

**APPENDIX LS-D
AGENCY CORRESPONDENCE SINCE 2010 FEIS**

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JUL 21 2010

REPLY TO THE ATTENTION OF:
E-19J

Mr. George Poirer
Federal Highway Administration
525 Junction Road, Suite 8000
Madison, Wisconsin 53717-2157

RE: Comments on the Final Environmental Impact Statement (FEIS) for Wisconsin State Highway 23, Fond du Lac to Plymouth, Fond du Lac and Sheboygan Counties, Wisconsin, Wisconsin Project ID 1440-13-00, CEQ #: 2010028

Dear Mr. Poirer:

The U.S. Environmental Protection Agency has received the document listed above. Under the National Environmental Policy Act (NEPA), the Council on Environmental Quality regulations, and Section 309 of the Clean Air Act, EPA reviews and comments on major federal actions.

The FEIS presents a change to the Preferred Build Alternative. An interchange will be built at the County G intersection. The impacts of this change are not stated succinctly in one place in the document. However, after reviewing the Environmental Evaluation Matrix beginning on page 4-25 of the FEIS and comparing it to the same matrix in the SDEIS, we gather that there are 0.4 acres of more wetland impacts (P. 4-92) and 1 less acre of upland habitat impact (p. 4-36) due to the additional intersection. The FEIS also presents another change for corridor preservation. Option 23-1 and Option 23-2 are not moving forward as corridor preservation measures for the US 151/Wisconsin 23 system interchange. Therefore, there will be no corridor preservation for the US 151/Wisconsin 23 interchange.

For the most part, our comments on the Supplemental Draft Environmental Impact Statement (SDEIS) were adequately addressed in the FEIS. We do have some reiterative comments about wetlands and clean diesel initiatives in the following paragraphs.

Wetlands

Thank you for updating and clarifying the Clean Water Act (CWA) Section 303 (d) listed stream segments. We understand that water resources with impairments are outside of the project study area and the nature of their impairments (PCBs) is unlikely to be affected by a highway construction project.

The text of the FEIS proposes the single-span bridging without piers of both the Sheboygan and Mullett Rivers (pages 4-119 and 4-127). Your response to our DEIS comment about this subject ("EPA 14" on page 6-16) is contradictory, indicating that a culvert will be used to cross the Mullet River. Please clarify. In addition, if a culvert is used for the crossing of the tributary of the Sheboygan River, as proposed on page 4-123, then the box culvert approach is more suitable than conventional round culverts.

The current estimate of the wetland impacts for the preferred alternative is 32.0 acres for highway lanes, 0.7 acre for connecting roads and 10.7 acres for the Old Plank Trail, totaling about a 43-acre loss of wetlands. The current estimate is lower than the DEIS estimate of 58 acres but is still a substantial, adverse effect to aquatic resources. A large portion of the project work addressing wetlands is being deferred to the project design phase, including the formal wetland delineation for the CWA Section 404 permitting process. Every effort should be made to avoid and minimize wetland impacts during the project design phase. In addition, we strongly suggest that a systematic quality assessment of vegetative quality and other functional values be made of the actual wetland resources proposed for dredging or filling.

The proposed extension of the Old Plank Trail is a worthy part of the project. The trail can expose more individuals to green space and provide for non-motorized transportation and recreation, both of which improve the livability of the surrounding area. However, it presents about one-quarter of the proposed adverse impacts to wetlands of the entire project. The FEIS states that there will be an opportunity for the trail extension to avoid the existing CWA Section 404 permit compensatory mitigation site near the Old Wade House, (p. 4-174 and figures K3 and F6). Trail refinements will need to be the subject of continued attention during the project design phase. The physical avoidance of the old compensatory mitigation site, whose intent was to provide a wetland resource in perpetuity (even if unsecured by a real estate protection tool) is important (see response to EPA DEIS comment 10, p. 6-16). A detailed diagram/map of this situation, showing the highway, trail, mitigation site wetlands and other wetlands, would enhance the Record of Decision.

