

FINDINGS OF FACT and CONCLUSIONS

Twin Ports Interchange (TPI) Reconstruction Project

State Project No. 6982-322, 6980-60, 6982-328, and 6915-136

**Prepared by:
Minnesota Department of Transportation**



January 2019

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FINDINGS OF FACT AND CONCLUSIONS

Twin Ports Interchange (TPI) Reconstruction Project

**Located in:
St. Louis County, Minnesota**

1. STATEMENT OF ISSUE

The Minnesota Department of Transportation (MnDOT) is proposing to reconstruct the I-35/I-535/US 53 interchange, US 53 between I-35 and W 3rd Street, and the I-535/Garfield Avenue interchange located in Duluth, St. Louis County. The project will also include modifications to local roads and stormwater infrastructure. The traffic mitigation project on local roads is scheduled to begin in summer 2019, and construction on the I-35/I-535/US 53 interchange, I 535/Garfield Avenue interchange, and US 53 are scheduled to begin in 2020 and take three to four construction seasons.

Preparation of an Environmental Assessment Worksheet (EAW) is required for this project under Minnesota Rules 4410.4300, Subpart 26, for a realignment of a trout stream. MnDOT is the project proposer. MnDOT is also the Responsible Governmental Unit (RGU) for review of this project, as per Minnesota Rules 4410.4300, Subpart 26.

MnDOT's decision in this matter shall be either a negative or a positive declaration of the need for an environmental impact statement. MnDOT must order an Environmental Impact Statement (EIS) for the project if it determines the project has the potential for significant environmental effects.

Based upon the information in the record, which comprises the Environmental Assessment Worksheet (EAW) for the proposed project, related studies referenced in the EAW, written comments received, responses to the comments, and other supporting documents included in this Findings of Fact and Conclusions document, MnDOT makes the following Findings of Fact and Conclusions:

2. ADMINISTRATIVE BACKGROUND

- 2.1 The Minnesota Department of Transportation is the Responsible Governmental Unit and project proposer for the Twin Ports Interchange (TPI) Reconstruction Project. A State Environmental Assessment Worksheet EAW has been prepared for this project in accordance with Minnesota Rules Chapter 4410. The EAW was developed to assess the impacts of the project and other circumstances in order to determine if an Environmental Impact Statement (EIS) is indicated.
- 2.2 The EAW was filed with the Minnesota Environmental Quality Board (EQB) and circulated for review and comments to the required EAW distribution list. A "Notice of Availability" was published in the EQB Monitor on October 1, 2018. A press release was distributed to local media outlets and legal notices were published in the

Duluth News Tribune on October 19 and 21, 2018. Appendix B contains a copy of the affidavits of publication for the legal notices. A notice was also published on the project web page at www.dot.state.mn.us/d1/projects/twin-ports-interchange. These notices provided a brief description of the project and information on where copies of the EAW were available and invited the public to provide comments that would be used in determining the need for an EIS on the proposed project.

2.3 A public hearing was held on October 22, 2018 from 5:30 p.m. to 7:30 p.m. at Clyde Iron Works in Duluth. Verbal comments were recorded at the hearing and are included in Appendix A. The public hearing was advertised via the project website, press release, newsletter, notice in the Duluth News Tribune newspaper (see Appendix B for affidavit), and through the project's Stakeholder Advisory Committee.

2.4 The EAW was made available for public review at the following locations:

- MnDOT - 1123 Mesaba Ave, Duluth, MN 55811
- Duluth Public Library - 520 W Superior St, Duluth, MN 55802
- West Duluth Branch Library - 5830 Grand Ave, Duluth, MN 55807
- Mt. Royal Branch Library, 105 Mount Royal Shopping Cir, Duluth, MN 55803
- Ecolibrium 3, 2014 W Superior St, Duluth, MN 55806

The EAW comment period extended from October 1 to October 31, 2018.

2.5 Two written agency comment letters were received during the comment period and two attendees provided verbal comments at the public hearing. All comments received during the EAW comment period were considered in determining the potential for significant environmental impacts. Comments received during the comment period and responses to substantive comments are provided in Appendix A.

3. FINDINGS OF FACT

3.1 Project Description

3.1.1 Existing Conditions: There are 35 existing bridges within the TPI Reconstruction Project, most of which were built in 1969. These structures are nearly 50 years old and are approaching the end of their design and service life.

3.1.2 Proposed Project: The TPI Reconstruction Project includes several improvements to address and correct freight and safety issues caused by structural and geometric deficiencies.

Component 1: I-35/I-535/US 53 Interchange Reconstruction

I-35 is the region's central artery and is a four-lane divided highway. It was constructed in 1969 and includes eight mainline bridges. Over 250,000 square feet of

the I-35 mainline surface area (roughly 2,200 linear feet) is currently built on bridge structure between approximately Miller Creek and the Garfield Avenue overpass. These bridges were constructed due to poor soils in the area. The ramps that make the interchange connections from I-35 to I-535 and US 53 include an additional 16 bridges. Of these 16 bridges, 12 are weight restricted¹ and seven are non-redundant².

The eight mainline bridges have experienced significant corrosion to the piling and have required emergency repairs, frequent inspections, and an extended emergency closure of I-35 southbound immediately adjacent to the project location, which lacks any alternate route. Due to changes in freight vehicle sizes, traffic volumes and patterns, interstate geometrics, and bridge conditions, reconstruction of the interchange is required. The I-35/I-535/US 53 interchange also has a number of geometric deficiencies that make it the interchange with the fourth highest crash rate in the state, accounting for more than one crash per week. These deficiencies include left exits and blind merge points with short weave distances.

The reconstructed interchange will accommodate existing and anticipated future traffic volumes and patterns, replace up to eight bridges with an at-grade and divided interstate roadway, replace the remaining weight-restricted ramp bridges that connect I 35, I-535, and US 53, and address geometric deficiencies to reduce crashes.

Additionally, the 27th Avenue West (W) bridge (Bridge 69834) is a continuous steel beam bridge that will be reconstructed with the TPI Reconstruction Project. The new bridge will be reconfigured to accommodate pedestrian access.

Component 2: US 53 Reconstruction

US 53 is a critical freight route to northern Minnesota for the timber industry and taconite (iron) mines and intersects I-35 as the west approach to the interchange. The part of US 53 within the TPI Reconstruction Project between I-35 and W 3rd Street consists of six concrete box girder bridges constructed in 1972. The US 53 bridges provide access and connectivity for local, regional, and international traffic.

One US 53 mainline bridge is in poor condition (with a National Bridge Inventory (NBI) rating of 4³) due to several shear cracks near an abutment and throughout the length of the concrete box girders near the piers. These cracks are a major concern

¹ Federal Highway Administration defines a weight restriction as a bridge that cannot safely support all legal vehicles and must be weight restricted.

