over Little Balsam Creek. The streambed will also be re-established to represent a more natural streamflow through the site. The proposed work is located in Section 10, Township 46 North, Range 15 West, Douglas County, Wisconsin.

Project authorization:

The regulated activities associated with this project include the discharge of fill material into 0.10-acre below the plane of the ordinary high water mark (OHWM) of Little Balsam Creek for removal of the existing box culvert followed by stream restoration work. An approximately 140' single-span, prestressed "I" girder bridge with a concrete deck to span the stream is proposed to replace the removed box culvert. The streambed will then be re-established to represent a more natural streamflow through the site. The new streambed will be constructed with 1-foot depth-of-substrate material, and approximately 80 boulders will be placed with 5-8' spacing. Riprap will also be placed on the re-established stream bank where the existing stream ties into the re-establishment profile, and also at the outside bends of the stream; this will provide armoring and will ensure the stream remains in place after flood events. Finally, 3 locations of root wads will be placed throughout the stream re-establishment for improved fish habitat.

We have determined that these activities are authorized by a Nationwide Permit (NWP) or a Regional General Permit (RGP), specifically, NWP 27, Aquatic Habitat Restoration, Enhancement, and Establishment Activities. This work is shown on the enclosed figures, labeled MVP-2023-00257-JMB Page 1 of 3 through 3 of 3.

Conditions of your permit:

You must ensure the authorized work is performed in accordance with the enclosed General Permit terms, General Conditions, and St. Paul District Regional Conditions.

You are also required to complete and return the enclosed Compliance Certification form within 30 days of completing your project. Please email the completed form to the contact identified in the last paragraph.

A change in location or project plans may require re-evaluation of your project. Proposed changes should be coordinated with this office prior to construction. Failure to comply with all terms and conditions of this permit invalidates this authorization and could result in a violation of Section 301 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

Water Quality Certification:

You must also comply with the enclosed Water Quality Certification conditions associated with this General Permit.

Permit expiration:

The 2021 NWP is valid until March 14, 2026 unless modified, suspended, or revoked. If the work has not been completed by that time, you should contact this office to verify that the permit is still valid. Furthermore, if you commence or are under contract to commence this activity before the date of General Permit expiration, modification, or revocation, you have 12 months to complete the activity under the present terms and conditions of the General Permit.

Jurisdictional determination:

No jurisdictional determination was requested or prepared for this project. While not required, you may request a jurisdictional determination from the contact identified in the last paragraph.

Contact Information:

If you have any questions, please contact me in our Hayward office at (651) 290-5884 or by email at jonathan.m.bakken@usace.army.mil.

Sincerely,

Jonathan M. Bakken
Lead Project Manager

Enclosures

cc: Steve LaValley, WDNR (Steven.LaValley@wisconsin.gov)
Anna Beckman, Cedar Corporation (anna.beckman@cedarcorp.com)

BOX CULVERT REMOVAL AND NEW BRIDGE CONSTRUCTION GANDY DANCER STATE TRAIL

TOWN OF SUMMIT, WI DIVISION PROJECT NO. 1811N JANUARY 23RD, 2023



604 Wilson Avenue
Menomonie, Wisconsin 54751

engineers • architects • planners
environmental specialists
land surveyors • landscape architects
interior designers

715-235-9081
800-472-7372
FAX 715-235-2727
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State of Wisconsin
Department of Administration
Division of Facilities Development



P.O. BOX 7866
MADISON, WI 53707-7866

BOX CULVERT REMOVAL
AND NEW BRIDGE CONSTRUCTION
GANDY DANCER STATE TRAIL
TOWN OF SUMMIT, WISCONSIN

Sheet Title:
TITLE SHEET

CONTACT INFORMATION

OWNER
DEPARTMENT OF NATURAL RESOURCES
PHONE: (414) 640-6010
CONTACT: KURT FEUERSTEIN, PE

OWNER
DEPARTMENT OF ADMINISTRATION
DIVISION OF FACILITIES DEVELOPMENT
101 E. WILSON STREET, 7TH FLOOR
MADISON, WI 53707
PHONE: (608) 573-2031
CONTACT: SALLY SHUMAKER

CIVIL DESIGN
CEDAR CORPORATION
604 WILSON AVENUE
MENOMONIE, WI 54751
PHONE: (715) 235-9081
CONTACT: TROY PETERSON

STRUCTURAL DESIGN
CEDAR CORPORATION
604 WILSON AVENUE
MENOMONIE, WI 54751
PHONE: (715) 235-9081
CONTACT: TROY PETERSON

ENGINEER
CEDAR CORPORATION
604 WILSON AVENUE
MENOMONIE, WI 54751
PHONE: (715) 235-9081
CONTACT: TROY PETERSON

SEALS AND SIGNATURES

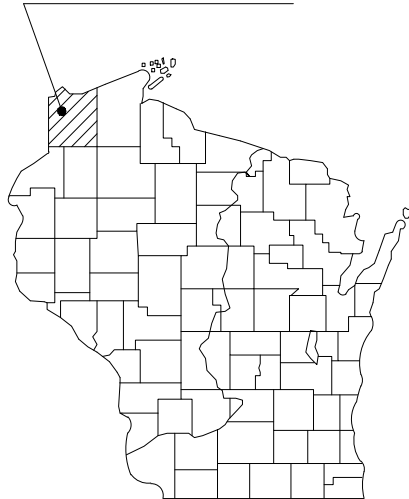
STRUCTURAL	CIVIL

PROJECT LOCATION MAP



LAYOUT
SCALE 0 5000 FT.

PROJECT LOCATION



CONVENTIONAL SYMBOLS

PLAN	PROFILE	
CORPORATE LIMITS	GRADE LINE	
PROPERTY LINE	ORIGINAL GROUND	
LOT LINE	MARSH OR ROCK PROFILE (To be noted as such)	
LIMITED HIGHWAY EASEMENT	SPECIAL DITCH	
EXISTING RIGHT OF WAY	GRADE ELEVATION	
PROPOSED OR NEW R/W LINE	CULVERT (Profile View)	
SLOPE INTERCEPT	UTILITIES	
REFERENCE LINE	ELECTRIC	
EXISTING CULVERT	OVERHEAD LINES	
PROPOSED CULVERT (Box or Pipe)	FIBER OPTIC	
COMBUSTIBLE FLUIDS	GAS	
	SANITARY SEWER	
	STORM SEWER	
	TELEPHONE	
MARSH AREA	WATER	
	UTILITY PEDESTAL	
WOODED OR SHRUB AREA	POWER POLE	
RIGHT-OF-WAY MARKERS	TELEPHONE POLE	

SHEET INDEX

SHEET	SHEET DESCRIPTION
T100	TITLE SHEET
C100	TYPICAL SECTION
C101	GENERAL NOTES
C102	PLAN AND PROFILE - BRIDGE
C103	PLAN AND PROFILE - STREAM REESTABLISHMENT
C103.2	PLAN AND PROFILE - DIVERSION CHANNEL
C104	BRIDGE PLAN
C105	CONSTRUCTION DETAILS
C106.1	EROSION CONTROL (STAGE 1)
C106.2	EROSION CONTROL (STAGE 2)
C106.3	EROSION CONTROL (STAGE 3)
C107	EROSION CONTROL DETAILS
C108	TRAFFIC CONTROL - DETOUR ROUTE
C109	BRIDGE SIGNAGE
C110-C119	CROSS SECTIONS - TRAIL
C120-C125	CROSS SECTIONS - STREAM
S100-S112	BRIDGE DETAILS

Revisions:

No.	Date:	Description:

Graphic Scale	NO SCALE
DFD Number	1811N
Set Type	FR
Date Issued	01/23/2023
Sheet Number	T100

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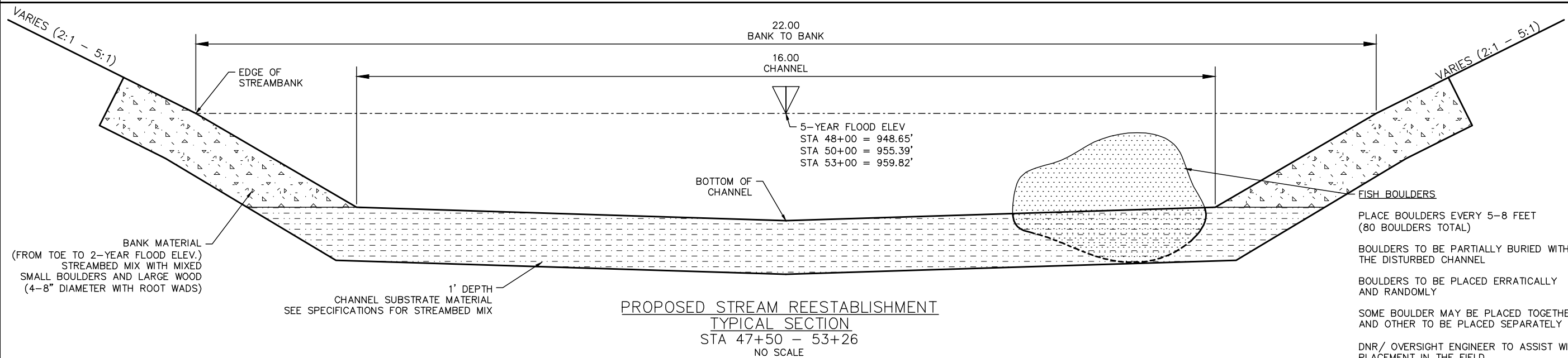
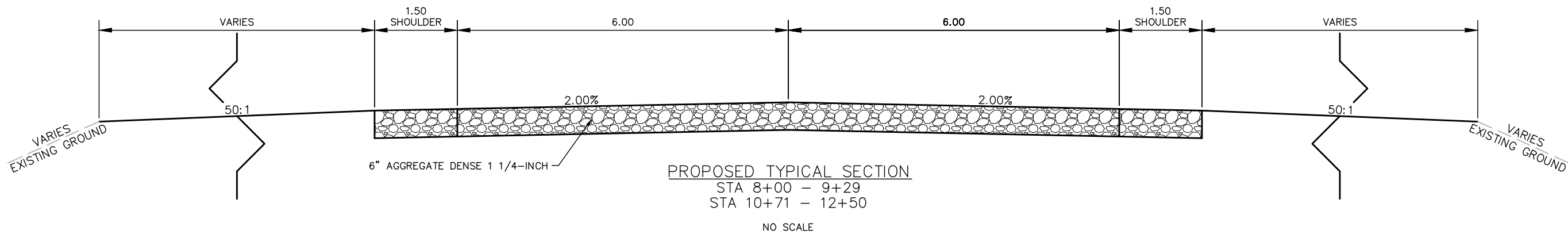
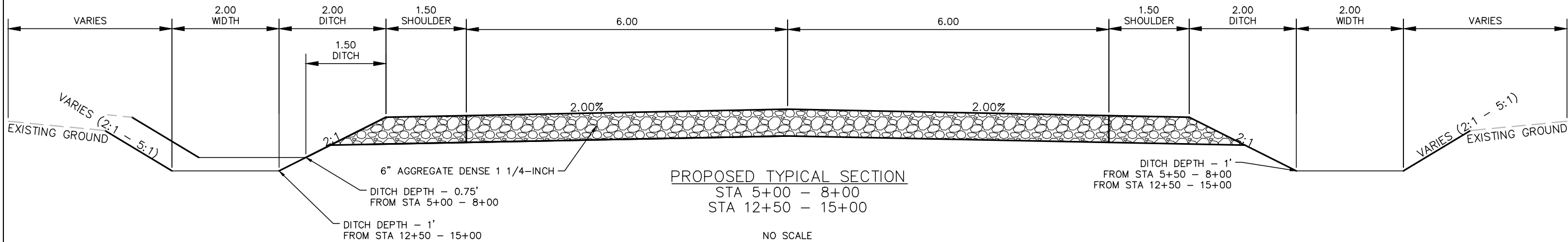
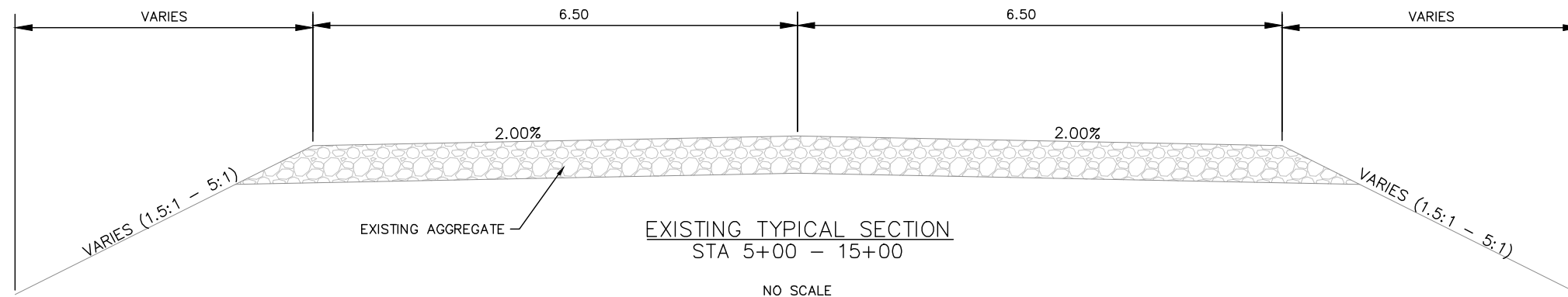


**BOX CULVERT REMOVAL
AND NEW BRIDGE CONSTRUCTION
GANDY DANCER STATE TRAIL
TOWN OF SUMMIT, WISCONSIN**

Sheet Title:
TYPICAL SECTION

Revisions:		
No.	Date:	Description:

Graphic Scale	NO SCALE
DFD Number	1811N
Set Type	FR
Date Issued	01/26/2023
Sheet Number	C100



FISH BOULDERS
PLACE BOULDERS EVERY 5-8 FEET
(80 BOULDERS TOTAL)
BOULDERS TO BE PARTIALLY BURIED WITHIN
THE DISTURBED CHANNEL
BOULDERS TO BE PLACED ERRATICALLY
AND RANDOMLY
SOME BOULDER MAY BE PLACED TOGETHER
AND OTHER TO BE PLACED SEPARATELY
DNR/ OVERSIGHT ENGINEER TO ASSIST WITH
PLACEMENT IN THE FIELD

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**US Army Corps
of Engineers**®

St. Paul District

COMPLIANCE CERTIFICATION

Regulatory File Number: MVP-2023-00257-JMB
Name of Permittee: Will Ryder, Wisconsin Department of Natural Resources
County/State: Douglas County/Wisconsin
Date of Issuance: 26 May 2023

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the Corps contact identified in your verification letter within 30 days.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

By signing below, the permittee is certifying that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the permit, and any required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Nationwide Permits

27. Aquatic Habitat Restoration, Enhancement, and Establishment Activities. Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services.

To be authorized by this NWP, the aquatic habitat restoration, enhancement, or establishment activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may be based on the characteristics of one or more intact aquatic habitats or riparian areas of the same type that exist in the region. An ecological reference may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area.

To the extent that a Corps permit is required, activities authorized by this NWP include, but are not limited to the removal of accumulated sediments; releases of sediment from reservoirs to maintain sediment transport continuity to restore downstream habitats; the installation, removal, and maintenance of small water control structures, dikes, and berms, as well as discharges of dredged or fill material to restore appropriate stream channel configurations after small water control structures, dikes, and berms are removed; the installation of current deflectors; the enhancement, rehabilitation, or re-establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to enhance, rehabilitate, or re-establish stream meanders; the removal of stream barriers, such as undersized culverts, fords, and grade control structures; the backfilling of artificial channels; the removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of drainage ditches to restore wetland hydrology; the installation of structures or fills necessary to restore or enhance wetland or stream hydrology; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; coral restoration or relocation activities; shellfish seeding; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; re-establishment of submerged aquatic vegetation in areas where those plant communities previously existed; re-establishment of tidal wetlands in tidal waters where those wetlands previously existed; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted at the site.

This NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services.

Except for the relocation of non-tidal waters on the project site, this NWP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., the conversion of a stream to wetland or vice versa) or uplands. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type. This NWP does not authorize stream channelization. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Compensatory mitigation is not required for activities authorized by this NWP since these activities must result in net increases in aquatic resource functions and services.