Substantial work will be occurring during the design phase to determine compensatory mitigation for wetland losses. Compensatory mitigation site locations should be in the same watershed, but away from any future disruption by transportation projects or other land-use changes. The sites will need to be protected by a conservation easement or other suitable protective real estate tool, as required by the EPA-Corps Mitigation Rule dated April 10, 2008. Equally as important will be good design for water quality protection of the Old Wade House compensatory mitigation site and any other compensatory mitigation site along the project route through the effective use of native plant buffers and other design and management practices. EPA will give considerable attention to the proposed compensatory mitigation sites during the CWA Section 404 permit process.

The EPA reserves the right to comment fully on the final project proposal during the CWA Section 404 permit process, jointly administrated by EPA and the Army Corps of Engineers. In addition, we consider corridor preservation a suitable topic in the EIS process; however, EPA reserves the right to comment on the corridor preservation alternative and its alternatives during any *future* CWA Section 404 permit process.

Clean Diesel Initiatives

We are encouraged that FHWA and the Wisconsin Department of Transportation are considering making clean diesel initiatives part of a voluntary or mandatory commitment by contractors. For future projects, we hope that these initiatives are firm contract commitments and represented has such in EIS's. Your response to our comments concerning clean diesel initiatives, "EPA 29 and EPA 30" found on pages 6-25 and 6-26, references the incorrect section for the text revisions. The correct Section is Section 5.3-not Section 5.5.

Background Information

The DEIS presented 6 action alternatives to reconstruct Wisconsin Highway 23 to a four-lane divided highway in order to alleviate the safety and congestion problems due to the increased traffic and numerous access points. After the DEIS was issued, Alternative 1 was chosen by your agency and the state as the Preferred Alternative.

The purpose of the SDEIS was to present the changes made to the Preferred Build Alternative 1 and to add and evaluate the Corridor Preservation Alternatives. The alternatives presented in the SDEIS were the No Build, the Dismissed Build Alternatives (alternatives 2, 3, 4, 5, and 6), and the Preferred Build Alternative 1 (including extending Old Plank Trail and adding interchanges at County K and UU). Corridor Preservation Alternatives were also presented for the Wisconsin 23 Corridor (future interchanges and overpasses) and the US 151/Wisconsin 23 System Interchange (Option 23-1 and Option 23-2).

Thank you for the opportunity to review your project. If you have any questions regarding EPA's comments, please contact Julie Guenther at (312) 886-3172 or email her at guenther.julia@epa.gov.

Sincerely,



Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

cc: Mr. Robert Wagner, P. E.
Division of Transportation System Development
Northeast Region
944 Vanderperren Way
P.O. Box 28080
Green Bay, WI 54324-0080

Joey Shoemaker
Department of the Army
St. Paul District, Corps of Engineers
Sibley Square at Mears Park
190 Fifth St. E., Suite 401
St. Paul, Minnesota 55101-1638

Joanne Kline
Wisconsin Department of Natural Resources
Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212

Louise Clemency
United States Department of the Interior
Fish and Wildlife Service
Green Bay ES Field Office
2661 Scott Tower Drive
New Franken, Wisconsin 54229-9565



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

REPLY TO
ATTENTION OF

July 22, 2010

Operations
Regulatory (2010-00379-JRS)

Robert J. Wagner
WisDOT-Northeast Region
944 Vanderperren Way
Green Bay, Wisconsin 54304

Dear Mr. Wagner:

This letter is in response to the Final Environmental Impact Statement received by this office on June 23, 2010 for the Wisconsin State Highway 23 Fond du Lac to Plymouth expansion project (Project ID 1440-13-00). The project site is located along the existing WIS 23 corridor within Fond du Lac and Sheboygan Counties, Wisconsin.

The U.S. Army Corps of Engineers is acting as a cooperating agency for the National Environmental Policy Act (NEPA) review for the proposed project due to the requirement for a Clean Water Act Section 404 permit. We have evaluated the document pursuant to NEPA guidelines and concur with the document regarding purpose and need, range of alternatives and the WisDOT preferred alternative.