² AASHTO Bridge Design Specifications defines redundancy as the quality of a bridge that enables it to perform its design function in a damaged state.

³ The NBI rating system includes a structural evaluation of deck, superstructure, substructure, and culvert on a 0-9 scale, with 9 meaning a superior to present desirable criteria and 0 meaning the bridge is closed.

for the future capacity of this bridge. This bridge also has cracking of the bottom and sides of the box girder near the abutment, which is causing significant spalling and delamination. Two associated bridges on the 21st Avenue W ramps have similar issues and are in fair condition (NBI ratings of 5). The other US 53 mainline bridge is in similar overall condition and has an NBI rating of 5. The deck has map cracking on the surface and cracking and delamination with rust staining on the bottom side and top of the interior of the box girder.

The six US 53 bridges will be load-rated in 2018 due to the growing shear cracks in the webs of the cast-in-place concrete box structures at several locations. Additionally, there has been increasing deterioration at several locations that needs to be further studied to determine if any short-term repairs or weight restrictions are needed prior to full replacement of these bridges.

The US 53 bridges will be reconstructed as part of the TPI Reconstruction Project to maintain and enhance local and regional connectivity and safety.

Component 3: I-535/Garfield Avenue Interchange Reconstruction

The I-535/Garfield Avenue interchange is the primary access point for the Port of Duluth-Superior. The interchange was constructed in 1969, and it has two weight restricted bridges that restrict access to I-535, I-35, and US 53 for oversize and overweight (OSOW) loads to and from the Port of Duluth-Superior. OSOW loads must travel several miles on local streets to reach the next interstate access, adding an estimated three hours to each move and resulting in increased costs for shippers and inconvenience for the local community. Reconstructing these bridges will allow overweight permit loads to more efficiently reach the interstate. It will also eliminate the short weave distances at these ramps.

I-535 also spans over a BNSF Railway spur track (Bridge 69810). This bridge is a continuous steel beam type bridge that is planned to be rehabilitated with the TPI Reconstruction Project. Preliminary analysis indicates that the beams at the outer edges of the bridge deck could be modified by adding additional steel bracing (diaphragms) at the piers to provide lateral support to the fascia beams. This work will increase the bridge capacity to carry American Association of State Highway and Transportation Officials (AASHTO) Load and Resistance Factor Design (LRFD) HL-93 Design Loads and MnDOT LRFD Permit Vehicles.

Proposed 2019 Traffic Mitigation Improvements

Pavement improvements will be implemented on a number of local city streets that are expected to see higher traffic volumes during construction of the TPI Reconstruction Project. These improvements will generally consist of pavement repair and/or restriping of lanes and include the following roadway segments and intersections:

- Garfield Avenue from the east end of the bridge over the railyard and I-35 (about 250 feet west of Railroad Street) to Nelson Street
- 27th Avenue W from southbound I-35 on/off ramp to Michigan Street W along with restriping for clearer channelization of traffic.
- 46th Avenue W from southbound I-35 off ramp to Grand Avenue
- Railroad Street from Garfield Avenue to 5th Avenue W
- Intersection improvements at Garfield Avenue/Railroad Street intersection will be made to provide for clearer channelization of traffic

No pavement widening is required for any of these improvements. All work is being conducted within the existing curb line except for the Americans with Disabilities Act (ADA) compliant ramps that will be reconstructed at the intersections. ADA improvements on 27th Avenue W will be done with the reconstruction of the 27th Avenue W bridge.

Railroad Street Connection

MnDOT identified a route on the west side of I-35 that could provide an alternate parallel route to I-35 and enhance local access between the Lincoln Park neighborhood and downtown Duluth during construction. This route could follow 27th Avenue W to Michigan Street W/Lower Michigan Street W until Superior Street W where there would be a new intersection control (roundabout or signal) that would allow for easy turning for vehicles that want to access Railroad Street via the existing Garfield Avenue overpass. Additionally, the 27th Avenue W bridge over I-35 would be restriped to three lanes, and as noted above 27th Avenue W between the I-35 southbound ramps would also be restriped. No other improvements would be needed to Michigan Street W between 27th Avenue W and just south of the Michigan/Superior Street W intersection.

An additional option was considered that added a fourth leg to the intersection described above that would cross over I-35 and touched down at Railroad Street, where vehicles could turn left and continue toward the Canal Park/Duluth Entertainment Convention Center (DECC)/downtown area or turn right to get to Garfield Avenue and the freight related business and the port terminals. The estimated cost of a bridge over I-35 is approximately \$10 million, which makes this option unlikely; however, further evaluation is looking at modifications to reduce cost and/or enhance benefits of this option.

Creek Realignment Options

Miller and Coffee Creeks are designated trout streams that outlet to the St. Louis Bay within close proximity to each other after crossing in separate culverts under I-35. Both creeks are contained within culvert structures through the entire project area. Given their proximity to each other, MnDOT is considering combining the creeks into a common culvert or bridge under I-35 in addition to the alternative of maintaining their respective crossing locations.

If combined, Miller and Coffee Creeks would merge before crossing under I-35. This would allow for a cost-effective crossing (one location versus two) and less impact to rail operations during construction. It also provides opportunity for some creek channel improvements. Soil contamination in the realigned channel area will be investigated in preliminary design. The minimum structure width is estimated at 50 feet, based on a height of 6 feet and a length of more than 300 feet. Given the size of this structure, a bridge for the creek crossing is also being considered. The upstream portion of Coffee Creek located under US 53 between 1st and Michigan Streets W would be realigned under 22nd Avenue, and the downstream portion of Coffee Creek would be realigned and combined with Miller Creek during the 2020 to 2023 construction.

If combining the creeks is not feasible, the default option would be to design independent culverts for each creek after confirming appropriate pipe sizes. This determination is dependent on contamination in the soil and Minnesota Department of Natural Resources (DNR) and US Army Corps of Engineers (USACE) input.