Reversion. For enhancement, restoration, and establishment activities conducted: (1) In accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the landowner and the U.S. Fish and Wildlife Service (FWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), U.S. Forest Service (USFS), or their designated state cooperating agencies; (2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or the applicable state agency, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit, and is authorized in these circumstances even if the discharge of dredged or fill material occurs after this NWP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS, or an appropriate state cooperating agency. This NWP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any reversion activity, the permittee or the appropriate Federal or state agency must notify the district engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements are applicable to that type of land at the time. The requirement that the activity results in a net increase in aquatic resource functions and services does

not apply to reversion activities meeting the above conditions. Except for the activities described above, this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion.

Reporting. For those activities that do not require pre-construction notification, the permittee must submit to the district engineer a copy of: (1) the binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement, or a project description, including project plans and location map; (2) the NRCS or USDA Technical Service Provider documentation for the voluntary stream enhancement or restoration action or wetland restoration, enhancement, or establishment action; or (3) the SMCRA permit issued by OSMRE or the applicable state agency. The report must also include information on baseline ecological conditions on the project site, such as a delineation of wetlands, streams, and/or other aquatic habitats. These documents must be submitted to the district engineer at least 30 days prior to commencing activities in waters of the United States authorized by this NWP.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing any activity (see general condition 32), except for the following activities:

- (1) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state cooperating agencies;
- (2) Activities conducted in accordance with the terms and conditions of a binding coral restoration or relocation agreement between the project proponent and the NMFS or any of its designated state cooperating agencies;
- (3) Voluntary stream or wetland restoration or enhancement action, or wetland establishment action, documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or
- (4) The reclamation of surface coal mine lands, in accordance with an SMCRA permit issued by the OSMRE or the applicable state agency.

However, the permittee must submit a copy of the appropriate documentation to the district engineer to fulfill the reporting requirement. (Authorities: Sections 10 and 404)

Note: This NWP can be used to authorize compensatory mitigation projects, including mitigation banks and in-lieu fee projects. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

2021 Nationwide Permits (NWP)

St. Paul District Regional Conditions for Minnesota and Wisconsin

To qualify for NWP authorization, the prospective permittee must comply with the following regional conditions, as applicable, in addition to any case specific conditions imposed by the division engineer. The St. Paul District Regulatory website will provide current information regarding NWPs and the necessary 401 Water Quality Certifications at

<https://www.mvp.usace.army.mil/missions/regulatory/nwp/>. Every person who wishes to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

The following NWPs have been revoked and are not available for use in St. Paul District: NWPs 8, 12, 14, 15, 21, 23, 24, 34, 48, 49, 50, 55, 56, 57, and 58.

Information on other permits available for use in St. Paul District can be found at:

<https://www.mvp.usace.army.mil/Missions/Regulatory/Permitting-Process-Procedures/>.

Any regulated activity eligible for authorization under a St. Paul District Special Area Management Plan (SAMP) general permit is not eligible for authorization by NWPs.

The following regional conditions are applicable to all NWPs:

- A. **Linear Projects:** No linear utility or linear transportation projects are eligible for authorization by NWPs. These projects will be reviewed for authorization under the St. Paul District's regional general permits or an individual permit.
- B. **Temporary Impacts:** All regulated temporary impacts to waters of the U.S. must comply with the following criteria:
 - (1) If the temporary impacts in waters of the U.S., including wetlands, that occur as a result of the regulated activity would remain in place for longer than 90 days between May 15 and November 15, a PCN is required.
 - (2) Any PCN with temporary impacts must specify how long the temporary impact will remain and include a restoration and re-vegetation plan showing how all temporary fills and structures will be removed and the area restored to preconstruction contours and elevations. Native, non-invasive vegetation must be used unless otherwise authorized by a Corps NWP verification.
- C. **PCNs for Apostle Islands National Lakeshore and Madeline Island:** A project proponent must notify the District by submitting a PCN if the regulated activity would result in excavation, fill, or the placement of a new structure within the boundaries of Apostle Islands National Lakeshore and Madeline Island in Wisconsin. Regulated activities authorized under NWP 3 (Maintenance) are not subject to this condition unless they include bank shaping or excavation.
- D. **Calcareous fens:**

WISCONSIN: No work in a calcareous fen is authorized by a NWP unless the Wisconsin Department of Natural Resources (WI DNR) has approved a permit for the proposed regulated activity. Project proponents must provide evidence of an approved permit to the District.

MINNESOTA: No work in a calcareous fen is authorized by a NWP unless the Minnesota Department of Natural Resources (MN DNR) has approved a calcareous fen management plan specific to a project that otherwise qualifies for authorization by a NWP. Project proponents must provide evidence of an approved fen management plan to the District. A list of known Minnesota calcareous fens can be found at: http://files.dnr.state.mn.us/eco/wetlands/calcareous_fen_list.pdf.

- E. **Special Aquatic Resources:** A project proponent must notify the District by submitting a PCN if a regulated activity would occur in any of the following aquatic resources:
- (1) State-designated wild rice waters^{1,2};
 - (2) Bog wetland plant communities^{1,3};
 - (3) Fens^{1,3};
 - (4) Coastal plain marshes^{1,4};
 - (5) Interdunal wetlands^{1,4};
 - (6) Great Lakes ridge and swale complexes^{1,4};
 - (7) Aquatic resources within Lake Superior National Estuarine Research Reserve;
 - (8) Ramsar wetland sites, including: the Horicon Marsh, Upper Mississippi River Floodplain Wetland, Kakagon and Bad River Slough, Door Peninsula Coastal Wetlands, Chiwaukee Illinois Beach Lake Plain, and Lower Wisconsin Riverway. The complete up to date Ramsar list is available at <https://rsis Ramsar.org>.

The following regional conditions are applicable to a specific NWP:

- F. **NWP 52. Water-Based Renewable Energy Generation Pilot Projects:** NWP 52 does not authorize structures or work in Lake Michigan and Lake Superior within the geographic regulatory boundaries of the St. Paul District.
- G. **NWP 3, 33, and 41. Aquatic Resource Impacts:** A project proponent must notify the District by submitting a PCN if a regulated activity, including but not limited to, filling, flooding, excavating, or drainage of waters of the U.S., involves:
- (1) A permanent loss of greater than 1/10 acre of waters of the U.S. for NWP 3 and 41; or
 - (2) over 1/2 acre of temporary impacts to waters of the U.S. for NWP 3, 33, and 41.
- H. **NWP 27. Aquatic Habitat Restoration, Establishment and Enhancement Activities:** NWP 27 does not authorize the permanent conversion of forested, bog, fen, sedge meadow, or shrub-carr wetlands to other plant communities. A project proponent may request, in writing, a waiver from this condition from the District. The waiver will only be issued if it can be demonstrated that the conversion would restore wetland plant communities to the pre-settlement condition or a watershed approach and that the current landscape and hydrologic conditions would sustain the targeted community.

¹ Information about Wisconsin plant community types for 1-6 above may be obtained from: <http://dnr.wi.gov/topic/EndangeredResources/Communities.asp?mode=group&Type=Wetland>

² Information regarding wild rice waters and their extent may be obtained from: <https://www.dnr.state.mn.us/wildlife/shallowlakes/wildrice.html> and <https://gisdata.mn.gov/dataset/biota-wild-rice-lakes-dnr-wld> in Minnesota, <https://dnr.wisconsin.gov/topic/wildlifehabitat/rice.html> in Wisconsin, and an interactive map is provided at: <http://maps.glifwc.org/> (under Treaty Resources – Gathering).

³ Additional information on bog and fen communities can be found at: <http://www.mvp.usace.army.mil/missions/regulatory.aspx> and in Minnesota at <http://www.dnr.state.mn.us/npc/classification.html>.

⁴ Coastal plain marshes, interdunal wetlands, and Great Lakes ridge and swale complexes are specific to Wisconsin

2021 Nationwide Permit General Conditions

1. Navigation.

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers.

(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species.

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties.

(a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she

makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either

some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary,

to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality.

(a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States

for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to

cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4)

(i) A description of the proposed activity; the activity’s purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the

proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:*

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

BEFORE THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES

Application of the United States Department of the Army,)
Corps of Engineers, for Water Quality Certification for the)
Final Regulations Pertaining to the Issuance, Reissuance,)
and Modification of Nationwide Permits

On September 15, 2020, the United States Department of the Army, Corps of Engineers (COE), published its notice regarding the Issuance of Nationwide Permits (NWP) in the Federal Register (agency docket number COE–2020–0002). The publication includes new, existing, and modified NWP. Publication of these NWP serves as the Corps' application to the State for water quality certification (WQC) under Section 401 of the Federal Clean Water Act (CWA).

The Wisconsin Department of Natural Resources (WDNR) has examined the regulations promulgated by the COE and United States Environmental Protection Agency pursuant to Section 401, CWA, and Chapters NR 102, 103, and 299, Wisconsin Administrative Code (Wis. Adm. Code).

The WDNR has determined the following conditions for the NWP are required to ensure compliance with state water quality standards enumerated in s. 299.04, Wis. Adm. Code. The certification shall expire once the nationwide permits expire unless substantial changes are made to the final NWP which could have an impact on water quality to Wisconsin's waters.

Section 401 Certification does not release the permittee from obtaining all other necessary federal, state, and local permits, licenses, certificates, approvals, registrations, charters, or similar forms of permission required by law. It does not limit any other state permit, license, certificate, approval, registration, charter, or similar form of permission required by law that imposes more restrictive requirements. It does not eliminate, waive, or vary the permittee's obligation to comply with all other laws and state statutes and rules throughout the construction, installation, and operation of the project. This Certification does not release the permittee from any liability, penalty, or duty imposed by Wisconsin or federal statutes, regulations, rules, or local ordinances, and it does not convey a property right or an exclusive privilege.

This Certification does not replace or satisfy any environmental review requirements, including those under the Wisconsin Environmental Policy Act (WEPA) or the National Environmental Policy Act (NEPA).

water quality certification

STATE CONDITIONS AND LIMITATIONS OF CERTIFICATION

GENERAL CONDITIONS:

1. The permittee shall allow the WDNR reasonable entry and access to the discharge site to inspect the discharge for compliance with the certification and applicable laws.

Justification: On-site inspection is a critical element to gather necessary information for water quality certification decisions and quality control and assurance of data provided by the applicant. This authorization is required pursuant to s. NR 299.05(3)(d)2.c, Wis. Adm. Code.

2. Water quality certification is denied without prejudice for activities involving the temporary stockpiling of dredged or fill material in waters of the state, including wetlands.

Justification: Physical alterations can degrade surface waters through the filling, dredging or stockpiling of materials. Pursuant to ss. NR 102.05 and NR 103.03, Wis. Adm. Codes, no waters of the state including wetlands shall be lowered in quality unless it has been affirmatively demonstrated to the department that such a change is justifiable. To satisfy these antidegradation and water quality protection requirements, individual certification is warranted to properly demonstrate that temporary stockpiling of dredged or fill material is warranted.

3. Water quality certification is denied without prejudice for activities that have the potential to adversely impact Area of Special Natural Resource Interest (ASNRI) waters designated under to s. NR 1.05, Wis. Adm. Code.

Justification: Pursuant to ch. NR 207, Wis. Adm. Code, Wisconsin's antidegradation standards prohibit degradation of outstanding resource waters and limits degradations to exceptional resource waters. Additionally, formal consultation with the Voigt Task Force is needed on projects which could have impacts on wild rice or wild rice habitat. For these reasons, all projects that have the potential to degrade ASNRI waters designated under s. 30.01(1am), Wis. Stat. are denied without prejudice. ASNRI waters are available on the DNR's surface water data viewer at <https://dnr.wisconsin.gov/topic/SurfaceWater/swdv>.

4. Water quality certification is denied without prejudice for activities that have the potential to adversely impact Public Rights Features (PRFs) designated under to s. NR 1.06, Wis. Adm. Code.

Justification: Pursuant to s. NR 102.04(1)(a) and (b), Wis. Adm. Code, objectionable deposits or debris shall not be present in such amounts as to interfere with public rights in waters of the state. Public Rights Features are most sensitive to these types of deposits and warrant individual water quality

water quality certification

certification to ensure that wildlife, recreation, and fish and aquatic life standards under ch. NR 102, Wis. Adm. Code are satisfied.

PRFs are available on the DNR's surface water data viewer at <https://dnr.wisconsin.gov/topic/SurfaceWater/swdv>.

5. No discharges of dredged or fill material below the ordinary high water mark of a navigable stream as defined by s. 310.03(5), Wis. Adm. Code, may take place during fish spawning periods or times when nursery areas would be adversely impacted. These periods are:
 - September 15th through May 15th for all trout streams and upstream to the first dam or barrier on the Root River (Racine County), the Kewaunee River (Kewaunee County), and Strawberry Creek (Door County). To determine if a waterway is a trout stream, you may use the WDNR website trout maps at <http://dnr.wi.gov/topic/fishing/trout/streammaps.html>.
 - September 15th through June 15th on all Great Lakes tributaries upstream to the first dam or barrier.
 - November 1st through June 15th for Lake Michigan waters surrounding Door County including Green Bay and all harbors and bays.
 - September 15th through July 1st for Lake Superior waters surrounding Douglas County including St. Louis River and all harbors and bays.
 - March 1st through June 15th for ALL OTHER waters.

Justification: Pursuant to s. NR 102.04(3), Wis. Adm. Code, aquatic life designations include spawning areas for cold water and warm water fish and aquatic life habitat. Water quality criteria are derived to ensure spawning activities in Wisconsin are protected.

6. The permittee must install in-water best management practices (BMPs) to minimize total suspended solids (TSS), sedimentation and nutrient loadings for any work conducted below the ordinary high water mark (OHWM). Any visual increase in turbidity outside of the approved impact area shall result in the project operations ceasing until BMPs have been modified to address the issue.

Justification: Pursuant to ss. NR 102.04(1) and NR 102.06, Wis. Adm. Code, objectionable deposits and nutrients may not be present in amounts that interfere with public rights and interests or exceed state standards for surface water. In-water BMPs also help ensure excessive sedimentation, TSS, and nutrient loadings will not result in a violation of state wetland water quality standards under s. NR 103.03, Wis. Adm. Code.

7. The permittee may not use any materials that contains toxic substances in toxic amounts. This may include materials used for structure placement, beneficially reused materials, or fill.

Justification: Pursuant to chs. NR 102, NR 103, NR 105 and s. NR 299.04(1)(b), Wis. Adm. Codes, water quality criteria and limitations must be satisfied to grant water quality certification.

water quality certification

8. The permittee must ensure that any material used to construct a project is properly contained and stabilized in a manner that will prevent the material from being eroded.
Justification: Pursuant to ss. NR 102.04(1)(a) and (b) and NR 103.03, Wis. Adm. Code, objectionable deposits or debris shall not be present in amounts that interfere with public rights and interests in waterways or the functions and values of wetlands in Wisconsin.

9. Projects permitted under any NWP must implement planning and pretreatment of equipment to minimize spread of invasive or noxious species, designated under to ch. 40, Wis. Adm. Code.
Justification: Pursuant to s. NR 103.03(2)(f)3., Wis. Adm Code, water quality certification must prevent conditions conducive to the establishment or proliferation of nuisance organisms in order to protect existing wetland habitat and ecosystems. Invasive species threaten the “protection and propagation of a balanced fish and other aquatic life community” under the “Fish and other aquatic life” designated use in ch. NR 102.04(3), Wis. Adm. Code.

10. Whenever an applicant is completing sediment sampling and analysis, monitoring or disposal of materials from any dredging project, proper sampling and quality assurance methods shall be implemented in alignment with ch. NR 347, Wis. Adm. Code.
Justification: In order to protect the public rights and interests in the waters of the state and to ensure that data quality is representative of site conditions to make informed water quality certification decisions, all data gathering, sampling, monitoring, data analysis and disposal shall be completed using proper sampling and quality assurance methods in alignment with ch. NR 347, Wis. Adm. Code.

Conditions Applicable to Specific Nationwide Permits Granted Water Quality Certification:

NWP 16 — Return Water From Upland Contained Disposal Areas:

The permittee must ensure that return water from dredging that is directly returned to the original source water meets the same water quality standards that apply to the original source water. If the return water is discharged into a receiving water that is not the original source water, then the permittee must ensure that the discharge water will meet the more stringent water quality standard of the receiving water and the original source water.