Though we agree the document is adequate for a corridor level study, we expect that additional agency coordination may be required during design phase for the following subjects:

1. Wetland delineation/impacts: The Corps will need to agree that established wetland boundaries are adequate for the 404 program. Due to age of data or mechanism of collection, additional delineation information may be required during design phase. Any Water of the U.S. impacts contingent upon delineation results may need to be refined based on updated delineation results. We expect that further efforts to avoid and minimize wetland and stream impacts will take place during design phase.
2. Compensatory Mitigation: Though not directly referenced in the FEIS, compensatory mitigation should be consistent with regulations found in 33 CFR Part 332. We urge WisDOT to take all practicable and appropriate steps to ensure that compensatory mitigation is located within the same watershed(s) as the impact site(s), and that it would support the sustainability or improvement of aquatic resources within the same watershed. The Corps should be included in compensation plans and coordination during design phase.
3. Utilities/Borrow Areas: To alleviate future project delays we recommend that you work closely with utility companies and contractors to identify any significant environmental resources within the corridor that may be impacted due to utilities/borrow areas. Additional impacts may need to be evaluated in accordance with NEPA as it pertains to our authority under the Clean Water Act.

Operations
Regulatory (2010-00379-JRS)

We appreciate your request for comments and look forward to continued coordination on this project. If you have any questions, contact Joey Shoemaker in our Green Bay Field Office at (920) 448-2824. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

A black rectangular redaction box covering the signature of Tamara E. Cameron.

 Tamara E. Cameron
Chief, Regulatory Branch

Copy:
Jason Spilak, FHWA
Bobbi Jo Fischer, WDNR
Louise Clemency, USFWS
Julia Guenther, USEPA



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Green Bay ES Field Office
2661 Scott Tower Drive
New Franken, Wisconsin 54229-9565
Telephone 920/866-1717
FAX 920/866-1710

July 28, 2010

Mr. Robert Wagner
Wisconsin Department of Transportation - District 3
944 Vanderperren Way, P.O. Box 28080
Green Bay, Wisconsin 54324-0080

re: Final Environmental Impact Statement
Project ID 1440-13-00
STH 23
Fond du Lac and Sheboygan Counties,
Wisconsin

Dear Mr. Wagner:

The U.S. Fish and Wildlife Service (Service) has received your letter dated June 15, 2010, requesting comments on the Final Environmental Impact Statement (FEIS) for the proposed project. The information presented in the FEIS is in addition to the information in the (Draft Environmental Impact Statement) DEIS (November 3, 2004) and the (Supplemental Draft Environmental Impact Statement) SDEIS (December 23, 2009). The project entails expansion of State Highway 23 between County Highway K in Fond du Lac and County Road P in Plymouth, in Fond du Lac and Sheboygan Counties, Wisconsin.

After review of the FEIS, we have no additional comments from those previously submitted in our January 5, 2004 correspondence.

Please provide us copies of any future documents that may be associated with this project or of future projects you may be planning that would require Service review. This will allow us to keep our files current. We will provide comments as time and work priorities allow.

We appreciate the opportunity to respond. Questions pertaining to these comments can be directed to Ms. Jill Utrup at 920-866-1734.

Sincerely,

Louise Clemency
Field Supervisor

Abts, Cara Lynn

From: Pitcher, Brent <brent.pitcher@graef-usa.com>
Sent: Friday, August 06, 2010 1:09 PM
To: Wagner, Robert - DOT (Northeast Region); Nielsen, David - DOT
Cc: Michaelson, Jill - DOT; Mark Paschke; Sokal, Joe - DOA; Goehring, Alicia L - WHS; Brown, Ellsworth H - WHS; Simmons, David M - WHS; Kressin, Pat
Subject: RE: Wade House update
Attachments: Wagner-WisDOT.PDF; Transportation.pdf; wetlands.pdf; floodplain.pdf

This time with the attachments.

-----Original Message-----

From: Pitcher, Brent
Sent: Friday, August 06, 2010 1:04 PM
To: 'Wagner, Robert - DOT (Northeast Region)'; 'Nielsen, David - DOT'
Cc: 'jill.michaelson@dot.wi.gov'; 'Mark Paschke'; 'Sokal, Joe - DOA'; 'Goehring, Alicia L - WHS'; 'Brown, Ellsworth H - WHS'; Simmons, David M - WHS; Kressin, Pat
Subject: RE: Wade House update

Hi David-

Please find attached a letter from the Wisconsin Historical Society for access consideration at your meeting next week.