Railroad Realignment Options

Two options are being considered for temporary track realignments (shoofly) that may be required during construction of the I-535 ramps to/from I-35 and the creek crossing(s) under I-35 and the railroad tracks. These options include:

- Construct a shoofly in the area of the creek crossing to maintain Canadian National (CN) and BNSF track operations during construction of the new creek crossing and bridge removals
- Construct a new CN/BNSF crossover south of the ore docks near 37th Avenue W to allow CN to temporarily use BNSF trackage through the construction zone to minimize the extent of shoofly construction needed near Miller and Coffee Creek outfalls

3.2 Additional Information Regarding Items Discussed in the EAW Since It Was Published

Since the EAW was published, the following information pertaining to the project has been updated:

- The Section 401 Water Quality Certification has been added to the list of required permits in Table 2.
- The additional requirements of the National Pollutant Discharge Elimination System (NPDES) permit have been added to the mitigation plan in Table 1 to address the protection of special receiving waters during construction.
- The portion of Coffee Creek under US 53 between 1st and Michigan Streets W was anticipated to be included with the 2019 local road improvements; however, this work is now to be completed during the rest of the TPI reconstruction work from 2020-2023. This includes the reconstruction of 22nd Avenue W to

accommodate the relocation of Coffee Creek between 1st Street W to Michigan Street W. An updated figure is shown in Appendix C.

- As of January 10, 2019, Minnesota Historic Preservation Office (MnSHPO) has made a final determination that the project will have no adverse effect on the historic properties identified as part of the EAW. The letter from MnSHPO is shown in Appendix D.

3.3 Findings Regarding Criteria for Determining the Potential for Significant Environmental Effects

Minnesota Rules 4410.1700 provides that an environmental impact statement shall be ordered for projects that have the potential for significant environmental effects. In deciding whether a project has the potential for significant environmental effects, the following four factors described in Minnesota Rules 4410.1700, Subp.7 shall be considered:

- A. type, extent, and reversibility of environmental effects;
- B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;
- C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and
- D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

MnDOT's key findings with respect to each of these criteria are set forth below:

3.3.1 Type, Extent, and Reversibility of Impacts

MnDOT finds that the analysis completed during the EAW process is adequate to determine whether the project has the potential for significant environmental effects. The EAW describes the type and extent of impacts anticipated to result from the proposed project. In addition to the information in the EAW, the additional information described in Section 3.2 of this Findings of Fact and Conclusions document as well as the public/agency comments received during the public comment period (see Appendix A) were taken into account in considering the type, extent and reversibility of project impacts. Following are the key findings regarding

potential environmental impacts of the proposed project and the design features included to avoid, minimize, and mitigate these impacts:

Table 1 below summarizes each impact and the environmental commitments by section for each environmental issue analyzed in the EAW.

Table 1. Summary of Impacts and Mitigation

Resource Impacted (Section in EAW)	Project-Related Environmental Impacts	Mitigation Plan
Geology, Soils, and Topography (Section 10)	Disturbed ground/soils during project construction	NPDES permit and Stormwater Pollution Prevention Plan (SWPPP) specified
Water Resources (Section 11)	<ul style="list-style-type: none"> • Increase in impervious surface area (3.92 acres) • Impacts to aquatic resources (2.77 acres) • Impacts to special receiving waters from sediment discharges during construction 	<ul style="list-style-type: none"> • Addressed via permit and stormwater mitigation measures • Addressed via permit • Addressed via additional requirements in the NPDES/State Disposal System General Construction Stormwater Permit Parts 23.9, 23.10, and 23.11
Contamination/ Hazardous Materials (Section 12)	Total of 42 high, 66 medium, and 22 low risk sites identified within project area	Addressed via agency approvals
Fish, Wildlife, Plant Communities (Section 13)	Construction activities within Coffee and Miller Creek will be restricted to allow undisturbed fish migration and spawning (typically no in-water work from September 15 to June 30)	Addressed via DNR permit
Historic Properties (Section 14)	<ul style="list-style-type: none"> • In-person monitoring of archaeological sites will continue for any additional borings and during construction • Total of 185 pre-1976 resources are located within the APE, of which six were carried forward for Phase II investigation • Study found that the project will have no adverse effect on the National Register of Historic Places eligible resources 	Addressed via agency approvals

Resource Impacted (Section in EAW)	Project-Related Environmental Impacts	Mitigation Plan
Noise (Section 17)	Noise standards would be exceeded at 52 receptors as result of Project	Noise abatement measures evaluated were determined to not meet reasonableness criteria

Summary finding with respect to this criteria: MnDOT finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts to the resources evaluated in the EAW and in the Findings summary above. Project impacts will be mitigated as described in the EAW and in the Findings above.

3.3.2 Cumulative Potential Effects of Related or Reasonably Foreseeable Future Projects

In accordance with Minnesota Rules, part 4410.4300, subpart 26, cumulative potential effects of related or anticipated future projects were identified and included in Section 19 of the EAW. The primary actions that have potential for cumulative impacts with this project are those actions that have potential to affect wetlands, stormwater, and traffic. A number of projects were identified and evaluated in the EAW; however, there was no potential for cumulative impacts identified as a result of this project in conjunction with other past, present, or reasonably foreseeable future projects.

3.3.3 Extent to Which the Environmental Effects are Subject to Mitigation by Ongoing Public Regulatory Authority

3.3.3.1 The mitigation of environmental impacts will be designed and implemented in coordination with regulatory agencies (including the coordination and approvals described in Section 3.3.1 above) and will be subject to the plan approval and permitting processes. Permits and approvals that have been obtained or may be required prior to project construction include those listed in Table 2.

3.3.3.2 The permits listed in Table 2 include general and specific requirements for mitigation of environmental effects of the project. Therefore, MnDOT finds that the environmental effects of the project are subject to mitigation by ongoing regulatory authority.

Table 2. Agency Approvals and Permits

Unit of Government	Type of Application	Status
LOCAL		
City of Duluth	Municipal Consent for 2019 local road improvements	Complete

Unit of Government	Type of Application	Status
City of Duluth	Municipal Consent for 2020-2023 interchange reconstruction	Fall 2019 city council agenda for approval; engagement with City is ongoing
STATE		
Minnesota State Historic Preservation Office (MnSHPO)	Section 106 Determination and Programmatic Agreement (PA)	As of January 10, 2019, MnSHPO made a final determination that the project will have no adverse effect on the historic properties identified as part of the EAW
MnDOT as Local Governmental Unit under the Wetland Conservation Act	Wetland Replacement Plan, if needed	Application to be submitted as needed for each work package
MnDOT Office of Environmental Stewardship (OES) on behalf of the Federal Highway Administration (FHWA)	Endangered Species Act Section 7 Determination	Complete
MnDOT	Right-of-way agreements	In process
MnDOT	Environmental Assessment Worksheet	Complete
MnDOT	EIS Need Decision	Complete
DNR	Public Waters Work Permit	Application to be submitted in 2020 for creek impacts
DNR	Groundwater Appropriation Permit (if necessary)	To be requested by contractor
Minnesota Pollution Control Agency (MPCA)	NPDES Permit	Preliminary drainage plans complete and will be used to obtain high-level permit approval; specific construction SWPPPs will be prepared by designer for each construction year
MPCA	Response Action Plan (RAP)	To be completed
MPCA	Section 401 Water Quality Certification	To be requested
FEDERAL		
USACE	Section 404 Wetland Impact Permit	Application to be submitted in 2020
USACE	Section 408 Permit	Review complete – USACE determined permit is not necessary