Justification: The return water shall not violate state water quality standards established under chs. NR 102, 103 and 105, Wis. Adm. Code.

NWP 18 — Minor Discharges:

water quality certification

The permittee must ensure that direct and secondary impacts to wetlands do not exceed 400 sq. ft.

Justification: Pursuant to s. NR 103.03(2)(d), Wis. Adm. Code, wetlands shall be protected from cumulative impacts of discharges which may result in concentrations or combinations of substances which are toxic or harmful to human, animal, or plant life. Ensuring that the eligibility standard for wetland impacts encompasses primary and secondary impacts will ensure adequate protection from cumulative impacts.

The project scope shall not include installation of nonperforated drain tile which would have a hydrologic impact to a waterway or wetland.

Justification: Sections NR 103.03(1)(a) and (b), Wis. Adm. Code, require that wetland hydrology and storm and flood water storage be adequately protected.

NWP 42 — Recreational Facilities:

The permittee must remove temporary fill within 60 days of placing the material in a waterway or wetland unless mitigation is provided for the temporary loss of function.

Justification: This material can be a source of TSS and nutrients, particularly phosphorus to the receiving water (chs. NR 102 and 103, Wis. Adm. Code).

The permittee shall ensure that the project will not result in a conversion of navigable waters, pursuant to s. NR 310.03(5), Wis. Adm. Code, to uplands or an enclosure of navigable waters that would result in an interference with the public rights in those waters.

Justification: Pursuant to s. NR 102.04(1)(a) and (b), Wis. Adm. Code, objectionable deposits or debris shall not be present in such amounts as to interfere with public rights in waters of the state.

NWP 43 — Stormwater Management Facilities:

The permittee may not convert navigable waterways pursuant to s. 310.03(5), Wis. Adm. Code, or wetlands to treat stormwater.

Justification: Pursuant to s. NR 103.03(1)(a), Wis. Adm. Code, state wetland water quality standards require that wetlands are maintained within natural variation from storm and flood water storage and retention and the moderation of water level fluctuation extremes. Pursuant to s. NR 102.04(1)(a) and (b), Wis. Adm. Code, objectionable

water quality certification
deposits or debris shall not be present in such amounts as to interfere with public rights
in waters of the state.

NWP 46 — Discharges in Ditches:

The permittee must remove temporary fill within 60 days of placing the material in a waterway
or wetland unless mitigation is provided for the temporary loss of function.

Justification: This material can be a source of TSS and nutrients, particularly phosphorus
to the receiving water (chs. NR 102 and 103, Wis. Adm. Code).

NWP 51 – Land-Based Renewable Energy Generation Facilities

The permittee must remove temporary fill within 60 days of placing the material in a waterway
or wetland unless mitigation is provided for the temporary loss of function.

Justification: This material can be a source of TSS and nutrients, particularly phosphorus,
to the receiving water (chs. NR 102 and 103, Wis. Adm. Code).

The permittee may not convert wetlands to stormwater treatment facilities.

Justification: Pursuant to s. NR 103.03(1)(a), Wis. Adm. Code, state wetland water
quality standards require that wetlands are maintained within natural variation from
storm and flood water storage and retention and the moderation of water level
fluctuation extremes.

The project shall not impact more than 300 linear feet.

Justification: Pursuant to s. NR 207.12, antibacksliding requirements must be satisfied
before a relaxation of a standard could be applied. This analysis requires individual
water quality certification.

NWP 53 - Removal of Low-Head Dams

The permittee shall ensure that accumulated sediment is adequately controlled to ensure that
downstream water quality is protected once the dam is removed.

Justification: This material can be a source of TSS and nutrients, particularly phosphorus
to the receiving water (chs. NR 102 and 103, Wis. Adm. Code).

water quality certification

NWP E- Water Reclamation and Reuse Facilities

The permittee shall only use native plantings or, for the purposes of short-term stabilization, early successional non-invasive plantings for the purposes of short-term stabilization followed by native plantings.

Justification: Pursuant to s. NR 103.03(2)(f)3., Wis. Adm Code, water quality certification must prevent conditions conducive to the establishment or proliferation of nuisance organisms in order to protect existing wetland habitat and ecosystems. The invasive species rule, ch. NR 40, Wis. Adm. Code, makes it illegal to possess, transport, transfer or introduce certain invasive species in Wisconsin.

Nationwide Permits Granted Water Quality Certification:

- NWP 3 — Maintenance
- NWP 4 — Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- NWP 5 — Scientific Measurement Devices
- NWP 6 — Survey Activities
- NWP 7 — Outfall Structures and Associated Intake Structures
- NWP 13 — Bank Stabilization
- NWP 19 — Minor Dredging
- NWP 20 — Response Operations for Oil or Hazardous Substances
- NWP 22 — Removal of Vessels
- NWP 25 — Structural Discharges
- NWP 27 — Aquatic Habitat Restoration, Enhancement, and Establishment Activities
- NWP 30 — Moist Soil Management for Wildlife
- NWP 31 — Maintenance of Existing Flood Control Facilities
- NWP 32 — Completed Enforcement Actions
- NWP 36 — Boat Ramps
- NWP 37 — Emergency Watershed Protection and Rehabilitation
- NWP 38 — Cleanup of Hazardous and Toxic Waste
- NWP 41 — Reshaping Existing Drainage Ditches
- NWP 45 — Repair of Uplands Damaged by Discrete Events
- NWP 54 — Living Shorelines

Nationwide Permits Denied Water Quality Certification Without Prejudice At This Time:

- NWP 17 – Hydropower Projects

water quality certification

Justification: The NWP is overly broad and can include a wide range of activities. The broad category of activities covered could significantly impact phosphorus and thermal impacts to waterways. Because Wisconsin has numeric standards for phosphorus and temperature pursuant to ch. NR 102, Wis. Adm. Code, individual water quality certification is required to determine thermal and nutrient loadings from these areas. Individual water quality certification will also help ensure that state wetlands standards under ch. NR 103, Wis. Adm. Code are satisfied.

- NWP 29 — Residential Developments

Justification: The NWP is overly broad and can include a range of residential development density and can also include a wide array of other integral development pieces. The density of the development can significantly impact phosphorus and thermal impacts to waterways. Because Wisconsin has numeric standards for phosphorus and temperature pursuant to ch. NR 102, Wis. Adm. Code, individual water quality certification is required to determine thermal and nutrient loadings from these areas. Individual water quality certification will also help ensure that state wetlands standards under ch. NR 103, Wis. Adm. Code are satisfied.

- NWP 33 – Temporary Construction, Access, and Dewatering

Justification: Site-specific WQC is appropriate to ensure that site-specific dewatering plans are developed and address sediment-laden materials, which may contain potentially contaminated materials, discharged from dewatering disposal. Oily sheens, odors or colors can be observed in some dewatering activities which may violate water quality standards under ch. NR 102, Wis. Adm. Code.

- NWP 39 — Commercial and Institutional Developments

Justification: The NWP is overly broad and can include a range of commercial and institutional development types and density. These can significantly impact phosphorus and thermal impacts to waterways. Because Wisconsin has numeric standards for phosphorus and temperature pursuant to ch. NR 102, Wis. Adm. Code, individual water quality certification is required to determine thermal and nutrient loadings from these areas. Individual water quality certification will also help ensure that state wetlands standards under ch. NR 103, Wis. Adm. Code are satisfied.

- NWP 40 — Agricultural Activities

water quality certification

Justification: The NWP is overly broad and can include a wide range of agricultural activities. These can significantly impact phosphorus and thermal impacts to waterways. Because Wisconsin has numeric standards for phosphorus and temperature pursuant to ch. NR 102, Wis. Adm. Code, individual water quality certification is required to determine thermal and nutrient loadings from these areas. Individual water quality certification will also help ensure that state wetlands standards under ch. NR 103, Wis. Adm. Code are satisfied.

- NWP 44 — Mining Activities

Justification: The NWP is overly broad and can include a range of activities. Given the proximity of these activities to mining activities there is an increase risk that heavy metals or other toxic substances regulated in ch. NR 105 and 106, Wis. Adm. Code, may be discharged in surface waters at levels that may not comply with state standards.

- NWP 48 — Commercial Shellfish Mariculture Activities

Justification: Nutrient discharges from commercial shellfish activities can be significant depending on the size, placement, and treatment of waters from these areas. Given the range of concentration and placement, individual water quality certification is appropriate for these activities to ensure that state nutrient standards pursuant to s. NR 102.06, Wis. Adm. Code are satisfied. Individual water quality certification will also help ensure that state wetlands standards under ch. NR 103, Wis. Adm. Code are satisfied.

- NWP 52 — Water-Based Renewable Energy Generation Pilot Projects

Justification: Impacts to fish and aquatic life uses and criteria such as temperature from water-based energy generation projects can be significant depending on the size and placement of these projects. Given the broad range of waterways this NWP could apply to, an individual WQC is appropriate to ensure that state water quality standards for fish and aquatic life uses and criteria under NR 102.04, Wis. Adm. Code are satisfied.

Nationwide Permits For Which Water Quality Certification Is Not Required:

This water quality certification decision reflects the NWPs for which certification was requested on November 12, 2020. As stated in the notice, NWPs 1, 2, 9, 10, 11, 28, and 35 do not require section 401 water quality certification because they would authorize activities which, in the opinion of the Corps, could not reasonably be expected to result in a discharge into waters of the United States. Additionally, the notice stipulated that the St. Paul District is proposing to revoke the following NWPs in both Minnesota and Wisconsin: 8, 12, 14, 15, 21, 23, 24, 34, 49, 50, A, B, C,

water quality certification

and D. WDNR is not taking action on these NWP's for these reasons and concludes that a new notification and pre-filing meeting would be required for these NWP's should the position of the St. Paul District change.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

To request a contested case hearing pursuant to section 227.42, Wisconsin Statutes, you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources.

This determination becomes final in accordance with the provisions of s. NR 299.05(7), Wisconsin Administrative Code, and is judicially reviewable when final. For judicial review of a decision pursuant to Sections 227.52 and 227.53, Wisconsin Statutes, you have 30 days after the decision becomes final to file your petition with the appropriate circuit court and to serve the petition on the Secretary of the Department of Natural Resources. The petition must name the Department of Natural Resources as the respondent.

Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

This notice is provided pursuant to section 227.48(2), Wisconsin Statutes.

Dated at Madison, Wisconsin 12/8/2020 | 5:46 PM CST

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

DocuSigned by:
David R. Siebert
By D2E3E67B71CE4E2...
David R. Siebert

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
473 Griffith Ave.
Wisconsin Rapids, WI, 54494

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



June 12, 2023

GP-NO-2023-16-00684

WI Dept of Natural Resources
Attn: Ryder Will
P.O. Box 7921
Madison, WI 53707

Dear Mr. or Ms. Will:

The Department of Natural Resources has completed its review of your application for a General Permit to construct/install a stream habitat improvement project and/or a stream crossings project in Little Balsam Creek located in the NE 1/4 of NW 1/4, Section 10, Township 46, Range 15W, in the Town of Summit, Douglas County, WI. You will be pleased to know your application is **approved** with a few limitations.

Please take this time to re-read the permit eligibility standards and conditions. The eligibility standards can be found on your application checklist (found at <https://dnr.wi.gov/topic/waterways/documents/PermitDocs/GPs/GP-StreamHabitatProjectsDesignedByGovAgencies.pdf>). The permit conditions are also attached to this letter which must be followed to comply with the General Permit requirements.

You are responsible for meeting all general permit eligibility standards and permit conditions. This includes notifying the Department before starting the project, and submitting photographs within one week of project completion. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again after your project is complete. For project details, maps, and plans related to this decision, please see application number GP-NO-2023-16-00684, using <https://permits.dnr.wi.gov/water/SitePages/Permit%20Search.aspx>, the Department's permit tracking website. If you have any questions about your permit, please contact me at (920) 420-5960 or by email at Jared.Seidl@wisconsin.gov

Be sure to contact your local zoning office and U.S. Army Corps of Engineers for any local or federal permits that may be required for your project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jared Seidl'.

Jared Seidl
Water Management Specialist
WI DNR

Ecc: Karen Eklund, U.S. Army Corps of Engineers
Zach DeVoe, Douglas County Zoning Administrator
Dave Sanda, WI DNR Conservation Warden

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Jared Seidl
Water Management Specialist
WI DNR

Ecc: Karen Eklund, U.S. Army Corps of Engineers
Zach DeVoe, Douglas County Zoning Administrator
Dave Sanda, WI DNR Conservation Warden

ELIGIBILITY CRITERIA

1. Placement of the structure will not result in significant adverse impacts to the public rights and interests, cause environmental pollution as defined in Wis. Stats. s. 299.01(4), or result in material injury to the riparian rights of any riparian owner pursuant to Wis. Stats. s. 30.206(3r)(a)2., nor will it cause more than minimal adverse environmental impacts, materially interfere with navigation, nor have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to Wis. Stats. s. 30.206(1)(am).
 2. The applicant or co-applicant is the riparian owner, or the applicant or co- applicant has obtained written permission of the riparian owner to place a structure, impact wetlands or remove material from the waterway.
 3. The DNR can be the sole applicant for projects that will occur within a streambank protection easement, fisheries or wildlife management easement. The Department should share all applications and permits with the landowner. The permitted activity will adhere to the purposes/scope for which the easement was granted and the entire project is contained within the area burdened by the easement.
 4. Projects must be designed by the WDNR, NRCS, LCD or other county agencies, or USFW Service or other government agency and be approved by the WDNR Fisheries Biologist. A current list of Department Fisheries Biologists can be found at: <http://dnr.wi.gov/topic/fishing/people/fisheriesbiologists.html>
 5. No activity is authorized which is not in compliance with Wisconsin's Endangered Species Law (s. 29.604 Wis. Stats) and Section 7 of the Federal Endangered Species Act.
 6. Fish Spawning. To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, structures may not be placed during the following periods:
 - a. September 15th through May 15th for all trout streams and upstream to the first dam or barrier on the Root River (Racine County), the Kewaunee River (Kewaunee County), and Strawberry Creek (Door County). To determine if a waterway is a trout stream, you may use the WDNR website trout maps which can be found at <http://dnr.wi.gov/topic/fishing/troutstreammaps.html>
 - b. March 1st through June 15th for ALL other waters.
- The regional Department Fisheries Biologist may waive or modify timing restrictions in writing. To find your biologist and request in writing a waiver or modification of fish spawning timing restrictions for your project, use the WDNR website at: <http://dnr.wi.gov/topic/fishing/people/index.html>
7. Unless the intended purpose of the project is to facilitate sediment mobility or deposition (i.e., in-stream habitat restoration), structures must be placed in a manner that prevents sediment from collecting, removing, or dispersing away from the project site to the maximum extent practicable. Temporary sediment control measures used to accomplish this should be completely removed from the waterbody no more than 24 hours after the project is completed.
 8. Temporary sediment control measures may not materially obstruct navigation or stream flow.
 9. Live, living or growing aquatic plants may not be removed unless the removal is exempt under Wis. Stats. s. 23.24(4) or complies with the provisions for waiver of the permit requirement under Wis. Admin. Code s. NR 109.06.
 10. Erosion control measures must meet or exceed the technical standards for erosion control approved by the Department under Wis. Admin. Code subch. V of ch. NR 151. Any area where topsoil is exposed during construction must be immediately seeded and mulched or ripped to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway. Note: These standards can be found at the following website: <http://dnr.wi.gov/topic/stormwater/standards/>
 11. Unless part of a permanent stormwater management system, all temporary erosion and sediment control practices must be removed upon final site stabilization. Areas disturbed during construction or installation must be restored.
 12. Projects that may impact tribal lands or rights may need additional coordination.