I have mailed a hard copy of the letter as well.

Questions should be addressed to Dr. Brown at the phone number listed in the letter. Please copy all on any email correspondence as I will be out of the office next week.

Thank you,

Brent

-----Original Message-----

From: Pitcher, Brent
Sent: Wednesday, August 04, 2010 12:33 PM
To: 'Wagner, Robert - DOT (Northeast Region)'; Nielsen, David - DOT
Cc: 'jill.michaelson@dot.wi.gov'; 'Mark Paschke'; 'Sokal, Joe - DOA'; Goehring, Alicia L - WHS; Sullivan, Cheryl E - WHS
Subject: RE: Wade House update

Hello David-

As a follow up to this email from Rob regarding the Wade House project in Greenbush I want to let you know that we met on Monday to discuss the access options for the site and will be submitting a request letter this week for consideration at your August 12th meeting next week.

Please contact me with any questions.

Thank you,

Brent

Brent T. Pitcher, P.E., LEED AP
Principal

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Please consider the environment before printing this page.

-----Original Message-----

From: Wagner, Robert - DOT (Northeast Region) [mailto:Robert.Wagner@dot.wi.gov]
Sent: Tuesday, July 20, 2010 10:53 AM
To: Pitcher, Brent
Cc: Nielsen, David - DOT
Subject: RE: Wade House update

Hi Brent,

Jill and I talked a bit after leaving as well as speaking to folks here this morning. A few things to let you know, some you may already be aware of.

The access meeting is July 29th (hence the confusion on dates). They do meet every other Thursday, so we can really fit you in when you are ready. I will be laid during their Aug 26th meeting. They'd like to have me around to explain the situation too, so that might not be the best date to target. Perhaps Aug 12th if you are ready. I have cc'd Dave Nielsen on this email, so you can include him on any information to be present to the access group. I will also be on vacation from this Friday and back on August 9th.

I'm sure you thought about it or discussed it, but keep in mind that someday there will be an interchange at A and the J-turn will be removed which could throw off how the complex is used. Not to influence your decision, but rather consider all options, the connection with Old Plank Road would work now with the right-in/right-out, and in the future using the CTH A interchange.

I have another thought, please excuse my forwardness, but hearing just a bit about their intriguing project made me think a bit. I believe the Wade House property includes the large

open area west of Old Plank Road, between WIS 23 and the mill/dam. Perhaps that would make for a nice sized parking lot with a connecting road or path up to the new interpretive center. Or even use the Old Plank Trail if properly accounted for (ie, a wider path to accommodate horse drawn carriage (no motorized vehicles) This would provide for nice access to parking in the near and distant future and leave more land available by the center. Maybe something to consider.

Let me know if you have any questions, and again, I'll be out for awhile, so if you need anything this week, please contact me asap. Rob

Robert J. Wagner, P.E.
Project Manager - Planning Unit
WisDOT-Northeast Region
920-492-5983 (FAX: 920-492-5640)
Robert.Wagner@dot.wi.gov

-----Original Message-----

From: Pitcher, Brent [mailto:brent.pitcher@graef-usa.com]
Sent: Friday, July 16, 2010 7:30 AM
To: Wagner, Robert - DOT (Northeast Region)
Subject: RE: Wade House update

Rob-

We have changed the agenda around for Monday to cover the site aspects in the afternoon to coincide with your attendance at the meeting. Attached is the updated agenda. We will see you at 3:00 at the Greenbush Town Hall across the street from the Wade House on Plank Road.

Thank you,

Brent

-----Original Message-----

From: Wagner, Robert - DOT (Northeast Region) [mailto:Robert.Wagner@dot.wi.gov]
Sent: Tuesday, July 06, 2010 10:14 AM
To: Pitcher, Brent
Subject: RE: Wade House update

Hi Brent,

Sounds like a great idea to incorporate that trail. We went through the access for the entire project last week and it looks as though the crossover location we showed you is in the same location as in the past. There should be a design Public Informational Meeting in the upcoming months, which really begins the end of the design period. Construction grading, bridge work, is scheduled for 2013. Paving of the road and trail would be in 2014.