Unit of Government	Type of Application	Status
FHWA	Categorical Exclusion	In process
FHWA	Interchange Access Request (IAR)	In process
OTHER - PRIVATE		
BNSF Railway and CN Railway	Flagging Agreement	Ongoing meetings to be held with BNSF Railway; modifications have been incorporated into design; right-of-way agreement is in process
BNSF Railway and CN Railway	Temporary Construction Easements	Same as above

3.3.4 Extent to Which Environmental Effects can be Anticipated and Controlled as a Result of Other Environmental Studies

3.3.4.1 MnDOT has extensive experience in roadway construction. Many similar projects have been designed and constructed throughout the area encompassed by this governmental agency. All design and construction staff are very familiar with the project area.

3.3.4.2 No problems are anticipated which the MnDOT staff have not encountered and successfully solved many times in similar projects in or near the project area. MnDOT finds that the environmental effects of the project can be anticipated and controlled as a result of the assessment of potential issues during the environmental review process and MnDOT's experience in addressing similar issues on previous projects.

4. CONCLUSIONS

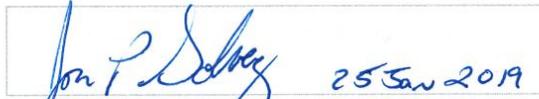
1. The Minnesota Department of Transportation has jurisdiction in determining the need for an environmental impact statement on this project.
2. All requirements for environmental review of the proposed project have been met.
3. The EAW and the permit development processes to date related to the project have generated information which is adequate to determine whether the project has the potential for significant environmental effects.
4. Areas where potential environmental effects have been identified will be addressed during the final design of the project. Mitigation will be provided where impacts are expected to result from project construction, operation, or maintenance. Mitigative measures will be incorporated into project design and have been or will be coordinated with state and federal agencies during the permit processes.

5. Based on the criteria in Minnesota Rules part 4410.1700, subp. 7, the project does not have the potential for significant environmental effects.
6. An Environmental Impact Statement is not required for the TPI Reconstruction Project.
7. Any findings that might properly be termed conclusions and any conclusions that might properly be called findings are hereby adopted as such.

Based on the Findings of Fact and Conclusions contained herein and on the entire record:

The Minnesota Department of Transportation hereby determines that the TPI Reconstruction Project will not result in significant environmental impacts, and that the project does not require the preparation of an environmental impact statement.

For Minnesota Department of Transportation

A rectangular box containing a handwritten signature in blue ink that reads "Jon P. DeJoy" and a date "25 Jan 2019" written to the right of the signature.

Signature and Date
MnDOT Chief Environmental Officer

APPENDIX A – Public Involvement: EAW Comment Period

Public Hearing Record

EQB Notice of Availability

Public Hearing Certificate of Compliance

Newspaper Legal Notices

Public Hearing Record

A public hearing and open house for TPI Reconstruction Project was held as follows:

October 22, 2018 from 5:30 p.m. to 7:30 p.m.

Clyde Iron Works 2920 W Michigan Street, Duluth, MN 55806

Approximately 10 individuals attended the public hearing/open house meeting. The purpose of the meeting was to provide an update on the project and receive comments on the EAW. At the public hearing, attendees were invited to provide comments through one of two ways: written comments (on comment cards provided at the meeting) and oral statements to a certified court reporter. Copies of all written and oral testimonies are included in Appendix B along with responses to substantive comments.

Staff from MnDOT and Kimley-Horn and Associates were on hand at the public hearing meeting to discuss the project and to answer questions. Several informational items regarding the project were made available at the meeting including the following:

- EAW Handout
- Project Display Boards
 - Project components
 - Potential traffic mitigation options
 - Overview of proposed improvements
 - EAW overview
 - Potential environmental impacts
 - Schedule
- Comment & Feedback Form
- Project Layout
- Project Presentation (PowerPoint Slides)

A presentation was given to provide an overview of the project and findings from the EAW. Participants had an opportunity to ask questions or make statements as part of the official public hearing record.

Included on the following pages are copies of the newspaper legal notices and Minnesota Environmental Quality Board (EQB) Monitor publication that announced the availability of the EAW and provided details of the public hearing/open house meeting.

Newspaper Legal Notices

AFFIDAVIT OF PUBLICATION

I, Julie Schulz, do hereby certify that an advertisement of Mn Department of Transportation
measuring 4 x 16 inches was published in the Duluth News Tribune as per specifications below:

Date of Issue: October 19 & October 21, 2018

Heading of Advertisement: Twin Ports Interchange Project Environmental Assessment Worksheet Hearing

On Page: Oct 19, A3 Oct 21, A10

Kind of matter surrounding advertisement: other news and advertising

Dated at Duluth, MN on this the 19th November 2018

Subscribed and sworn to before me, this

19th day of November 2018

Jacqueline M. Somers
Notary Public, St. Louis County, Minnesota

Julie Schulz

My Commission Expires: January 31, 2020



EQB Monitor Notice

Minnesota Environmental Quality Board <MNEQB@public.govdelivery.com>

EQB Monitor, October 1, 2018

, Rachel

to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

RGU Contact Person:

Judy Weyrens
City Administrator
75 Callaway St. E
St. Joseph, MN 56374
320-363-7201
jweyrens@cityofstjoseph.com

**Project Title: Twin Ports Interchange
Reconstruction Project**

Comment Deadline: October 31, 2018

Project Description: The Minnesota Department of Transportation (MnDOT) is proposing to reconstruct the I-35/I-535/US 53 interchange, US 53 between I-35 and W 3rd Street, and I-535/Garfield Avenue interchange located in Duluth, St. Louis County. The project will also include modifications to local roads and stormwater infrastructure. A public open house is scheduled for October 22, 2018 from 5:30 p.m. to 7:30 p.m. at Clyde Iron Works (Lower Level Clyde) 2920 W Michigan Street, Duluth, MN 55806.

The comment period deadline is October 31, 2018. A hard copy of the EAW is also available for review at the MnDOT District 1 Office at 1123 Mesaba Avenue in Duluth, MN.