13. Unless allowed under section 1D, this general permit does not authorize any realignment in the course of a navigable stream or removal of material from the bed of any waterway except for what is necessary to place the structure.
14. Your acceptance of coverage under this permit and your efforts to begin work on the project signify that you have read, understood and agreed to follow all conditions of this permit.
15. Placement of the structure shall conform to the requirements of Wis. Admin. Code ch. NR 116, Wisconsin's Floodplain Management Program, if applicable.
16. Any grading, excavation and land disturbance shall be confined to the minimum area necessary for the placement and repair of the structure.
17. All equipment used for the project shall be designed and properly sized to minimize the amount of sediment that can escape into the water.
18. Placement, repair and removal of the structure shall minimize the removal of trees, shrubs and other shoreline vegetation above the ordinary high water mark, unless those species are adversely impacting the riparian and/or stream habitat.
19. Accumulated brush, debris and other obstructions that are trapped in or underneath the structures shall be regularly removed to prevent upstream flooding and maintain structural integrity.
20. The permittee shall submit a series of photographs to the department within one week of placing the structures on this site. The photographs shall be taken from different vantage points and depict all work authorized by the permit.
21. The structure must be placed fully within the riparian zone of interest as defined in Wis. Admin. Codes. NR 326.07, but may extend waterward beyond the line of navigation (3ft. water depth).
22. Equipment will be decontaminated before being brought to the site and before leaving.
23. The use of motorized equipment is allowed on the bed of the waterway during construction. NOTE: Local zoning ordinances may place restrictions on activities located in mapped floodplains or in shoreland zones. The riparian is responsible for ensuring that their project complies with any local zoning requirements as well as the provisions of this general permit, if applicable.

ADDITIONAL STANDARDS FOR FISH HABITAT STRUCTURES - In addition to the general standards for waterway projects, the following standards apply to all fish habitat projects:

22. The following fish habitat structures are allowed: boulder placement, log placement, weirs, lunkers, cross-logs, rock, brush bundles, cross channel logs, log deflectors, skyhook, rock deflectors, coconut fiber rolls, island creation, spawning material placement, temporary pens, side channels or similar habitat structures.
23. The following are allowed to be removed for the purpose of improving fish habitat: beaver dams, natural obstructions, and natural deposits to expose spawning beds.
24. Rock must be placed for the purpose of improving fish habitat and be related to the placement of other habitat structures. In the driftless area, rock may be used for stream bank stabilization in conjunction with habitat work. Any rock placed on adjoining streambanks must be covered with topsoil, seeded and mulched.
25. Placement of the fish habitat structure may not impair use of any of the following:
 - a. a publicly accessible boat ramp and its associated piers used for the purpose of loading and unloading water craft.
 - b. a designated carry-in only watercraft access site.
26. Structures must be secured and prevented from moving.
27. Rock associated with stream restoration can be placed; however, the rock must be the minimum necessary to protect the shoreline.

28. Fish Habitat Structures may consist only of biological materials, rocks or gravel, except that any fastening and anchoring devices may consist of inert materials.

29. Structures placed in flowages entirely waterward of the line of navigation must provide adequate navigational clearance over the top of the structure of no less than 5 feet during normal summertime low water levels.

30. Design and placement of habitat structures may follow the prescriptions in NRCS Field Office Technical Guide (FOTG), Practice Standard 395; Stream Habitat Improvement and Management. NOTE: Copies of the publication cited in paragraph 7 may be requested by contacting your local Department fisheries biologist and also are available at many public libraries. NRCS Practice Standard 395 can be found at https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs143_025692.pdf

31. Fish habitat structures must be designed by the WDNR, NRCS, LCD or other county agencies, or USFW Fisheries Biologist and be approved by the Local WDNR Fisheries Biologist. A current list of WDNR Fisheries Biologists can be found at: <http://dnr.wi.gov/topic/fishing/people/fisheriesbiologists.html>

ADDITIONAL STANDARDS FOR WILDLIFE HABITAT STRUCTURES - In addition to the general standards for waterway projects, the following standards apply to all wildlife habitat projects:

32. A deposit of sand, gravel, or stone may be associated with the placement of a wildlife habitat structure, provided the deposit is limited to the area underneath or within one foot of the structure and is less than 2 cubic yards.

33. The wildlife habitat structure shall be placed solely for the purpose of improving wildlife habitat.

34. Dredging under Wis. Slats. s. 30.20(1g)(b)1 is allowed for the placement of a wildlife habitat structure provided the dredging removes only the amount needed to place the structure and that amount does not exceed 2 cubic yards.

35. Wildlife habitat structures shall be designed and constructed of rock or unpainted wood or of materials that are non-gloss earth tone colors that blend into a natural shoreline setting during leaf-on condition.

36. Wildlife habitat structures may not impair navigational use of a waterway.

37. Wildlife habitat structures must be designed by the DNR, NRCS, LCD or other county agencies, or USFW Service and be approved by the Local WDNR Wildlife Biologist.

38. The installation of the following habitat structures is allowed: Backwater Hook, Basking Logs/Escape Logs, Backwater Refuge, Turtle/snake Hibernaculum, Vertical Bird Nesting Banks, nesting platforms or similar habitat structures.

ADDITIONAL STANDARDS FOR CERTAIN TYPES OF WETLAND IMPACTS

39. This section only applies to a project whose purpose is to do any of the following:

- A. Place, replace, or maintain a fish or wildlife habitat structure on a stream or river where the project will result in impacts to wetlands within the project area.
- B. Add material for stream restoration which will result in impacts to wetlands within the project area.
- C. Disturb wetlands for the purpose of bank shaping, temporary spoil storage, temporary haul roads, temporary staging of habitat materials and equipment. Material may be temporarily stored in wetlands during the growing season for a period of up to 90 days.

40. The project purpose is to place a fish or wildlife habitat structure under Sect. 1B or 1C or restore or shape a stream under Sect. 1D.

41. This permit does not authorize any new permanent roads in wetlands.

42. This GP does not cover any conversion of sedge meadow or forested wetland to other wetland types.

43. The proposed project will avoid and minimize wetland impacts to the greatest extent practicable and will cause only minimal adverse environmental impacts.
44. The project shall not result in more than 10,000 square feet (0.23 acres) of permanent wetland fill and no more than 2 acres of total temporary wetland impact associated with habitat structures, repair, maintenance, or removal. Disturbance should include only the amount of wetland fill necessary to properly construct and stabilize the project and shall minimize alteration of critical features of waterway or wetland habitats by following the practicable alternatives analysis.
45. Cutting/clearing of woody vegetation at grade (no stump removal allowed) will meet the Best Management Practices (BMP) for Forest Roads construction/location and Riparian Management Zones (RMZ) associated with navigable streams. All non-native species can be removed as needed within RMZ. Note: BMP's can be found in the Wisconsin's Forestry Best Management Practices for Water Quality Field Manual.
46. Except where permanent fill is authorized, all wetlands shall be restored to pre- existing elevations and hydrology. Where permanent fill is authorized, the project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex.
47. Projects that impact wetlands must comply with Wis. Admin. Code ch. NR 103.
48. Project activities will not take place in or result in adverse impacts to any of the following:
- Great Lakes ridge and swale complexes.
 - Interdunal wetlands.
 - Coastal plain marshes
 - Southern sphagnum bogs.
 - Boreal rich fens.
 - Calcareous fens.
49. To the greatest extent practicable, the activity shall not result in adverse impacts to any of the following:
- Fishery spawning habitat, including obstruction of fish passage.
 - Bird breeding areas.
 - Movement of species that normally migrate from open water to upland or vice versa (i.e. amphibians, reptiles and mammals) as determined by the Department.
50. To avoid topsoil and subsoil mixing, the vehicles and equipment used in wetlands shall work from construction mats, or must be low ground pressure equipment, or shall work only during frozen or dry conditions.
51. Final site stabilization in wetlands requires the re-establishment of native or pre- existing perennial vegetation to at least 70 percent vegetative cover as described in your application and plans.

GENERAL PERMIT CONDITIONS

1. You must notify Jared Seidl at phone (920) 420-5960 or email Jared.Seidl@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. You must complete the project as described **on or before June 12, 2026**. If you will not complete the project by this date, there is no opportunity for an extension and you must apply for a new permit.
3. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of your signed certification. If you wish to alter the project, you must first obtain written approval of the Department.
4. Before you start your project, you must first obtain any permit or approval that may be required for your project by local zoning ordinances and by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.

5. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance.
6. The Department may modify or revoke your signed certification for good cause, including if the project is not completed according to the terms of the eligibility standards and conditions for the activity or if the Department determines the activity is detrimental to the public interest.
7. **You must post a copy of your signed certification at a conspicuous location on the project site, visible from the waterway, for at least five days prior to construction, and remaining at least five days after construction.** You must also have a copy of your permit and approved plan available at the project site at all times until the project is complete.
8. Your acceptance of this letter and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of your signed certification.
9. You shall maintain the project in good condition and in compliance with the terms and conditions of your signed certification, NR 323, Wis. Admin. Code and s. 30.206, Stats.
10. This project shall comply with all conditions identified in Wisconsin Administrative Code NR 323, and identified in the Instructions for the General Permit application.
11. **You must submit a series of photographs to the Department, within one week of completing work on the site.** The photographs must be taken from different vantage points and depict all work authorized by this permit.
12. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes, or this permit.
13. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Admin. Code. The technical standards are found at: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html
14. All equipment used for the project, including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, hoses, sheet pile, and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.

The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters shall not be used on other non-infested waters.

1. Inspect and remove aquatic plants, animals, and mud from your equipment.
2. Drain all water from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, hoses, sheet pile and pumps.
3. Dispose of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.
4. Wash your equipment with hot (>104° F) and/or high pressure water,

- OR -

Allow your equipment to dry thoroughly for 5 days.

FINDINGS OF FACT

1. The Department has determined that your application of the project site and project plans meet the standards in s. 30.206, Stats. and ch. NR 323, Wis. Adm. Code., to qualify for this General Permit.
2. The proposed project will not injure public rights or interests, cause environmental pollution as defined in s. 299.01(4), Wis. Stats., or result in material injury to the rights of any riparian owner, if constructed in accordance with your signed certification.

3. The Department and the applicant have completed all procedural requirements, and the project as described in your signed certification will comply with all applicable requirements of Section 30.206, Wis. Stats., and Chapters NR 102, 103, 150, 299, 310 and 323 if carried out as proposed.

CONCLUSIONS OF LAW

1. The Department has authority under ch. 30, Wis. Stats., and ch. NR 323, Wis. Adm. Code, to grant approval for the construction and maintenance of this project.
2. The Department has complied with s. 1.11, Wis. Stats.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
473 Griffith Ave.
Wisconsin Rapids, WI, 54494

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



June 12, 2023

GP-NO-2023-16-00685

WI Dept of Natural Resources
Attn: Ryder Will
P.O. Box 7921
Madison, WI 53707

Dear Mr. or Ms. Will:

Thank you for submitting an application for a General Permit to install a waterway crossing over the Little Balsam Creek located in the NE 1/4, NW 1/4, Sec. 10, T. 46, R. 15W, Town of Summit, Douglas County, WI.

You have certified that your project meets the eligibility criteria for this activity. Based upon your signed certification you may proceed with your project. Please take this time to re-read the permit standards and conditions. The eligibility standards can be found on your application checklist or in the statewide general permit (found at <http://dnr.wi.gov/topic/waterways/> - keyword: general permits). The permit conditions are attached to this letter. **You are responsible for meeting all general permit eligibility standards and permit conditions.** This includes notifying the Department before starting the project, and submitting photographs within one week of project completion. Please note your coverage is valid for 5 years from the date of the department's determination or until the activity is completed, whichever occurs first.

The Department conducts routine and annual compliance monitoring inspections. Our staff may follow up and inspect your project to verify compliance with state statutes and codes. If you need to modify your project please contact your local Water Management Specialist, Jared Seidl at (920) 420-5960 or email Jared.Seidl@wisconsin.gov to discuss your proposed modifications.

The Department of Natural Resources appreciates your willingness to comply with waterway regulations, which help to protect the water quality, fish and wildlife habitat, natural scenic beauty and recreational value of Wisconsin's water resources for future generations.

You are responsible for obtaining any other local, state or federal permits that are required before starting your project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jared Seidl'.

Jared Seidl
Water Management Specialist
WI DNR

Ecc: Karen Eklund, U.S. Army Corps of Engineers
Zach DeVoe, Douglas County Zoning Administrator
Dave Sanda, WI DNR Conservation Warden

You agree to comply with the following conditions:

1. The applicant has contacted the local WDNR Water Management Specialist during the development of the project to have a pre-application discussion. Go to dnr.wi.gov, key word “waterway protection” for more information. Project design must address the site specific considerations that are identified by the WMS and appropriate resource managers during the pre-application discussion.

2. The project purpose is to place a waterway crossing to allow for access across a navigable river or stream and does not result in significant adverse impacts to the public rights and interests, cause environmental pollution as defined in s. 299.01(4), Wis. Stats., or result in material injury to the riparian rights of any riparian owner pursuant to s. 30.206(3r)(a)2., Wis. Stats., nor does it cause more than minimal adverse environmental impacts, materially interfere with navigation, nor have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to s. 30.206(1)(am), Wis. Stats.

3. Projects proposed in locations with existing recorded deed restrictions within the project area, including easements limiting construction and land use activities, are not eligible for this general permit.

Note: Department Chs. 30 and 281 Wis. Stats. permits do not supersede any legal restrictions on the use of land

4. Structures over lake outlets and lake systems are not eligible for this permit.

5. Structures shall be placed entirely within the riparian’s zone of interest, as determined by one of the methods outlined in ch. NR 326, Wis. Admin. Code, or applicants have the written permission from all affected riparian landowners to proceed with structure placement in the proposed location.

6. The placement and installation of waterway crossing structures placed on the bed of a river or stream (culvert or ford crossings) shall mimic the natural streambed and gradient above and below the structure to allow for aquatic organism passage (AOP) where appropriate, and not result in a permanent impoundment of water upstream of the crossing location. (note: culverts on streams 2% gradient or greater may require additional culvert design considerations to allow for AOP).

7. Spawning. To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, in-stream structures may not be placed during the following time periods:

- September 15th through May 15th for all trout streams; to determine if a waterway is a trout stream, you may use the WDNR website trout maps which can be found at <https://dnr.wisconsin.gov/topic/Fishing/trout/streammaps.html>
- September 15th through June 15th on all Great Lakes tributaries upstream to the first dam or barrier.
- March 1st through June 15th for ALL OTHER waters.

Note: The local Department Fisheries Biologist may waive or modify timing restrictions in writing. To request waiver or modification of fish spawning timing restrictions for your project please do so within the narrative portion of your permit application.

8. The applicant is working to obtain a local shoreland zoning authorization for the project or the local shoreland zoning requirements have been waived. (Documentation required). If local zoning permits are not required, the project vegetation and bank disturbance is limited to the amount necessary for project placement and erosion control practices are adequate to prevent sedimentation to surface waters.

9. If the project is located in a regulatory floodplain, the applicant is working to obtain a floodplain permit (NR 116 Wis. Adm. Code) from the local floodplain zoning department.

Note: Contact your local floodplain zoning department to determine whether your project is located in a regulatory floodplain. For general floodplain mapping information, you may review the floodplain themed surface water data viewer at <https://dnrmaps.wi.gov/H5/?Viewer=SWDV&layerTheme=1>

10. Structures in and over navigable waterways must be sized and set at an elevation so that water depths, widths and velocities at the inlet and outlet match the natural stream channel. Invert elevations of culverts shall be determined by surveying the stream bed elevations upstream and downstream of the crossing, and setting the culvert below the natural stream bed elevation. (note: site specific conditions such as northern pike waters, may require different embedding techniques than typical designs to prevent fish entrapment)

11. All bridges and culverts shall maintain a clearance of 5 feet or more above the ordinary high water mark (OHWM), or request a waiver to the navigational clearance requirements, which can be granted by the Department when the following conditions apply:

- a. The waterway is known to have little or no navigation or snowmobile use.
- b. The waterway is not anticipated to have navigational use by other than lightweight craft.
- c. The owner provides a portage over or around the bridge or culvert.
- d. The reduced clearance would not be detrimental to the public interest.

12. Any wetland disturbance associated with the structure placement is incidental to the structure, confined to the area within the stream channel being crossed or the immediate adjacent banks, and has been authorized by a department wetland permit or exemption as required pursuant to s. 281.36 Wis. Stats. (Documentation required).

13. The removal of material from the stream bed to facilitate the placement of structures located on the stream bed is located within 2' of the structure or is limited to the minimum amount necessary for correct placement of the structure and shall not be disposed of in a waterway, floodway, floodplain, or wetland. (Note. Stream channels may not be widened beyond existing bankfull width to accommodate culvert placement.)