If this information is enough, great, if not and you still want someone at the meeting, let me know. What time and where are the workshops? I have a meeting in Plymouth, likely the 19th at 5pm, so something just prior to that would be perfect if it's at the Wade House.

Thanks, Rob

Robert J. Wagner, P.E.
Project Manager - Planning Unit
WisDOT-Northeast Region
920-492-5983 (FAX: 920-492-5640)
Robert.Wagner@dot.wi.gov

-----Original Message-----

From: Pitcher, Brent [mailto:brent.pitcher@graef-usa.com]
Sent: Sunday, July 04, 2010 11:15 PM
To: Wagner, Robert - DOT (Northeast Region)
Subject: Wade House update

Hi, Rob. We had a good initial planning meeting for the Wade House project recently. The new entry location, crossover, r/w location, and bike trail were all topics of great interest to the group. The hope of everyone is that the State Historical Society and the design team can work closely with WisDOT and your consultant during the design process.

Our next design workshop will be either July 19 or 20. Would it be possible for you or another WisDOT representative to attend a brief portion of that meeting to discuss coordination issues? I will let you know of the exact date and time once determined.

We envision the Wade House to be a stop on the bike trail and would like to incorporate the trail in to the project site somehow. Another issue to discuss is the timing of the two projects. Perhaps the stretch of bike trail in front of the visitor center could be constructed in conjunction with our project.

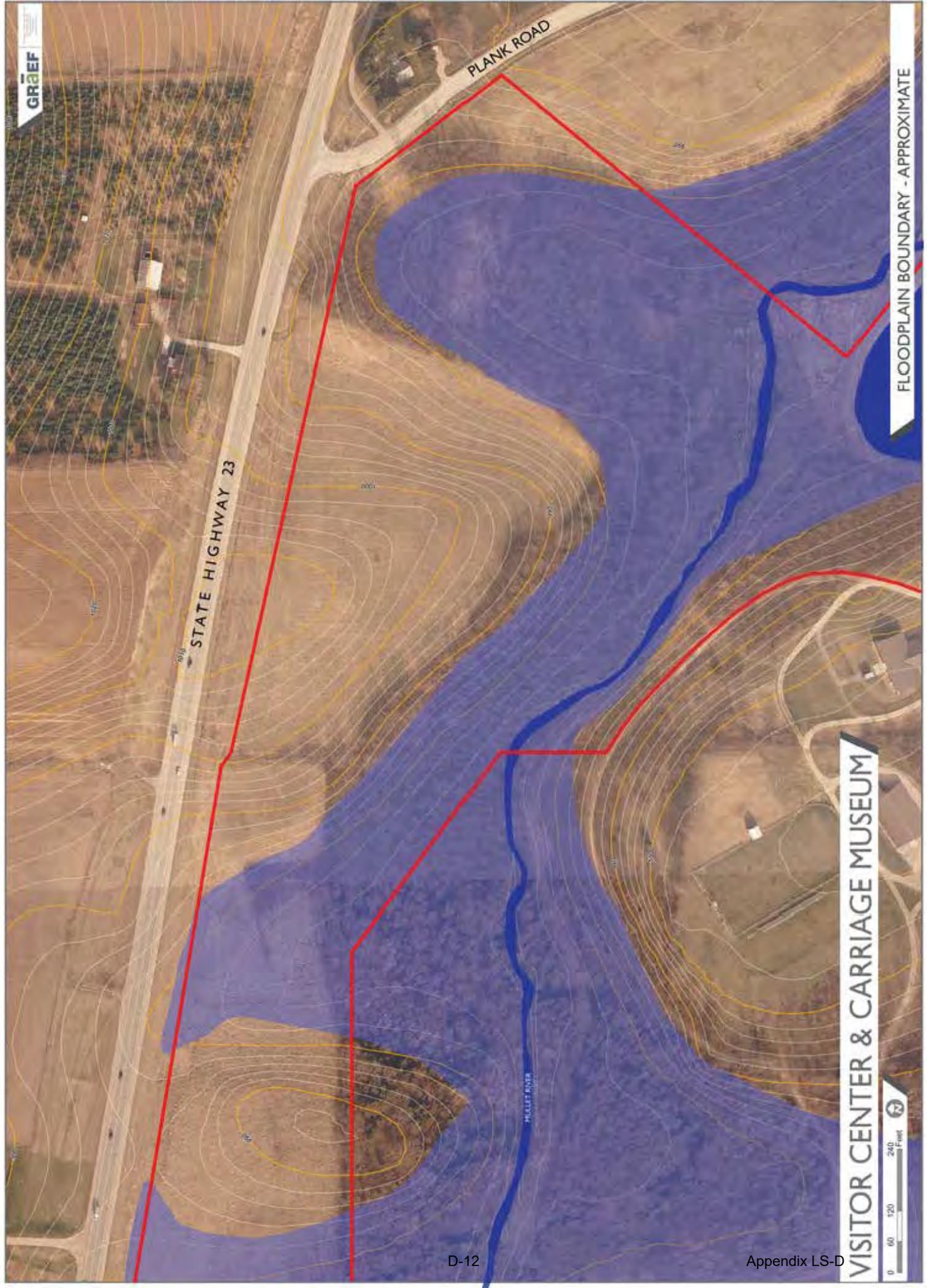
Your thoughts on these items are appreciated. Also, do you have any update to the final design schedule?