Responsible Governmental Unit (RGU): Minnesota Department of Transportation

RGU Contact Person:

Roberta Dwyer
Project Manager
1123 Mesaba Avenue
Duluth, MN 55811
218-725-2781
roberta.dwyer@state.mn.us

APPENDIX B - EAW Comments and Responses

The EAW for the TPI Reconstruction Project was distributed on September 28, 2018 to agencies and organizations on the official distribution list, as well as additional agencies/organizations that had either requested a copy of the document, and/or that could be affected by the proposed project. The comment period for the EAW officially closed at the end of the business day on October 31, 2018. A public hearing and open house to receive comments on the proposed project and EAW was held on October 22, 2018 (see Appendix A to further details). At the public hearing, attendees were invited to provide comments through one of two ways: written comments and oral statements.

- Written Statements: Attendees were invited to submit written comments through October 31, 2018 on cards provided at the open house, in letter, or via e-mail.
- Oral Statements: Statements were recorded by a certified court reporter.

During the public review and comment period, MnDOT received comments on the EAW from a total of two agencies and individuals, and two oral statements that were received at the public hearing.

Consistent with state and federal environmental review rules, substantive comments received are responded to in this appendix, as part of the Findings of Fact and Conclusions for the project record. Specifically, responses have been prepared for substantive statements pertaining to analysis conducted for and documented in the EAW, including: incorrect, incomplete or unclear information; permit requirements; content requirements. These comments and responses are included in Appendix B1 below. Written comments agreeing with the EAW project information, general opinions, statements of fact, or statements of preference were not formally responded to, but are included in Appendix B2 below.

Appendix B1 – Substantive Comments and Responses to Those Comments

This section contains the comments and written responses to substantive comments received from the following individuals/agencies during the public comment period:

- Minnesota Pollution Control Agency
- Duluth Entertainment Convention Center

Appendix B2 – Other Comments Received

This section includes the individuals who submitted comments during the public comment period which expressed an opinion about the proposed TPI Reconstruction Project.

APPENDIX B1 –Substantive Comment Letters and Responses

Minnesota Pollution Control Agency



520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

October 23, 2018

Roberta Dwyer, P.E. PTOE
Project Manager
Minnesota Department of Transportation
1123 Mesaba Avenue
Duluth, MN 55811

Re: Twin Ports Interchange Reconstruction Project, Environmental Assessment Worksheet

Dear Roberta Dwyer:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Twin Ports Interchange Reconstruction project (Project) in the city of Duluth, St. Louis County, Minnesota. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility or other interests, the MPCA staff has the following comments for your consideration.

- A 1. Section 8, Permits and Approvals Required, must include the 401 water quality certification with an Antidegradation Assessment. If any work below the ordinary high water level (OHWL) is required, in-water best management practices (BMPs) must be implemented to eliminate or reduce total suspended solids (TSS) from entering the water column. These BMPs may include: weighted silt curtains, construction during no/low flows or winter conditions, cofferdams, and check dams (both or most appropriate), et.el. In addition, wetland impacts would be mitigated by purchasing Bank Service Area (BSA) credit through the U.S. Army Corps of Engineers' approved bank credits system. At a minimum, the replacement ratio will be 1:1. However, if the credits are not in the same watershed as the Project, the replacement ratios will be greater than 1:1. If you have question please contact Bill Wilde at 651-757-2825 or William.wilde@state.mn.us.
- B 2. Regarding Item 11.a.i. of the EAW regarding impaired waters -- the impaired waters identified in the EAW is not complete for water bodies within or immediately downstream of the Project. Please review the 2018 proposed impaired waters list for the most recent list of impaired waters. <https://www.pca.state.mn.us/water/minnesotas-impaired-waters-list>.
- C 3. The EAW should describe measures to protect the multiple special receiving waters from sediment discharges during the construction. At a minimum, the proposers must comply with the additional requirements in the National Pollutant Discharge Elimination System/State Disposal System General Construction Stormwater Permit Parts 23.9, 23.10 and 23.11; including stabilizing soils within 7 days of temporarily ceasing soil disturbing activity on any portion of the site, maintaining 100 feet of buffer to surface waters or installing redundant BMPs, etc.
- D 4. In addition, the EAW should discuss BMP measures to prevent slope failure during construction in areas of steep slopes on the project.

- E | 5. Infiltration of stormwater post construction must be considered before resorting to construction of wet sediment ponds. Soil borings must be conducted in the locations of the stormwater treatment areas to determine whether infiltration is prohibited due to high seasonal saturated soils or shallow bedrock and field measurements must be taken to determine infiltration rates. The EAW does not mention whether infiltration is prohibited for any of the reasons listed in the stormwater permit.
- F | 6. Due to the site's proximity to special waters and the project being over 50 acres in size, the Stormwater Pollution Prevention Plan must be submitted to MPCA for review prior to obtaining permit coverage. Questions regarding Construction Stormwater Permit requirements should be directed to Roberta Getman at 507-206-2629 or Roberta.Getman@state.mn.us.

We appreciate the opportunity to review this Project. Please provide your specific responses to our comments and notice of decision on the need for an Environmental Impact Statement. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EAW, please contact me by email at Kevin.kain@state.mn.us or by telephone at 651-757-2482.

Sincerely,



Kevin Kain
Project Manager
Environmental Review Unit
Resource Management and Assistance Division

KK:bt

cc: Dan Card, MPCA St. Paul
Roberta Getman, MPCA Rochester
Bill Wilde, MPCA St. Paul
Tom Estabrooks, MPCA Duluth

Response to Comment A

Thank you for reviewing the EAW. The Section 401 Water Quality Certification has been added to the list of required permits in Table 2 above. Best Management Practices will be implemented as defined in the Stormwater Pollution Prevention Plan (SWPPP) completed for the National Pollution Discharge Eliminations System (NPDES) Permit.

The wetland replacement ratio could be more than 1:1 as noted. MnDOT will continue to investigate wetland mitigation options as the project progresses into permitting. MnDOT will coordinate with the respective regulatory agencies for permit approvals.

Response to Comment B

The EAW listed all the impaired waters that were within the project limits. Keene Creek is one additional impaired water that was not listed in the EAW that is within one mile of the project limits; however, the project will have no impact on this waterbody.

Response to Comment C

The additional requirements of the NPDES permit have been added to the mitigation plan in Table 1 of this Findings of Fact document to address the protection of special receiving waters during construction.

Response to Comment D

In Section 10, the EAW states that in areas with steep slopes, special consideration will be given to prevent erosion during construction, such as erosion control blankets and soil reinforcement. No impacts to soils or topography are anticipated once construction of this project is complete; however, specific best management practices such as bio rolls, straw blankets, or other slope stabilization measures will be identified in the SWPPP to address steep slopes.

Response to Comment E

Infiltration was evaluated for the project in general. Due to contaminated soils and a high-water table within the project area, infiltration is not expected to be a viable option for stormwater management. MnDOT is in process of conducting dozens of soil borings within the project area to confirm whether infiltration can be implemented or not. A determination on appropriate stormwater management measures will be made during the permit review.