14. The applicant shall avoid operating equipment on the stream bed. If required for project installation, the applicant must consult with the Department and shall follow the best management practices identified below as appropriate in order to minimize adverse resource impacts:

- a. Temporary timber matting is used to protect the streambed
- b. Movement on the stream bed is kept to a minimum
- c. Equipment is kept on streambed for as little time as needed to complete the project and must be removed when not in use;
- d. Properly installed and maintained silt curtains and/or turbidity barriers are used around the perimeter of the project;
- e. Pre-inspection of vehicles/equipment is done for all operating days to avoid leaks;
- f. Biodegradable hydraulic and engine oils are used OR a spill containment kit is on site in case of spill

Additional eligibility standards for clear span bridges

1. The clear span bridge shall not be located on a wild river designated under Ch. NR 302, Wis. Admin. Code, or where similar federal, state or local regulations prohibit the construction.

2. The bridge shall completely span the navigable stream from top of the channel to top of the channel with no support pilings in the stream.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
1027 West St Paul Ave
Milwaukee, WI 53233

Tony Evers, Governor
Adam N. Payne, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



2/27/2023

Wisconsin Department of Natural Resources
Attn: Ryder Will
P.O. Box 7921
Madison, WI 53707
[sent electronically]

GP-NO-2023-16-00684
GP-NO-2023-16-00685

Dear Ryder Will:

This letter accepts your application to construct a clear-span bridge and habitat structure on the Little Balsam Creek, located in the NE 1/4, NW 1/4, Section 10, Township 46N, Range 15W, Town of Summit, Douglas County.

Our field staff are currently evaluating your proposal. Depending on the amount of information you provided and the complexity of your project, you may be asked to provide additional information so that a complete evaluation can be made. We will notify you of the final disposition of your application as soon as we complete our review.

If you have not already done so, please contact the Douglas County and local municipal zoning offices to determine if a local permit is also required for your project. I have forwarded a copy of your application to the U.S. Army Corps of Engineers. They will advise you directly as to whether their regulations apply to your project.

If you would like to know more about this project or would like to see the application and plans, please visit the Department's permit tracking website at <https://permits.dnr.wi.gov/water/SitePages/Permit%20Search.aspx> and search for GP-NO-2023-16-00685 or WP-GP-NO-2023-16-X02-24T08-32-59.

If you have any questions, please contact your local Water Management Specialist, Nathan Walker at (715) 492-0243 or email nathan.walker@wisconsin.gov.

Sincerely,

A handwritten signature in cursive script that reads 'Kate Markiewicz'.

Kate Markiewicz
Waterway and Wetland Permit Intake Specialist

Email CC:

Nathan Walker, Water Management Specialist
USACE Project Manager
Anna Beckman, Cedar Corporation

From: [Angel, Kathleen - DOA](#)
To: [FEMA-R5-Environmental](#)
Subject: RE: Gandy Dancer Federal Consistency and NEPA Environmental Assessment - Douglas County
Date: Friday, June 23, 2023 4:44:29 PM
Attachments: [image002.png](#)
[image003.png](#)

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Please select the Phish Alert Report button on the top right of your screen to report this email if it is unsolicited or suspicious in nature.

Hi Duane,

Thank you for the follow up and for your patience: it has been a crazy few months!

Soon after you sent out the inquiry last spring, I consulted with some colleagues at DNR. They had no comments at that time. And thank you for providing the permits. With those and the letter you provided, the Wisconsin Coastal Management Program concurs with FEMA's consistency determination for the Gandy Dancer project in Douglas County, Wisconsin. Nothing further is needed from our office.

Please let me know if you need that on letterhead or need anything else from WCMP.

Have a great weekend,

Kate



Kathleen Angel
Wisconsin Coastal Management Program
Division of Intergovernmental Relations
101 East Wilson Street, 9th Floor
PO Box 8944
Madison, WI 53708-8944
Phone: (608) 267-7988
kathleen.angel@wisconsin.gov
www.coastal.wisconsin.gov

From: FEMA-R5-Environmental <fema-r5-environmental@fema.dhs.gov>
Sent: Tuesday, June 13, 2023 10:29 AM
To: Angel, Kathleen - DOA <Kathleen.Angel@wisconsin.gov>
Subject: RE: Gandy Dancer Federal Consistency and NEPA Environmental Assessment - Douglas County

CAUTION: This email originated from outside the organization.

Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Kate –

We will send you a copy of our draft EA for your comment later this month for our Douglas County Stream Habitat and Bridge project. However, I noticed we do not have your response to our Federal Consistency Determination. If you are able to reply, we can incorporate your reply into our draft document. If you need more time – we can always incorporate your response when we are in the official public comment period.

Please see our original consistency determination attached as well as the recently obtained DNR permits for the project.

If you have any questions, please let us know.

We appreciate your partnership on Wisconsin Coastal projects.

Thanks!

Duane Castaldi
Regional Environmental Officer | FEMA Region 5
Office: 312-408-5549 | Mobile: 312-576-0067
Duane.Castaldi@fema.dhs.gov

Federal Emergency Management Agency
fema.gov



From: FEMA-R5-Environmental
Sent: Wednesday, March 15, 2023 7:35 PM
To: kathleen.angel@wisconsin.gov
Subject: Gandy Dancer Federal Consistency and NEPA Environmental Assessment - Douglas County

Hi Kate.

Please find attached the FEMA Federal Consistency Determination and a link to our NEPA scoping document. As this project requires a full EA, we wanted to provide you the scoping document at the

same time we are sending our consistency determination. Karen Poulson is the lead for this project if you have questions, karen.poulson@fema.dhs.gov.

Thanks

Duane Castaldi
Regional Environmental Officer | FEMA Region 5
Office: 312-408-5549 | Mobile: 312-576-0067
Duane.Castaldi@fema.dhs.gov

Federal Emergency Management Agency
fema.gov





U.S. Department of Homeland Security
FEMA Region 5
536 South Clark Street, 6th Floor
Chicago, Illinois 60605-1521

FEMA

March 15, 2023

Kate Angel
Department of Administration
PO Box 8944
101 East Wilson Street, 9th Floor
Madison, WI 53708

Re: FEMA National Environmental Policy Act Scoping Document
Wisconsin Department of Natural Resources Gandy Dancer Box Culvert
Douglas County, Wisconsin (46.48786, -92.22790)
DR-4383 Project 67097/ GP-NO-2023-16-00685

Dear Kate Angel:

The Wisconsin Emergency Management and Wisconsin Department of Natural Resources have requested funding from the Federal Emergency Management Agency (FEMA) to support the captioned Public Assistance Program project. The objective of FEMA's Public Assistance Program is to provide supplemental grants to state, tribal, territorial, and local governments, and certain types of private non-profits so communities can quickly respond to and recover from major disasters or emergencies.

In accord with the Council on Environmental Quality's regulations for complying with the National Environmental Policy Act, the purpose of this letter is to advise other agencies of FEMA's intent to prepare an Environmental Assessment for this project. The scoping document sets forth the purpose and need as well as areas of environmental review and study associated with the proposed project, note areas of expected environmental concern, and solicit any early comment regarding the project.

The scoping document is publicly available on FEMA's NEPA Repository by searching Gandy Dancer or by clicking the link below:

[Environmental Assessment for Gandy Dancer Box Culvert, Douglas County, Wisconsin, FEMA-DR-4383-WI, 2023 | FEMA.gov](#)

FEMA will incorporate scoping document comments and concerns into the document and you will be notified when the agency has prepared a draft Environmental Assessment for review.

Please also find the FEMA Federal Consistency Determination attached. Please review and notify us if you concur or need additional information.

FEMA looks forward to any comments you may have on this project as we prepare the Environmental Assessment. We would appreciate a response from your office by email by April 17, 2023. If you have questions, do not hesitate to contact me at 312-408-5549 or at fema-r5-environmental@fema.dhs.gov.

Sincerely,



Duane Castaldi
Regional Environmental Officer
FEMA Region 5

Sent by email to kathleen.angel@wisconsin.gov



FEMA

March 15, 2023

***CZMA Consistency Determination
Wisconsin Department of Natural Resources Gandy Dancer Culvert
Gandy Dancer Trail, Douglas County, Wisconsin
FEMA-Wisconsin- DR-4383 Project 67097
46.48786, -92.22790 S10 T46N R15W***

Description of Undertaking and Source of Federal Funding:	<p>The sub-grantee proposes to use funding from FEMA's Public Assistance Grant Program to remove a concrete culvert structure over Little Balsam Creek, install prefabricated 140-foot truss bridge, clear and grub 2.2 acres which includes staging areas, stream realignment to natural channel, install riprap and geotechnical fabric and install erosion control mats.</p> <p>As the location listed above lies within the Coastal Zone Management Area and the proposed SOW is not strictly repairing to pre-disaster condition, this package is being submitted for review. This project will require a full Environmental Assessment under the National Environmental Policy Act. With this submission we have enclosed the Scoping Document and will send you a copy of the draft EA when available.</p>
State Permitting Requirements:	<p>As a condition of the grant award, the subrecipient will be responsible for any USACE or state permitting that may be required for this project. The Wisconsin Department of Natural Resources submitted an application to construct the 140-foot truss bridge and above scopes of work, WP-GP-NO-2023-16-X02-24T08-32-5.</p>
Steps Taken to Identify Project's Consistency with the State Coastal Management Program:	<p>A review of the scope of the captioned project makes clear that the federally funded action is consistent to the maximum extent practicable with federally approved enforceable policies of Wisconsin's Coastal Management Program relating to private and public coastal uses and resources.</p>
FEMA's Finding:	<p>FEMA finds this project, if completed as proposed, will be consistent with Wisconsin's approved coastal management program and will be conducted in a manner consistent with such program.</p>
Department of Administration, Wisconsin Coastal Management Program Response:	<p>Please direct the response regarding this consistency review to: Duane Castaldi, Regional Environmental Officer FEMA Region 5 fema-r5-environmental@fema.dhs.gov</p>

Gandy Dancer Box Culvert.
GoogleEarth





July 5, 2023

Ryder Will
Wisconsin Department of Natural Resources Si
P.O. Box 7921

Madison WI 53707
Via email: ryder.will@wisconsin.gov

SUBJECT: Coverage Under WPDES General Permit No. WI-S067831-06: Construction Site Storm Water Runoff
Permittee Name: Wisconsin Department of Natural Resources Si
Site Name: Gandy Dancer ST Repair/Replace Box Culvert Under Trail
FIN: 86774

Dear Permittee:

The Wisconsin Department of Natural Resources received your Water Resources Application for Project Permits or Notice of Intent, on February 22, 2023, for the Gandy Dancer ST Repair/Replace Box Culvert Under Trail site and has evaluated the information provided regarding storm water discharges from your construction site. We have determined that your construction site activities will be regulated under ch. 283, Wis. Stats., ch. NR 216, Wis. Adm. Code, and in accordance with Wisconsin Pollutant Discharge Elimination System (WPDES) General Permit No. WI-S067831-06, Construction Site Storm Water Runoff. All erosion control and storm water management activities undertaken at the site must be done in accordance with the terms and conditions of the general permit.

The **Start Date** of permit coverage for this site is July 05, 2023. The maximum period of permit coverage for this site is limited to 3 years from the **Start Date**. Therefore, permit coverage automatically expires and terminates 3 years from the Start Date and storm water discharges are no longer authorized unless another Notice of Intent and application fee to retain coverage under this permit or a reissued version of this permit is submitted to the Department 14 working days prior to expiration.

A copy of the general permit along with extensive storm water information including technical standards, forms, guidance and other documents is accessible on the Department's storm water program Internet site. To obtain a copy of the general permit, please download it and the associated documents listed below from the following Department Internet site:
<http://dnr.wi.gov/topic/stormwater/construction/forms.html>

- Construction Site Storm Water Runoff WPDES general permit No. WI-S067831-06
- Construction site inspection report form
- Notice of Termination form

If, for any reason, you are unable to access these documents over the Internet, please contact me and I will send them to you.

To ensure compliance with the general permit, please read it carefully and be sure you understand its contents. Please take special note of the following requirements (This is not a complete list of the terms and conditions of the general permit.):

1. The Construction Site Erosion Control Plan and Storm Water Management Plan that you completed prior to submitting your permit application must be implemented and maintained throughout construction. Failure to do so may result in enforcement action by the Department.
2. The general permit requires that erosion and sediment controls be routinely inspected at least every 7 days, and within 24 hours after a rainfall event of 0.5 inches or greater. Weekly written reports of all inspections must be maintained. The reports must contain the following information:
 - a. Date, time, and exact place of inspection;
 - b. Name(s) of individual(s) performing inspection;
 - c. An assessment of the condition of erosion and sediment controls;
 - d. A description of any erosion and sediment control implementation and maintenance performed;
 - e. A description of the site's present phase of construction.
3. A **Certificate of Permit Coverage** must be posted in a conspicuous place on the construction site. The Certificate of Permit Coverage (WDNR Publication # WT-813) is enclosed for your use.
4. When construction activities have ceased and the site has undergone final stabilization, a Notice of Termination (NOT) of coverage under the general permit must be submitted to the Department.

It is important that you read and understand the terms and conditions of the general permit because they have the force of law and apply to you. Your project may lose its permit coverage if you do not comply with its terms and conditions. The Department may also withdraw your project from coverage under the general permit and require that you obtain an individual WPDES permit instead, based on the Department's own motion, upon the filing of a written petition by any person, or upon your request.

If you believe that you have a right to challenge this decision to grant permit coverage, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to s. 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. All requests for contested case hearings must be made in accordance with s. NR 2.05(5), Wis. Adm. Code, and served on the Secretary in accordance with s. NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

Thank you for your cooperation with the Construction Site Storm Water Discharge Permit Program. If you have any questions concerning the contents of this letter or the general permit, please contact Matthew Jacobson at (715) 928-0485.

Sincerely,



Teagan Wagner
Northern & West Central Region
Storm Water Program

ENCLOSURE: Certificate of Permit Coverage



CERTIFICATE OF PERMIT COVERAGE

UNDER THE
WPDES CONSTRUCTION SITE STORM WATER RUNOFF PERMIT
Permit No. WI-S067831-06

Under s. NR 216.455(2), Wis. Adm. Code, landowners of construction sites with storm water discharges regulated by the Wisconsin Department of Natural Resources (WDNR) Storm Water Permit Program are required to post this certificate in a conspicuous place at the construction site. This certifies that the site has been granted WDNR storm water permit coverage. The landowner must implement and maintain erosion control practices to limit sediment-contaminated runoff to waters of the state in accordance with the permit.

EROSION CONTROL COMPLAINTS

should be reported to the WDNR Tip Line at
1-800-TIP-WDNR (1-800-847-9367)

Please provide the following information to the Tip Line:

WDNR Site No. (FIN): 86774

Site Name: Gandy Dancer ST Repair/Replace Box Culvert Under Trail

Address/Location: Gandy Dancer State Trail over Little Balsam Creek Town of SUMMIT

Additional Information:

Landowner: Wisconsin Department of Natural Resources Si

Landowner's Contact Person: Ryder Will

Contact Telephone Number: (608) 963-3225

Permit Start Date: July 05, 2023

By: *Ryder Will*

Appendix B
Tribal Nation Consultation



September 27, 2022

Edith Leoso, Tribal Historic Preservation Officer
Bad River Band of Lake Superior Tribe of Chippewa Indians
P.O. Box 39
Odanah, Wisconsin 54861

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Ms. Leoso:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

FEMA is providing these materials to the following federally recognized Indian tribes (Tribes) thought to have interests in the area:

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- Menominee Indian Tribe of Wisconsin
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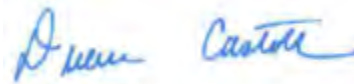
In accord with 36 CFR 800.2(c)(2)(ii), FEMA is providing this opportunity for the Bad River Band of Lake Superior Tribe of Chippewa Indians to join the consultation by identifying concerns about

Gandy Dancer Culvert
Project 67097
WiDNR, Douglas County,
Wisconsin
September 27, 2022
Page 2 of 24

historic properties that may be affected by this undertaking. FEMA would also appreciate notice of Tribes other than those listed above that may have an interest in this undertaking.