I will be out of the office this week but will follow up with you when I return next week.

Happy Independence Day!

Brent Pitcher

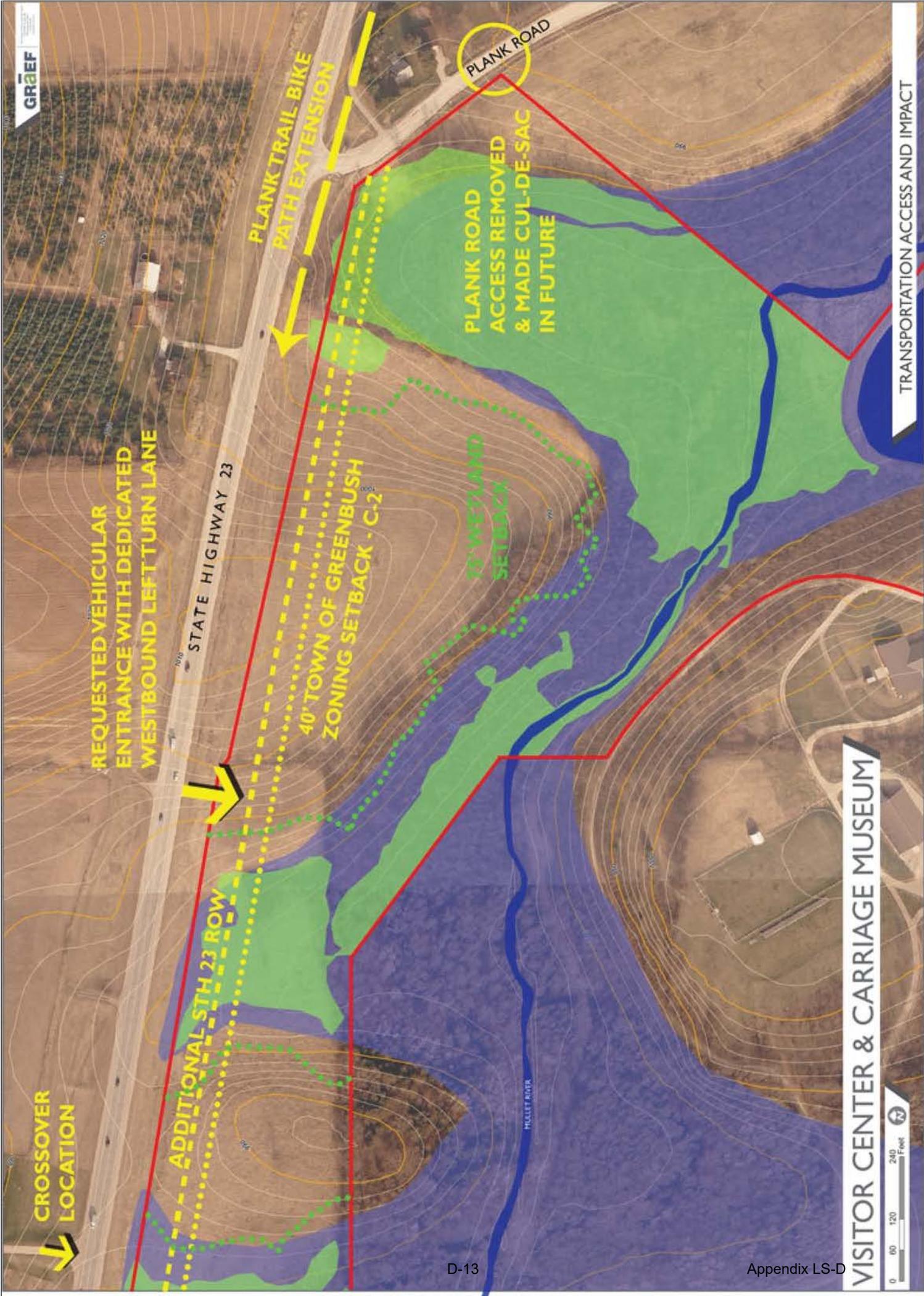
Sent from my iPhone



FLOODPLAIN BOUNDARY - APPROXIMATE

VISITOR CENTER & CARRIAGE MUSEUM





VISITOR CENTER & CARRIAGE MUSEUM



August 6, 2010

Mr. Robert J. Wagner, P.E.
Project Manager- Planning Unit
WisDOT – Northeast Region
944 Vanderperren Way
Green Bay, WI 54304

SUBJECT: Wade House Historic Site
Entrance Drive Access Request Letter

Dear Mr. Wagner:

As you are aware from previous conversations with members of my staff and project design team, the Wisconsin Historical Society (Society), a state agency, is currently in the midst of planning a new 40,000 square foot Wade House Historic Site Learning & Visitor Center and Wesley Jung Carriage Museum, established as the State Carriage Museum. These will replace the site's 1971 Visitor Center and 1968 Carriage Museum in Greenbush, WI. Included below is more information about the project and the mission of the Society.

Fronting upon STH 23, the new facility will offer state-of-the-art exhibitions of Wisconsin's largest collection of horse-drawn vehicles, as well as changing exhibits, a multi-tiered orientation to the site, expanded and updated amenities for learning and enjoyment, and a direct connection to the planned extension of the Old Plank Road bicycle trail that will pass through the site.

Visitors will exit the modern center, board a horse-drawn vehicle, and have a much more instructive entrée to the site's historic core, traveling "back in time" through the woods and over the Mullet River across a replica bridge to the historic part of the site. There they will encounter a variety of fresh perspectives and lively presentations about Wisconsin's mid-19th-century settlement, growth and development.

The project will begin construction in summer of 2011. Construction completion is slated for spring 2013 in time for a June 6, 2013 Grand Opening to celebrate the site's 60 year anniversary.

From our previous conversations we understand that WisDOT will be expanding STH 23 in 2013 and 2014 to a divided freeway. We understand that as part of that project the

primary visitor access route to the existing site at Plank Road will initially be limited, with the ultimate possibility of a complete closure as part of a planned interchange at CTH A. One of the primary goals of our project is to increase visibility for the Wade House with the new Visitor Center location while affording easy and direct access to STH 23.

The Society respectfully requests that the new driveway access to the Center be located at approximately station 543+00 with a deceleration taper and right turn lane for visitors coming from the west. We also request the inclusion of a dedicated left turn lane into the facility for westbound traffic on STH 23. We would like this item to be considered at the August 12 access review meeting.

We have carefully considered the available access options and believe that this dedicated access point provides the safest option for our visitors, especially the school buses, while avoiding the existing wetlands and floodplain associated with the nearby Mullet River, a Class II Trout Stream and WDNR designated Area of Special Natural Resource Interest. From our past conversations, we understand that this access location provides sufficient separation from the future CTH A interchange. We have included maps of the area that show these natural resources along with the requested access location.