Response to Comment F

Noted. The SWPPP will be submitted to MPCA for review prior to obtaining permit coverage.

Duluth Entertainment Convention Center

From: Madonna Ohse
To: [Dwyer, Roberta \(DOT\)](#)
Cc: [Chelly Townsend](#); [Joe Tarnowski](#)
Subject: Twin Ports Interchange
Date: Wednesday, October 31, 2018 5:53:41 PM

Dear Ms. Dwyer,

Thank you for all the time and effort you and the MNDOT team put forth regarding the Twin Ports Interchange project.

It is an essential project that will benefit all who live in, do business here and visit the Twin Ports. Improved safety, connectivity and navigation are integral to creating a dynamic environment for commerce and community.

A As Parking Manager of the Duluth Entertainment Convention Center, I earnestly recommend a continued and concerted effort to create a connection between the expressway and the Railroad St thoroughfare. This passage is a way by which a meaningful connection is made. Travel is streamlined and relieves congestion providing a meaningful alternative.

Respectfully,

Madonna Ohse

DECC Parking Manager

Direct: (218) 623-1283 • mohse@decc.org

Response to Comment A

Thank you for reviewing the EAW. MnDOT has been, and will continue to, coordinate with the City of Duluth regarding Duluth's visioning process for the transportation needs in the area between Downtown and the Lincoln Park neighborhood and business district. The goals of the City's plan are to improve:

- the gateway/entrance into Lincoln Park area,
- general traffic flow and connectivity,
- pedestrian and bicycle safety and connectivity,
- and intuitive wayfinding/connections

The City is in the process of preparing a recommendation for public review and comment, and subsequent City Council approval. Once a plan is established, MnDOT and the City can evaluate whether there are any plan components that could be initiated concurrent with this project and how they could be funded.

APPENDIX B2 – Other Comments Received

Comments Received at Public Hearing on October 22, 2018

Twin Ports Interchange Reconstructive Project Public Hearing - 10/22/2018
Minnesota Department of Transportation

Page 15

1 and that will continue through 2020. The construction on
2 the local project, local roads, starts in 2019, with
3 construction to follow after that.

4 That is the end of our presentation, so at this
5 point we will open it up to the public hearing. And I
6 believe, Rebecca, we have got a couple sign-ups over there
7 that thought they might want to comment, so we'll start
8 with that list. But if you would like to provide a
9 comment, we have a small group, I won't worry too much
10 about the time, but we'll have you step up to the
11 microphone here, provide your comments that will be
12 recorded by the court reporter. If you have your name on
13 the list, we have that information, but please state your
14 name and your address so that she can match up those
15 comments as she does the transcript and we'll go from
16 there. So Rebecca, can you hand me the list.

17 I currently have three names on the list: We
18 have Chelly Townsend, Tony Bauer and Joe Smith, I believe.
19 So if the three of you want to kind of queue up here in
20 front and if anybody else would like to provide comments,
21 we'll have you queue up here and have you sign the sheet
22 and we'll go from there.

23 So Chelly, you're first on the list, would you
24 still like to provide a comment?

A |

25 MS. TOWNSEND: I guess I would just

1 like it to be on the record that I am an advocate for the
2 round-about because I think that's good for the rest of the
3 freeway that when you get traffic that approaches that area
4 before the bridge, because the 5th Avenue bridge isn't very
5 adequate for that area, so I think it adds to it. It is
6 not specifically part of the interchange, I understand
7 that, but I think it achieves a lot of other things,
8 besides getting traffic to the Canal Park area and the
9 Railroad Street area and the 40th bridge, because the two
10 bridges right now, what we have, the 5th Avenue and Lake
11 Avenue, are not really adequate for the enormous amount of
12 traffic that exits to that area. So that was one thing.

13 I'm always concerned when I hear somebody talking
14 about a creek and moving it, because I think that we've
15 seen with the last big rain storm that the creeks do hold
16 up -- the creeks that had been made didn't hold up. I
17 would just caution you for that because I think that that's
18 really a detriment to the area.

19 And I had one other thing that I can't remember.
20 Thanks.

21 MS. KUNKEL: Thank you, Chelly.
22 Tony, did you have something you would like to say?

23 MR. BAUER: My name is Tony Bauer and
24 I'm from 31 North 21st Avenue West and, you know, I know a
25 lot of environmental areas in this area are fairly impaired

1 to start with, but you mentioned three areas of wetlands
2 being filled in. There has to be -- I don't know how this
3 works, like wetland credits, where you buy watershed or
4 whatever, but if there could be some environmental repair
5 work done in or adjacent to the neighborhood to make up for
6 that, either in the creeks or the trout streams or in the
7 apex between Highway 53 and WLSSD where they put some fill
8 in, maybe some park restoration, rather than wetland
9 credits, that would be my only -- that we keep it in the
10 neighborhood.

11 MS. KUNKEL: Joe, are you here and
12 want to make a comment?

13 MR. SMITH: Yeah, I'm good.

14 MS. KUNKEL: Anybody else that would
15 like to provide a comment?

16 All right, if nobody else wants to come to the
17 podium, then that closes the public hearing. And if you
18 decide you don't want to stand up in front of the group and
19 would like to provide a verbal comment, our court reporter
20 is still here until 7:30, so you're free to leave your
21 comment with her, otherwise I could get you comment cards.
22 And if you did not fill one out, you may take them with you
23 and drop them off in the mail or drop them off at MnDOT's
24 office or send an email; the address, Roberta's contact
25 information is up on the screen and you can copy that down