We would appreciate a response from your office within 30 days. If you have questions, do not hesitate to contact me at 312-408-5549 or at fema-r5-environmental@fema.dhs.gov. If we do not receive a response within 30 days, FEMA will move forward with this undertaking without comment from the Bad River Band of Lake Superior Tribe of Chippewa Indians.

Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Rob Hull, Tribal Historic Preservation Officer
Grand Portae Band of Lake Superior Chippewa
P.O. Box 428
Grand Portage, Minnesota 55605

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Mr. Hull:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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Gandy Dancer Culvert
Project 67097
WiDNR, Douglas County,
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September 27, 2022
Page 4 of 24

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Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Brian Bisonette, Tribal Historic Preservation Officer
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
13394 West Trepania Road
Hayward, Wisconsin 54843

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Mr. Bisonette:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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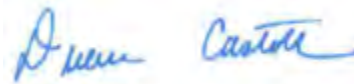
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Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Sarah Thompson, Tribal Historic Preservation Officer
Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin
P.O. Box 67
Lac du Flambeau, Wisconsin 54538

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Ms. Thompson:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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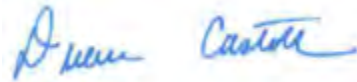
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Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Alina J. Shively, Tribal Historic Preservation Officer
Lac Vieux Desert Band of Lake Superior Chippewa Indians
P.O. Box 249
Watersmeet, Michigan 49969

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Ms. Shively:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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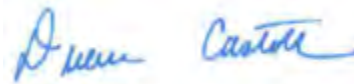
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Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Amy Burnette, Tribal Historic Preservation Officer
Leech Lake Band of Ojibwe
190 Sailstar Drive NE
Cass Lake, Minnesota 56633

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Ms. Burnette:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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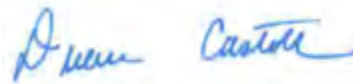
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Gandy Dancer Culvert
Project 67097
WiDNR, Douglas County,
Wisconsin
September 27, 2022
Page **12** of **24**

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Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

David Grignon, Tribal Historic Preservation Officer
Menominee Indian Tribe of Wisconsin
W3426 Cty W West
P.O. Box 910
Keshena, Wisconsin 54135-0910

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Mr. Grignon:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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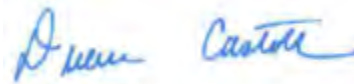
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Gandy Dancer Culvert
Project 67097
WiDNR, Douglas County,
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Page **14** of **24**

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Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Diane Hunter, Tribal Historic Preservation Officer
Miami Tribe of Oklahoma
P.O. Box 1326
Miami, Oklahoma 74355

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Ms. Hunter:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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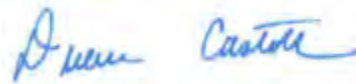
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Sincerely,



Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Terry Kemper, Tribal Historic Preservation Officer
Mille Lacs Band of Ojibwe Indians
43409 Oodena Drive
HCR 67, Box 194
Odanah, Wisconsin 54861

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Mr. Kemper:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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- Lac Vieux Desert Band of Lake Superior Chippewa Indians
- Leech Lake Band of Ojibwe
- Menominee Indian Tribe of Wisconsin
- Miami Tribe of Oklahoma
- Mille Lacs Band of Ojibwe Indians
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
- White Earth Band of Ojibwe

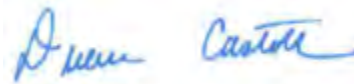
In accord with 36 CFR 800.2(c)(2)(ii), FEMA is providing this opportunity for the Bad River Band of Lake Superior Tribe of Chippewa Indians to join the consultation by identifying concerns about

Gandy Dancer Culvert
Project 67097
WiDNR, Douglas County,
Wisconsin
September 27, 2022
Page **18** of **24**

historic properties that may be affected by this undertaking. FEMA would also appreciate notice of Tribes other than those listed above that may have an interest in this undertaking.

We would appreciate a response from your office within 30 days. If you have questions, do not hesitate to contact me at 312-408-5549 or at fema-r5-environmental@fema.dhs.gov. If we do not receive a response within 30 days, FEMA will move forward with this undertaking without comment from the Bad River Band of Lake Superior Tribe of Chippewa Indians.

Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Marvin DeFoe, Tribal Historic Preservation Officer
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
88385 Pike Road, HWY 13
Bayfield, Wisconsin 54814

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Mr. DeFoe:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

FEMA is providing these materials to the following federally recognized Indian tribes (Tribes) thought to have interests in the area:

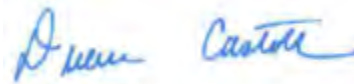
- Bad River Band of Lake Superior Tribe of Chippewa Indians
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Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Jaime Arsenault, Tribal Historic Preservation Officer
White Earth Band of Ojibwe
P.O. Box 418
White Earth, Minnesota 56591

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Ms. Arsenault:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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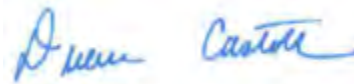
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Gandy Dancer Culvert
Project 67097
WiDNR, Douglas County,
Wisconsin
September 27, 2022
Page **22** of **24**

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Sincerely,

A handwritten signature in blue ink that reads "Duane Castaldi".

Duane Castaldi Regional
Environmental Officer
FEMA Region 5

Sent by email to thpo@badriver-nsn.gov

September 27, 2022

Evan Schroeder, Tribal Historic Preservation Officer
Fond du Lac Band of Lake Superior Chippewa
1720 Big Lake Road
Cloquet, Minnesota 55720

Re: Gandy Dancer Box Culvert
Wisconsin Department of Natural Resources, Gandy Dancer Trail, Douglas County, Wisconsin
DR 4383 Project 67097
46.48786, -92.22790/ S10 T46N R15W

Dear Mr. Schroeder:

Pursuant to the Section 106 of the National Historic Preservation Act, I am writing this letter to initiate and conclude consultation regarding the captioned Public Assistance Grant Program project. In accord with 36 CFR §800.11, I am enclosing documentation regarding this undertaking and its effect on historic properties, which is being sent concurrently to the Wisconsin State Historic Preservation Office for their review. This documentation provides the justification for FEMA's finding of no historic properties affected. While our practice is to notify Tribes with potential interests before work begins, the archaeological survey report in this instance was completed before the project was presented for review. Commonwealth Heritage Group conducted the archaeological survey and no archaeological sites, artifacts or features were identified and no further archaeological work was recommended.

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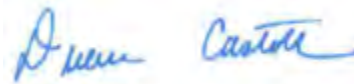
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Sincerely,



Duane Castaldi Regional
Environmental Officer
FEMA Region 5

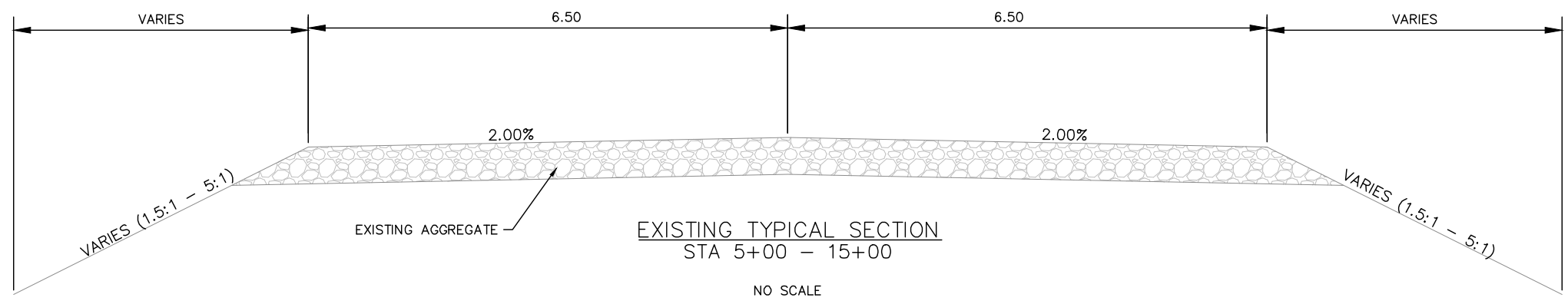
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Appendix C
Engineering Plans



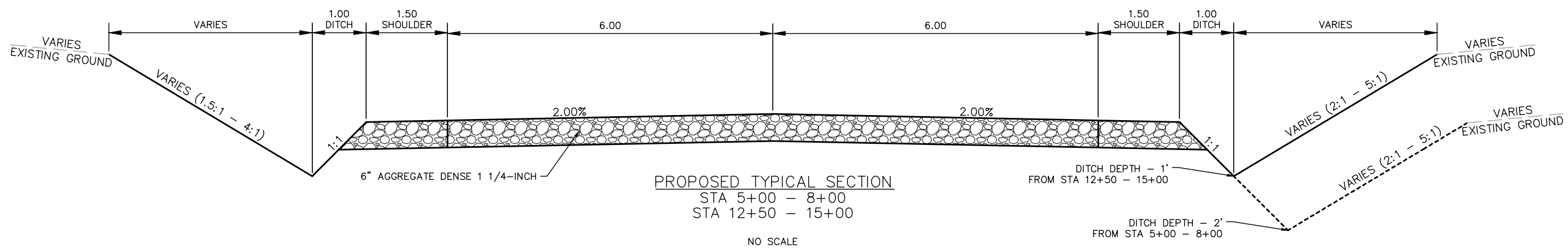
**BOX CULVERT REMOVAL
AND NEW BRIDGE CONSTRUCTION
GANDY DANCER STATE TRAIL
TOWN OF SUMMIT, WISCONSIN**

Sheet Title:
TYPICAL SECTION



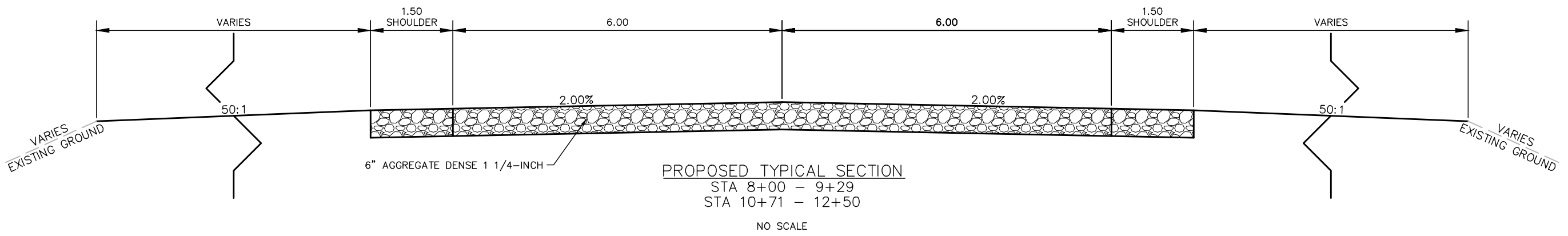
EXISTING TYPICAL SECTION
STA 5+00 - 15+00

NO SCALE



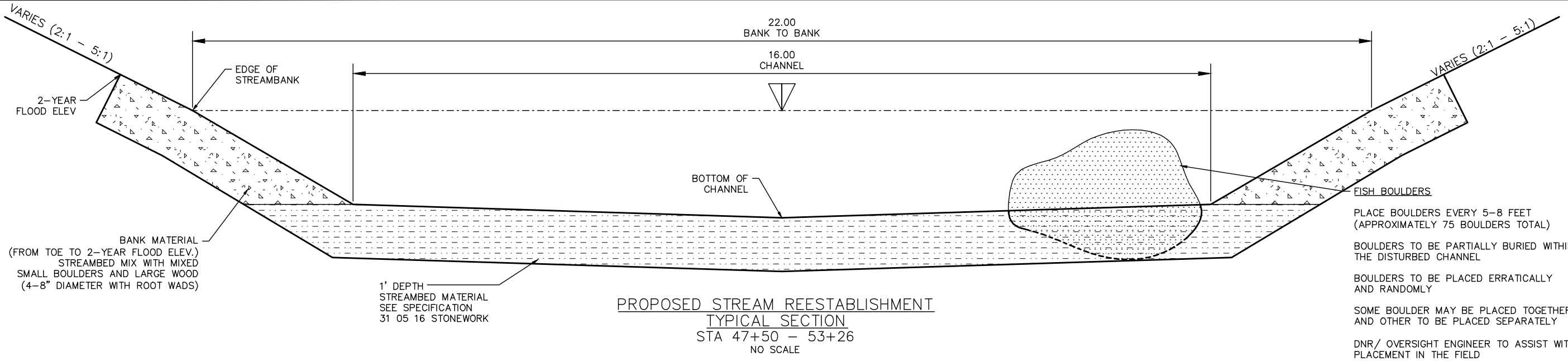
PROPOSED TYPICAL SECTION
STA 5+00 - 8+00
STA 12+50 - 15+00

NO SCALE



PROPOSED TYPICAL SECTION
STA 8+00 - 9+29
STA 10+71 - 12+50

NO SCALE



PROPOSED STREAM REESTABLISHMENT
TYPICAL SECTION
STA 47+50 - 53+26

NO SCALE

NO SCALE

DFD Number: **1811N**

Set Type: **FR**

Date Issued: **01/26/2023**

Sheet Number: **C100**

DNR/ OVERSIGHT ENGINEER TO ASSIST WITH PLACEMENT IN THE FIELD

Revisions:

No.	Date:	Description:

I:\Clients-Memo\W\W0779 Wis Dept of Administration\121 1811N - Gandy Dancer ST Repair-Replace Box Culvert Under Trail\100 Cad\01 DWG\1811N-00-FR-C101.dwg 01/26/23 3:41:25 PM

I:\Clients-Memo\W\W0779 Wis Dept of Administration\121 181N - Candy Dancer ST Repair-Replace Box Culvert Under Trail\100 Cad\01 DWG\181N-00-FR-C101.dwg 01/26/23 4:56:28 PM