Response to Comment A

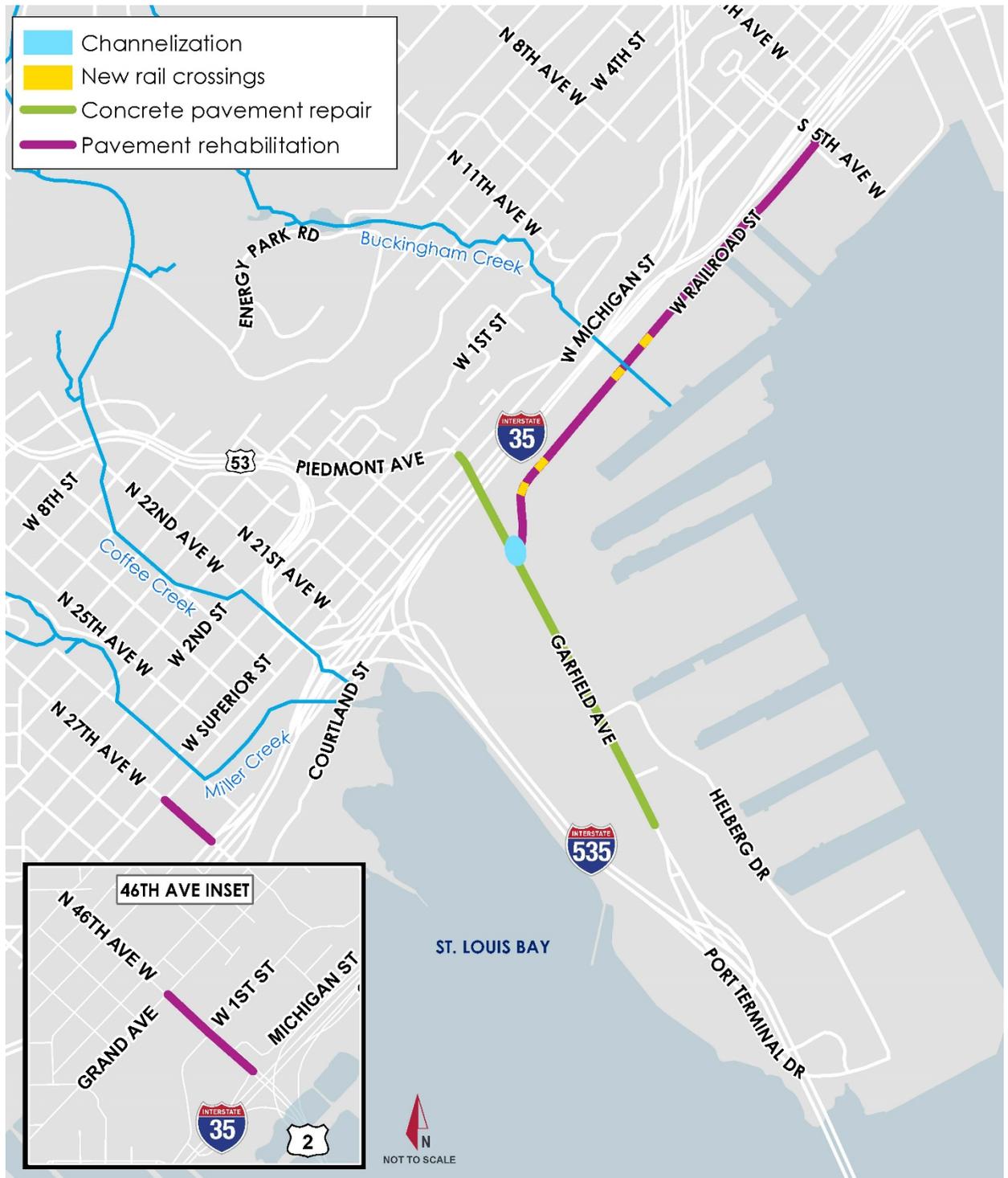
Thank you for your comment. See response to Ms. Ohse in the previous Comment A.

The appropriate evaluations and assessments needed to realign the creek channels have been completed and will be cross-checked as design details are refined. Coffee Creek currently is confined within storm sewer pipes though its' entire reach through the project. All open channel areas created will be designed to accommodate potential flooding identified through required model analysis.

Response to Comment B

Thank you for your comment. It is not feasible to completely avoid all wetland impacts resulting from the TPI Reconstruction Project. Wetland impacts that are unavoidable have been minimized to the extent practicable without compromising safety. Wetland impacts would be mitigated by purchasing US Army Corps of Engineers approved bank credits at a 1:1 replacement ratio within Bank Service Area (BSA) 1, the same BSA as proposed impacts. MnDOT will continue to investigate mitigation options as the project progresses into permitting.

APPENDIX C - Figures



APPENDIX D – Updated Correspondence

 **DEPARTMENT OF
ADMINISTRATION**
STATE HISTORIC PRESERVATION OFFICE

January 10, 2019

Garneth Peterson
Cultural Resources Unit
MN Dept of Transportation, MS 620
395 John Ireland Blvd
St Paul, MN 55155

RE: SP 6982-322; SP 6980-60; SP 6982-328; SP 6915-136
Twin Ports Initiative (TPI) Reconstruction of Interchange I-35, I-535 and TH 53
Local Roadways and US 53 Improvements related to TPI Reconstruction and Interchange
Duluth, Saint Louis County
SHPO Number: 2018-2036

Dear Ms. Peterson,

Thank you for continuing consultation on the above project. Information received in our office 11 December 2018 has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966, as amended, implementing federal regulations at 36 CFR 800, per the terms of the 2015 Amended Programmatic Agreement between the Federal Highway Administration (FHWA) and the Minnesota State Historic Preservation Office (SHPO), and pursuant to the responsibilities given the State Historic Preservation Office by the Minnesota Historic Sites Act and the Minnesota Field Archaeology Act.

We have completed our review of your letter dated December 10, 2018, a submittal which included the following documentation in support of your agency's determinations regarding the identification of historic properties and "no adverse effect" finding for the proposed undertaking:

- Figures 1-2: Overview Maps of the Proposed Interchange Reconstruction Project (including street improvement plans for Garfield Avenue);
- Figure 3: Michigan-Superior Roundabout Plans and Railroad Street Connector;
- Figure 4: Railroad Crossover Concept;
- Revised West Superior Street Commercial District Boundary Map;
- Surveyed Properties Map;
- Revised Table 8 from the report titled *Phase I Architecture/History Survey and Phase II Evaluation for Twin Ports Interchange (TPA) at Interstate Highway 36 (I-35) and I-535, Duluth, Saint Louis County, Minnesota* (Mead & Hunt, Inc., September 2018);
- SP 6982-328 60% Plans;
- ADA Sidewalk Plans;
- Twin Ports Interchange (I-35, I-535 & US 53) packet
- Report: *Twin Ports Interchange, Duluth, St. Louis County, Minnesota; SP 6982-322, Summary of Archaeological Investigations* (December 3, 2018, Two Pines Resource Group);
- Foundation Boring Plan – Lower Michigan Avenue Plan; and
- Preliminary Soil Analytical Map

SHPO staff has appreciated the recent opportunities to meet with Minnesota Department of Transportation's Cultural Resources Unit (CRU) staff in order to effectively consult regarding this complex undertaking.

Definition of Federal Undertaking and Area of Potential Effect

In our previous comment letters, dated June 22 and November 16, 2018, we provided agreement with your agency's definition and documentation regarding the Area of Potential Effect (APE) for this project.