GENERAL NOTES

1. WE CERTIFY, TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND STANDARD OF INDUSTRY CARE THAT THE DESIGN OF THE PROJECT COMPLIES WITH APPLICABLE PROVISIONS OF THE ADMINISTRATIVE CODES AND STATUTES OF THE STATE OF WISCONSIN AND ACCESSIBILITY STANDARDS.
2. THE CONTRACTOR SHALL TAKE ALL PRECAUTIONARY MEASURES TO PROTECT THE PUBLIC AND ADJACENT PROPERTIES FROM DAMAGE THROUGHOUT CONSTRUCTION.
3. ANY EXISTING UTILITIES TO BE ABANDONED SHALL BE PROPERLY DISCONNECTED, PLUGGED OR CAPPED, AS REQUIRED BY CODE OR LOCAL ORDINANCE.
4. THESE DRAWINGS ARE DIAGRAMMATIC AND SHALL NOT BE SCALED. ADDITIONAL DATA SHALL BE FROM THE ARCHITECT/ENGINEER THROUGH WRITTEN CLARIFICATION ONLY. VERIFY ALL EXISTING CONDITIONS, ELEVATIONS, AND DIMENSIONS BEFORE PROCEEDING WITH ANY PORTION OF ANY WORK.
5. NO CHANGES, MODIFICATIONS OR DEVIATIONS SHALL BE MADE FROM THE DRAWINGS OR SPECIFICATIONS WITHOUT FIRST SECURING WRITTEN PERMISSION FROM THE ARCHITECT/ENGINEER.
6. WHERE LACK OF INFORMATION, OR ANY DISCREPANCY SHOULD APPEAR IN THE DRAWINGS OR SPECIFICATIONS, REQUEST WRITTEN INTERPRETATION FROM THE ARCHITECT/ENGINEER BEFORE PROCEEDING WITH THAT PORTION OF THE WORK.
7. ALL WORK AS OUTLINED IN THESE DOCUMENTS, SHALL STRICTLY CONFORM TO ALL APPLICABLE CODES AND ORDINANCES, IN THE EVENT OF CONFLICTS THE MORE STRINGENT REQUIREMENT SHALL GOVERN AND BE MET.
8. THE CONTRACTOR SHALL PAY FOR ALL FEES, PERMITS, LICENSES, ETC., NECESSARY FOR PROPER COMPLETION OF THE WORK. VERIFY COST WITH AUTHORITY HAVING JURISDICTION.
9. THE CONTRACTOR SHALL GUARANTEE ALL WORKMANSHIP AND MATERIALS FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF SUBSTANTIAL COMPLETION OR AS OTHERWISE REQUIRED IN THE SPECIFICATIONS.
10. PROVIDE ADEQUATE CONCEALED BLOCKING AND ANCHORING FOR ALL CEILING AND WALL MOUNTED EQUIPMENT, HARDWARE, AND ACCESSORIES.
11. WHEN A SYSTEM OR ASSEMBLY IS CALLED OUT, ALL NECESSARY PARTS AND MATERIALS REQUIRED FOR A COMPLETE INSTALLATION/SYSTEM SHALL BE INSTALLED ACCORDING TO THE MANUFACTURERS INSTRUCTIONS.
12. COORDINATE WITH ALL TRADES THE LOCATIONS OF SLEEVES OR OTHER PRESET ACCESSORIES INVOLVING OTHER TRADES.
13. DISRUPTED EXISTING CONDITIONS i.e. LANDSCAPING, LIGHTING, PEDESTRIAN, AND VEHICLE ACCESS SHALL BE MINIMALLY REPLACED AT THE END OF CONSTRUCTION TO MATCH EXISTING AND ADJACENT CONDITIONS PRIOR TO CONSTRUCTION.
14. DIMENSIONS ARE SHOWN FROM FACE TO FACE WALL SURFACE AND EDGE OF ROUGH OPENING UNLESS NOTED OTHERWISE.
15. THE CONTRACTOR SHALL VISIT THE JOB SITE AND BECOME FAMILIARIZED WITH ALL EXISTING CONDITIONS WHICH MAY AFFECT THE BID. NO ALLOWANCES WILL BE MADE AFTER THE BID FOR EXISTING CONDITIONS OR THE CONTRACTOR'S FAILURE TO VERIFY EXISTING CONDITIONS.
16. PROVIDE SHOP DRAWINGS FOR ALL MATERIALS AND EQUIPMENT TO THE ARCHITECT/ENGINEER FOR REVIEW PRIOR TO ORDERING. MATERIALS AND EQUIPMENT INSTALLED WITHOUT APPROVAL SHALL BE SUBJECT TO REJECTION AND REPLACEMENT AT THE CONTRACTOR'S EXPENSE.
17. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING LOCATIONS OF EXISTING UTILITIES, EASEMENTS, PROPERTY BOUNDARIES, AND SETBACKS.
18. THE CONTRACTOR SHALL BE RESPONSIBLE FOR SCHEDULING AND COORDINATING EXTENSION OF ALL UTILITIES AND SERVICES TO THE BUILDING.
19. THE CONTRACTOR SHALL BE RESPONSIBLE TO VERIFY THE SOIL BEARING CAPACITY AND TESTING.
20. THE CONTRACTOR SHALL PROVIDE 6" COMPACTED GRANULAR FILL AT EXTERIOR SIDEWALKS AND PAVED AREAS UNLESS NOTED OTHERWISE.
21. ALL DETAILS NOT SHOWN ON THIS PLAN SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. WHERE CLARIFICATION IS REQUIRED CONTACT ARCHITECT/ENGINEER.
22. THE GENERAL CONTRACTOR IS RESPONSIBLE FOR ALL CUTTING AND PATCHING FOR ALL TRADES.
23. THE GENERAL CONTRACTOR IS RESPONSIBLE FOR PROVIDING AND COORDINATING INSTALLATION OF KNOX BOX WITH ARCHITECT AND LOCAL FIRE CHIEF.
24. WDNR WILL PROVIDE DETOUR ROUTE FOR TRAIL DURING CONSTRUCTION.
25. THE CONTRACTOR WILL BE RESPONSIBLE FOR TRAFFIC CONTROL AND TRAIL CLOSURE.
26. THE CONTRACTOR WILL BE RESPONSIBLE FOR CONSTRUCTION ACTIVITIES SIGNAGE UPSTREAM AND DOWNSTREAM OF THE PROJECT.

ABBREVIATIONS

AD	SLOPE CHANGE
ADJ	ADJUST
APPROX	APPROXIMATE
B-B	BACK OF CURB TO BACK OF CURB
BC	BACK OF CURB
BEG	BEGIN
BM	BENCH MARK
BR	BEGIN RADIUS
C&G	CURB AND GUTTER
CL	CENTERLINE
CONC	CONCRETE
CP	CONTROL POINT
CY	CUBIC YARD
DIA	DIAMETER
DWY	DRIVEWAY
EA	EACH/ EDGE OF ASPHALT
EC	EDGE OF CONCRETE
EL / ELEV	ELEVATION
ER	END RADIUS
EX	EXISTING
FL	FLOW LINE
FT	FEET
HP	HIGH POINT
HYD	HYDRANT
INL	INLET
INV	INVERT
K	RATE OF VERTICAL CURVATURE
L	LENGTH
LAT	LATERAL
LF	LINEAR FEET
LP	LOW POINT
LT	LEFT
MAX	MAXIMUM
MH	MANHOLE
MIN	MINIMUM
MR	MID RADIUS
NTS/N.T.S.	NOT TO SCALE
OE	OVERHEAD ELECTRIC
O/S	OFFSET
PC	POINT OF CURVATURE
PCC	POINT OF COMPOUND CURVATURE
PI	POINT OF INTERSECTION
PROP	PROPOSED
PT	POINT OF TANGENCY
PVC	POINT OF VERTICAL CURVATURE
PVC	POLY-VINYL CHLORIDE
PVI	POINT OF VERTICAL INTERSECTION
PVT	POINT OF VERTICAL TANGENCY
QTY	QUANTITY
R	RADIUS
RCP	RE-INFORCED CONCRETE PIPE
PL	PROPERTY LINE
R/W	RIGHT-OF-WAY
RAD	RADIUS POINT
RT	RIGHT
SAN	SANITARY
SDWK	SIDEWALK
SF	SQUARE FEET
STA	STATION
STH	STATE TRUNK HIGHWAY
STM	STORM
SY	SQUARE YARDS
TBOC	TOP BACK OF CURB
TC	TOP OF CURB
TEL	TELEPHONE
TYP	TYPICAL
UGE	UNDERGROUND ELECTRIC
VAR	VARIES OR VARIABLE
VC	VERTICAL CURVE
WM	WATERMAIN
WTR	WATER



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MADISON, WI 53707-7866

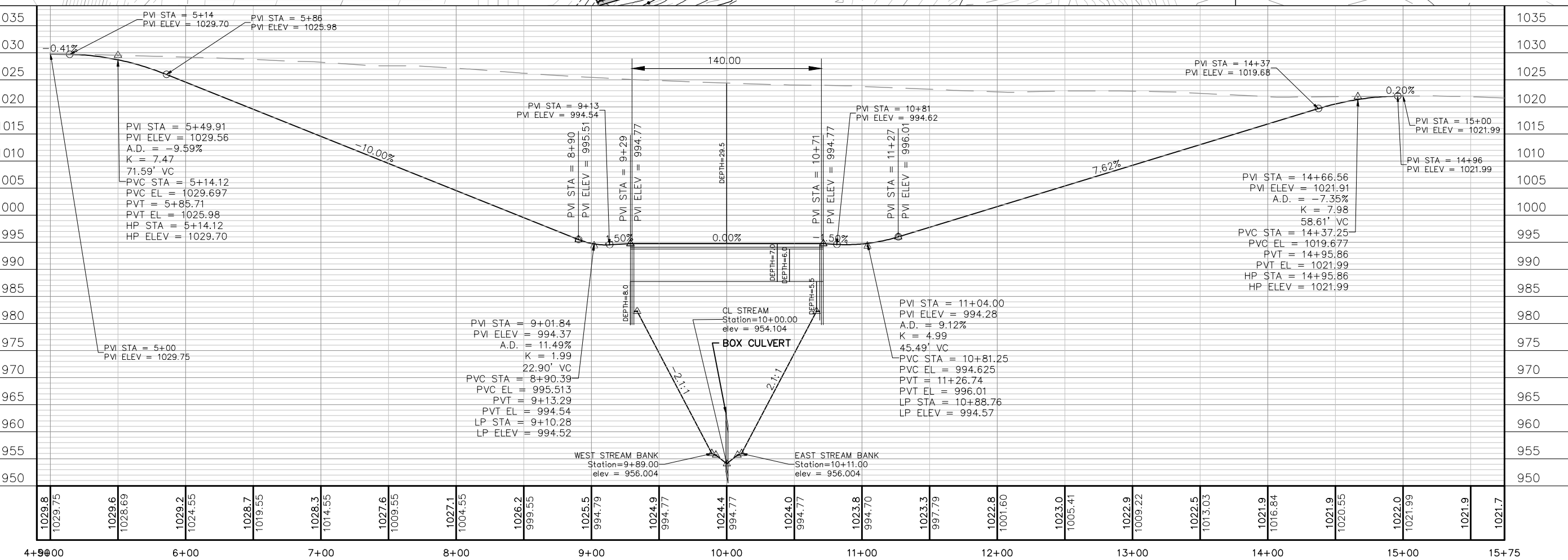
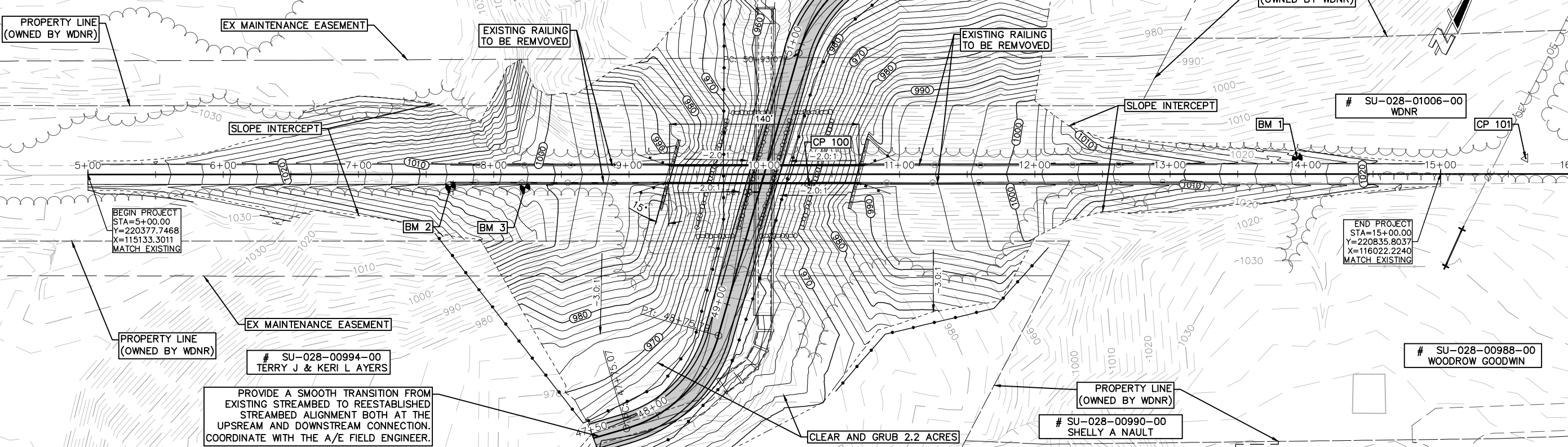
**BOX CULVERT REMOVAL
AND NEW BRIDGE CONSTRUCTION
GANDY DANCER STATE TRAIL
TOWN OF SUMMIT, WISCONSIN**

Sheet Title:
GENERAL NOTES

Revisions:		
No.	Date:	Description:

Graphic Scale	NO SCALE
DFD Number	181N
Set Type	FR
Date Issued	01/26/2023
Sheet Number	C101

BENCHMARK	DESCRIPTION	STATION	OFFSET	NORTHING	EASTING	ELEVATION
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BM 2	3/4" RB	8+23.05	9.73' R	220517.078	115424.935	1026.960
BM 3	3/4" RB	7+48.03	9.08' R	220492.452	115375.719	1027.525
CP 100	IRON PIN	10+00.00	7.99' R	220514.862	115510.901	1024.988
CP 101	IRON PIN	15+00.00	11.47' L	220874.807	116072.873	1021.269



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 Division of Facilities Development

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 MADISON, WI 53707-7866

BOX CULVERT REMOVAL AND NEW BRIDGE CONSTRUCTION GANDY DANCER STATE TRAIL TOWN OF SUMMIT, WISCONSIN

Sheet Title: PLAN AND PROFILE BRIDGE

Revisions:		
No.	Date:	Description:

Graphic Scale: 0' 10' 20' 40' 60'

DFD Number: 1811N

Set Type: FR

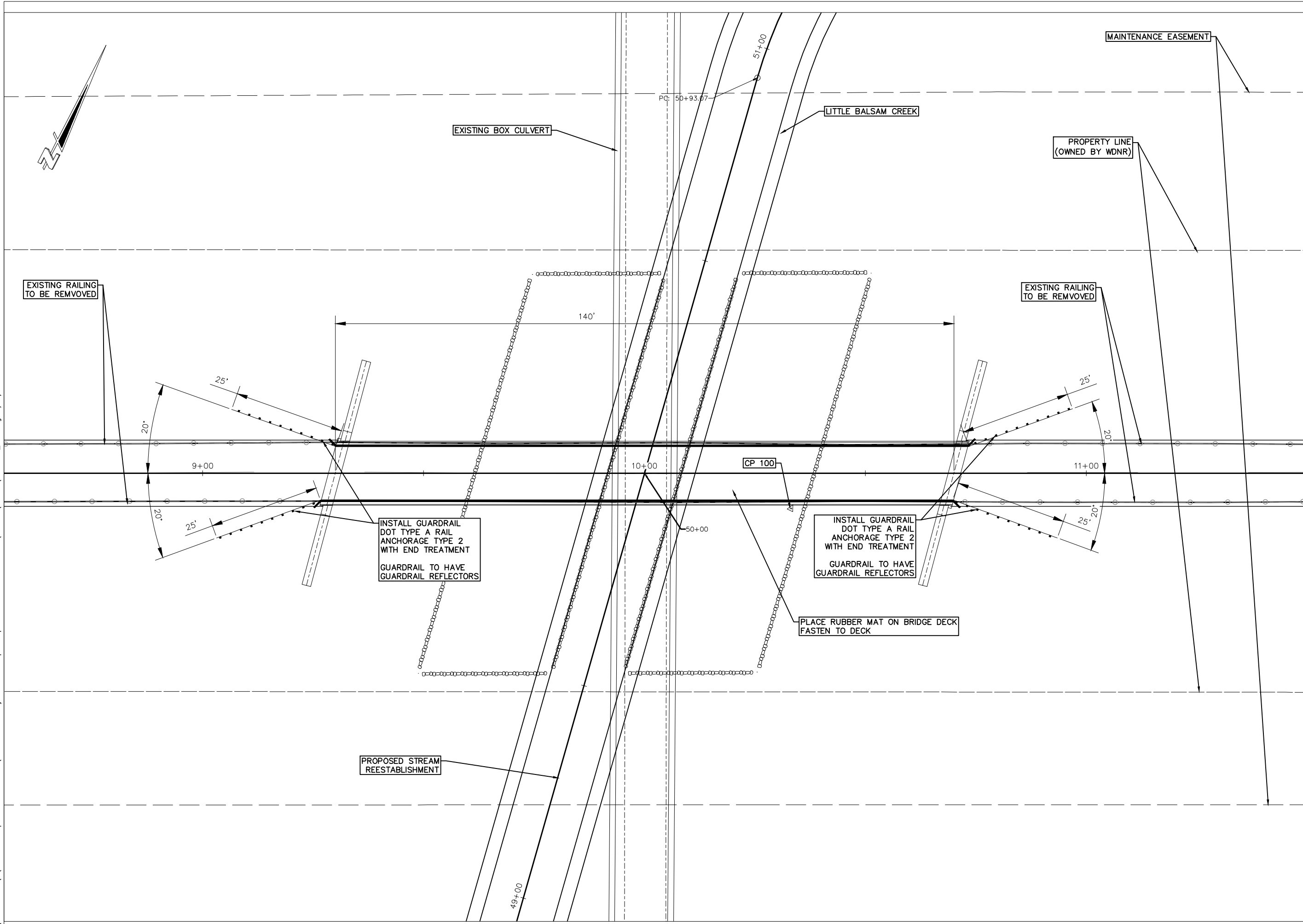
Date Issued: 01/30/2023

Sheet Number: **C102**

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**BOX CULVERT REMOVAL
AND NEW BRIDGE CONSTRUCTION
GANDY DANCER STATE TRAIL
TOWN OF SUMMIT, WISCONSIN**

Sheet Title:
PLAN AND PROFILE
BRIDGE PLAN

Revisions:

Date:	Description:

Graphic Scale	
Number	1811N
	FR
Issued	01/30/2023
Sheet Number	C104



**BOX CULVERT REMOVAL
AND NEW BRIDGE CONSTRUCTION
GANDY DANCER STATE TRAIL
TOWN OF SUMMIT, WISCONSIN**

Sheet Title:
EROSION CONTROL

Revisions:

No.	Date	Description

Graphic Scale: 0' 10' 20' 40' 60'

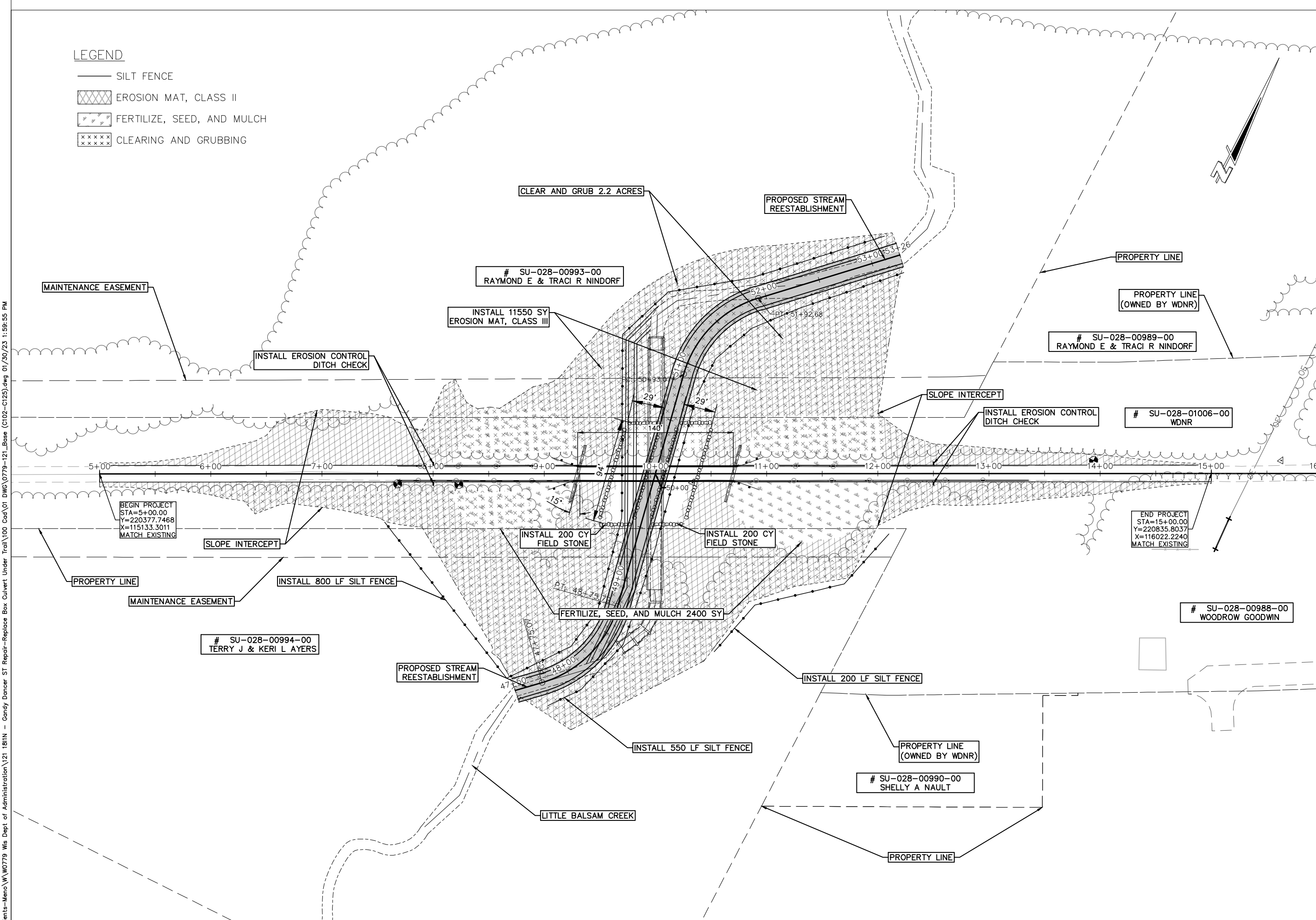
DFD Number: 1811N

Set Type: FR

Date Issued: 01/30/2023

Sheet Number: C106

- LEGEND**
- SILT FENCE
 - ▨ EROSION MAT, CLASS II
 - ▩ FERTILIZE, SEED, AND MULCH
 - ⊠ CLEARING AND GRUBBING



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Revisions:

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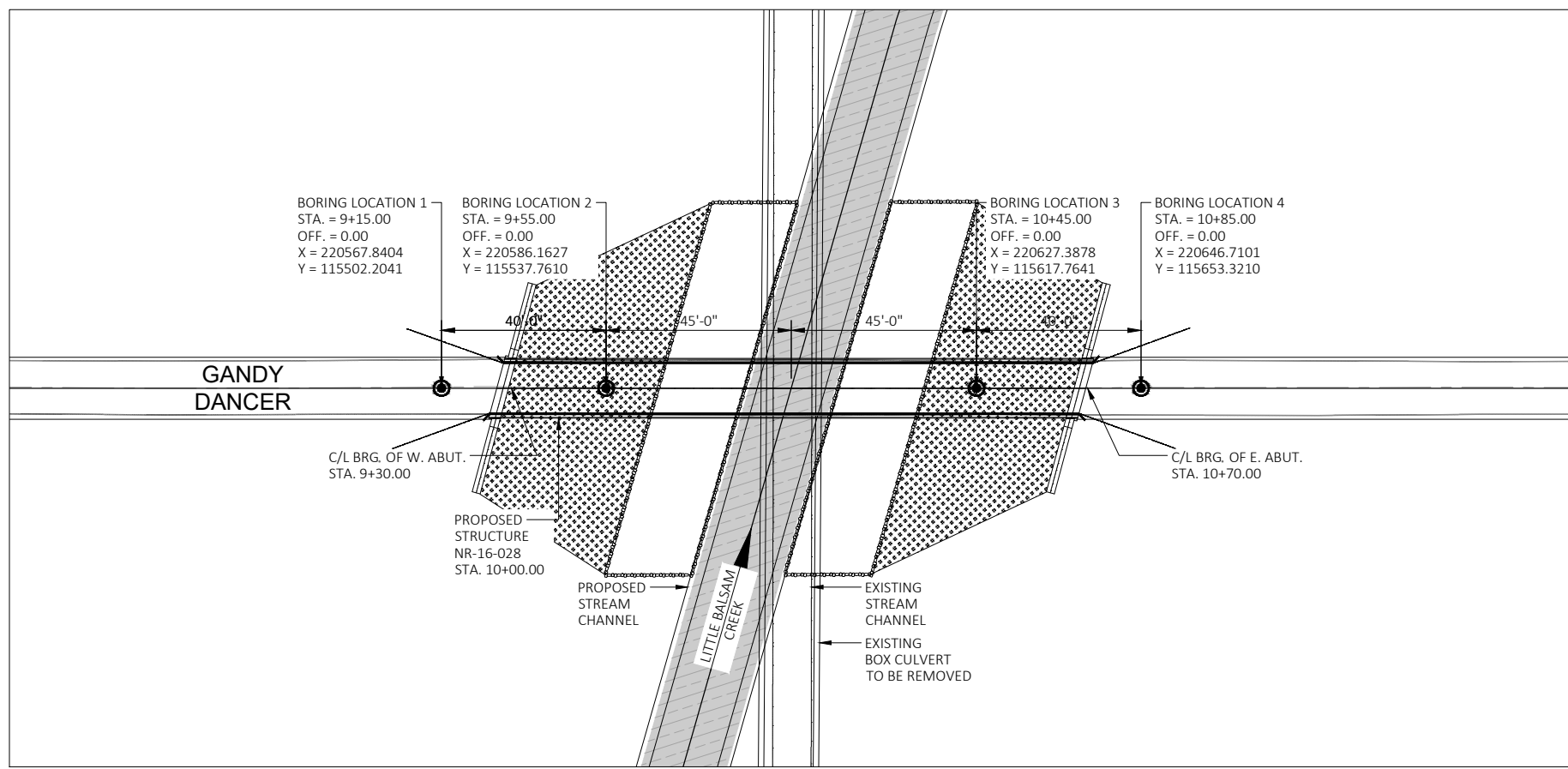
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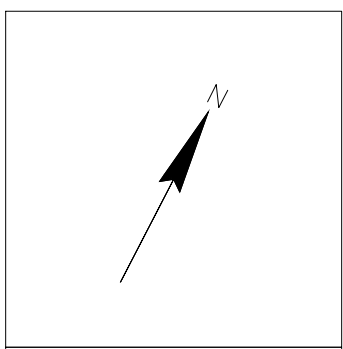
Set Type: FR

Date Issued: 01/23/2023

Sheet Number: **S102**



PLAN



SUBSURFACE NOTES

THE SUBSURFACE INFORMATION PRESENTED HEREIN IS AN ABBREVIATED VERSION OF THE INFORMATION PRESENTED IN THE GEOTECHNICAL ENGINEERING REPORT. REVIEW THE APPROPRIATE GEOTECHNICAL REPORT AND SOIL BORING LOGS FOR ADDITIONAL SUBSURFACE INFORMATION.

BORINGS & REPORT COMPLETED BY:

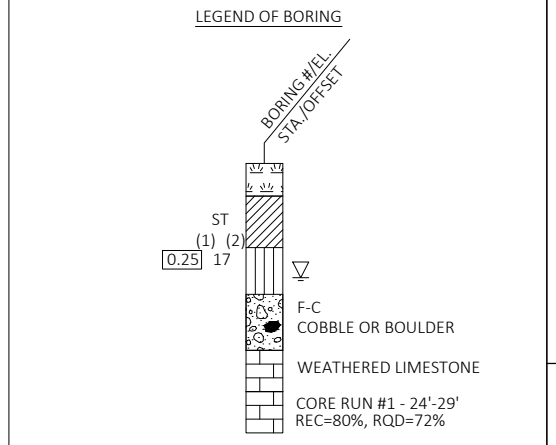
CHOSEN VALLEY TESTING, INC.
1019 SECOND AVENUE SW
ONALASKA, WI 54650
(608) 782-5505

BORINGS PERFORMED ON:

- 1/25/2021 - B1
- 1/26/2021 - B2
- 1/26/2021 - B3
- 1/26/2021 - B3

MATERIAL SYMBOLS

ASPHALT	TOPSOIL	PEAT
CONCRETE	FILL	GRAVEL
SAND	CLAY	SILT
BOULDERS OR COBBLES	LIMESTONE	BEDROCK (UNKNOWN)
SHALE	SANDSTONE	IGNEOUS/META



- (1) UNCONFINED STRENGTH, AS DETERMINED BY A POCKET PENETROMETER (TSF)
- (2) UNLESS OTHERWISE SPECIFIED THE SPT 'N' VALUE IS BASED ON AASHTO T-206, STANDARD PENETRATION TEST. THE SPT 'N' VALUE PRESENTED HAS NOT BEEN CORRECTED FOR OVERBURDEN PRESSURE OR HAMMER EFFICIENCY.

GROUND WATER ELEVATION

▽ AT TIME OF DRILLING

▼ END OF DRILLING

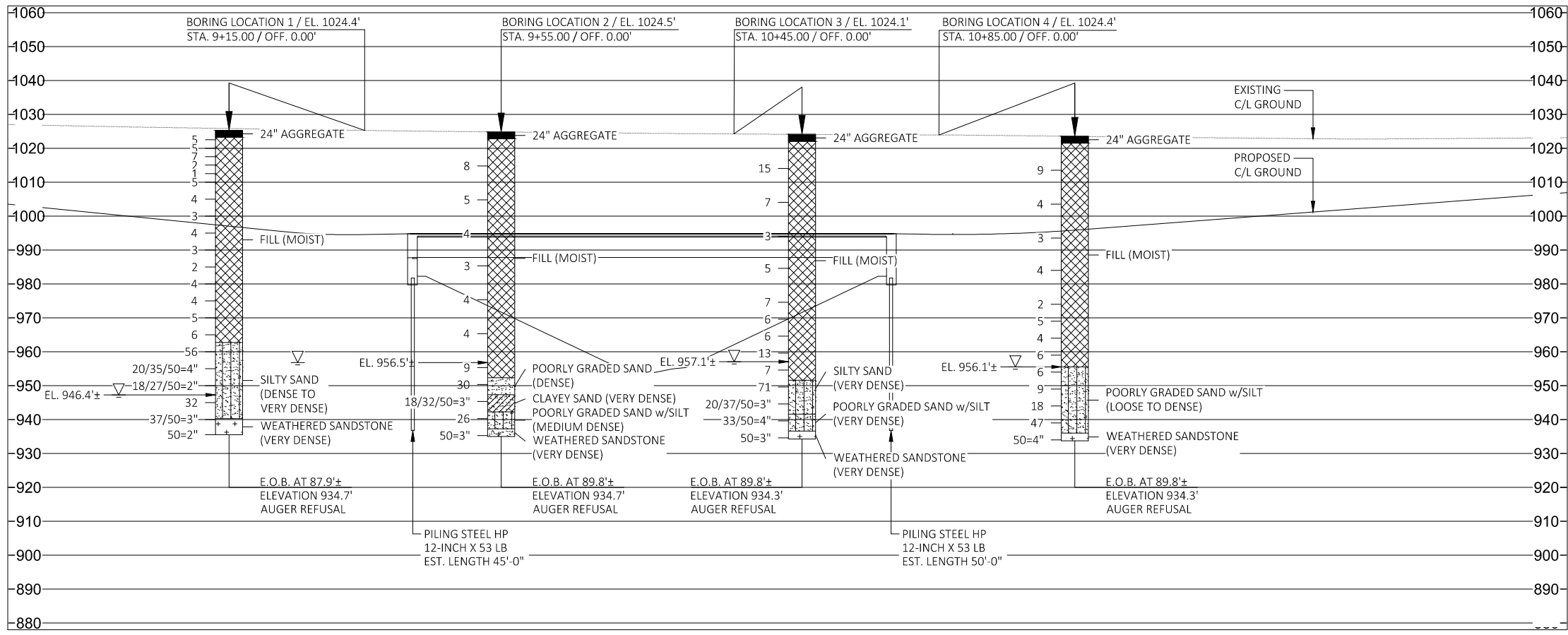
▼ AFTER DRILLING

ABBREVIATIONS

F-Fine M-Medium C-Coarse st-shelby tube

SUBSURFACE EXPLORATION FOR FOUNDATION DESIGN AND BIDDERS INFORMATION

BORINGS WERE COMPLETED AT POINTS APPROXIMATELY AS INDICATED ON THIS DRAWING TO OBTAIN INFORMATION CONCERNING THE CHARACTER OF SUBSURFACE MATERIALS FOUND AT THE SITE. BECAUSE THE INVESTIGATED DEPTHS ARE LIMITED AND THE AREA OF THE BORINGS IS VERY SMALL IN RELATION TO THE ENTIRE SITE, THE WISCONSIN DEPARTMENT OF TRANSPORTATION DOES NOT WARRANT SIMILAR SUBSURFACE CONDITIONS BELOW, BETWEEN, OR BEYOND THESE BORINGS. VARIATIONS IN SOIL CONDITIONS SHOULD BE EXPECTED AND FLUCTUATIONS IN GROUNDWATER LEVELS MAY OCCUR.



ELEVATION

Appendix D
Public Notice and Comments

Scoping Document located at the following URL was sent to the parties listed under Section 5.1 Subrecipient Outreach.

[Environmental Assessment for Gandy Dancer Box Culvert, Douglas County, Wisconsin, FEMA-DR-4383-WI, 2023 | FEMA.gov](#)

A separate Public Notice will be published and included here in the Final Environmental Assessment.