Identification of Historic Properties

Archaeology

We have reviewed the report titled *Twin Ports Interchange, Duluth, St. Louis County, Minnesota; SP 6982-322, Summary of Archaeological Investigations* (December 3, 2018, Two Pines Resource Group) and we agree with your agency's findings, as summarized in the December 10th letter, in regards to the results of identification of archaeological sites, specifically that there were no archaeological sites identified as part of these efforts and a determination generally made that the majority of the APE has a low potential to contain intact sites. Taking into consideration the scope and nature of the proposed undertaking and the conditions within the APE for direct, physical effects, we agree that the level of effort completed by your agency to identify archaeological properties has been reasonable.

Architecture/History

Our office agrees with the recommendation that the properties listed on pages 44-104 of the report titled *Phase I Architecture/History Survey and Phase II Evaluation for Twin Ports Interchange (TPA) at Interstate Highway 36 (I-35) and I-535, Duluth, Saint Louis County, Minnesota* (Mead & Hunt, Inc., September 2018) do not warrant additional research based on current contextual information, and are therefore considered **not eligible** for individual listing in the National Register of Historic Places (NRHP). Should additional information reveal in the future that some or all of the properties are related to previously unknown historic contexts, this eligibility determination may result in the need for additional property evaluation.

Regarding the results of the Phase II survey and evaluation and your agency's historic property determinations, we agree that the following properties are **not eligible** for listing in the NRHP: **Madison School/Seaway Building (SL-DUL-0022), Lake Superior & Mississippi/St. Paul & Duluth/Northern Pacific Corridor from West Duluth Junction to South Lake Avenue (SL-DUL-2500), Midtowne Manor (SL-DUL-3516), the former St. Clement's School (now Lincoln Park Community Senior Center) (SL-DUL-3518), Chicago, St. Paul, Minneapolis & Omaha Railroad (SL-DUL-3512), Lake Superior & Mississippi/St. Paul & Duluth/Northern Pacific/Burlington Northern Sane Fe Railroad Yard (SL-DUL-3513), Trunk Highway 53 (XX-ROD-023), Trunk Highway 53 from the Duluth City Limits to Pike Lake (SL-ROD-006), Trunk Highway 53, Midway Road near Duluth to the North Junction with Trunk Highway 169 North of Virginia (SL-ROD-007).**

West Superior Street Commercial District (SL-DUL-3515):

Based on the documentation provided with your December 10th letter, as well as information included in the Phase I Architecture/History Survey and Phase II Evaluation report, we agree with your agency's determination that the West Superior Street Commercial District is **not eligible** for listing in the NRHP. Although the district is significant under Criterion A in the area of commerce from 1889-1930, it does not retain sufficient integrity to convey this association.

We agree that the following properties will be treated as eligible for listing in the NRHP for the purposes of this Section 106 review only. If the project scope changes proximate to these properties, additional information may be needed regarding their eligibility and integrity in order to better evaluation effects: **Goldfine's by the Bridge (SL-DUL-0025), Great Northern Power Company Substation (SL-DUL-3386), Duluth, Missabe & Iron Range Railroad (SL-DUL-2499)**. The following properties along West Superior Street will also be considered individually eligible for listing in the NRHP for the purposes of this review only: **National Candy Company Building (SL-DUL-0961), Crane Building (SL-DUL-3391), Crane Terrace Row Flats (SL-DUL-2015), Auto Filling Station (SL-DUL-3381), Enger and Olson Furniture Store (SL-DUL-3394), Enger and Olson Furniture Warehouse (SL-DUL-3107 and SL-DUL-3382), Commercial Building (SL-DUL-3398), Commercial Building (SL-DUL-3403), Commercial Building (SL-DUL-3404), Duluth Press Building (SL-DUL-0962), Commercial Building (SL-DUL-3368), Duluth National Bank (SL-DUL-3410), Mohaupt Block (SL-DUL-3416), Furniture Store (SL-DUL-3417), Hotel Rex (SL-DUL-3411), Commercial Building (SL-DUL-0964), Commercial Building (SL-DUL-0965), Stack Building (SL-DUL-0966), Nelson Knitting Company Building (SL-DUL-0967), Nelson Knitting Company Building (SL-DUL-0968), Commercial Building (SL-DUL-2042), and Garfield News Building (SL-DUL-0400)**.

Trunk Highway 53, the Experimental Cast-Iron Pavement (Division A) at Burke Road Intersection (SL-FAY-010)
Our office agrees with the determination that this segment of Trunk Highway 53 possesses significance under Criterion C in the area of engineering during the 1921-1954 period. **Additional information** on the current integrity of the property is necessary to determine eligibility. The segment is outside of the APE for this undertaking, therefore, it is not necessary to provide the additional information as part of this Section 106 review.

Assessment of Effect

We appreciate the thorough property-by-property narrative assessment of adverse effects, supported by more detailed project plan documentation, as provided in your December 10th submittal. Based upon information provided to our office at this time, we concur with your agency's finding that the undertaking, as currently proposed, will have **no adverse effect** on the historic properties identified as part of this review. Our office acknowledges and agrees with the provision that this effect determination is contingent on your agency complying with the conditions described in your December 10th letter.

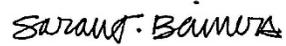
Additionally, we include further clarification that implementation of the undertaking in accordance with this finding, as documented, fulfills your agency's responsibilities under Section 106. If your agency does not construct the undertaking as proposed, including, but not limited to, a situation where design changes to the currently proposed project diverts substantially from what was presented at the time of this review, design changes involving undisturbed ground are made for the undertaking following completion of this review, or your agency finds that it is unable to comply with the finding as stated, then your agency will need to reopen Section 106 consultation with our office and others pursuant to 36 CFR 800.5(d)(1).

Consulting Party/Public Participation

Your December 10th letter summarizes your agency's efforts in regards to consultation with tribes, the Minnesota Indian Affairs Council, the Office of the State Archaeologist, the City of Duluth and the Duluth Heritage Preservation Commission. You have also indicated that MnDOT CRU staff participated in the public hearing held for the Environmental Assessment Worksheet (EAW) in October, but received no comments.

Please feel free to contact me at (651) 201-3290 or sarah.beimers@state.mn.us if you have any questions regarding our comments.

Sincerely,

A handwritten signature in black ink that reads "Sarah J. Beimers". The signature is written in a cursive style with some capital letters.

Sarah J. Beimers
Environmental Review Program Manager

cc via email only:

Adam Fulton and Jenn Moses, City of Duluth
Michael Malone, Chair, Duluth Heritage Preservation Commission
Jill Hoppe, THPO, Fond du Lac Band of Lake Superior Chippewa
Amanda Gronhovd, Office of the State Archaeologist
Melissa Cerda, Minnesota Indian Affairs Council