PROJECT INTRODUCTION

American culture and societal expectations have changed dramatically since Wade House Historic Site opened its doors nearly 60 years ago. Competition for discretionary time and money; changes in daily life; reduced leisure time; and entertainment expectations set by theme parks, the Internet and television have contributed to these phenomena. Today's visitors have higher expectations and seek attractions with highly interactive programming.

Historic sites throughout the nation have generally not kept pace with these demands, and thus attendance and revenue have declined. Smaller budgets have led to a reduction in programming and interpretation. Couple these nationwide trends with the planned reconstruction of State Highway 23 that will eliminate or discourage direct access to Wade House via Plank Road, and it becomes clear that the Wade House Historic Site faces major challenges.

The Wisconsin Historical Society embraces the changing realities as opportunities and has proactively re-imagined Wade House Historic Site. The Society envisions a future site with some components open not just seasonally, but all year, a site that is always evolving with fresh new stories, programming and exhibits, and a site that sets a new standard for experiential learning, public history education and educational outreach. The experiences will also make stronger emotional connections between those

formative years of the state and guests' lives today. Informed by impeccable scholarship and research, compelling stories will be told through a variety of environments that combine best practices in traditional living history interpretation with state-of-the-art technology. To this end, three major projects will be undertaken:

- Development of new stories and new interpretation methods to share these stories
- Development of a new learning & visitor center
- Development of a new Wesley Jung Carriage

The new Wade House Learning and Visitor Center, like the Carriage Museum, will be open year-round. It will house a greatly expanded orientation program and additional interpretation and educational programming space, incorporating 21st century technologies to most effectively share historical stories. This center will be located on Wade House property, a hillside on the south side of State Highway 23 about 300 yards north across the river from the current Wesley Jung Carriage Museum. Upon arrival at the historic site, visitors will enter the Learning & Visitor Center to purchase tickets and experience state-of-the-art orientation programs.

A new Wesley Jung Carriage Museum will also be constructed on State Highway 23 adjacent and connected to the Learning and Visitor Center. The present Carriage Museum building houses rows of horse-drawn vehicles in a manner that is better described as storage than exhibits. The building lacks appropriate environmental controls to preserve its valuable contents. It is unheated and thus open during the summer season only. It is woefully inadequate to exhibit the significant collection it holds.

Among the treasures of the collection are small and large commercial vehicles, firefighting equipment, omnibuses, hearses, breaks, sleighs, coaches, buggies, runabouts, sulkies and children's vehicles. Interpretation in the new facility will compare and contrast our lives today with an era when horse-drawn transportation was a common way to travel and its speed governed the conduct of commerce and expansion in Wisconsin.

Both new facilities will utilize modern interpretive methods such as videos and interactive kiosks, providing a year-round learning opportunity for schoolchildren, attracting year-round visitors, and increasing visibility of the historic site.

GOALS OF LEARNING & VISITOR CENTER AND WESLEY JUNG CARRIAGE MUSEUM

The general goals of the new Learning & Visitor Center and Wesley Jung Carriage Museum are to expand its audience, increase repeat visitation, maximize the educational potential of Wade House, enhance stewardship of important collections,

provide improved visitor amenities, create more rewarding visitor experiences, and increase earned revenue. These will be accomplished through the following:

1. Moving the site entrance directly to State Highway 23 to increase visibility for Wade House while affording easy and direct access.
2. Providing an appropriate orientation to the site and its historic context.
3. Strengthening the visitor experience while offering more interactive opportunities that engage all of the senses.
4. Incorporating a multi-purpose space that will accommodate workshops and seminars for school children and adults throughout the year.
5. Encouraging the use of the new facilities by the surrounding community as a center of lifelong learning.
6. Providing appropriate environmental controls to preserve the treasures of the carriage collection for future generations.
7. Providing up-to-date visitor services and amenities.
8. Including an expanded museum store, food service and restrooms to accommodate visitor needs, to generate revenue, and to provide service to users of the extended bicycle trail.
9. Consolidating key functions such as ticketing, restrooms, and public gathering and meeting spaces.

MISSION OF THE WISCONSIN HISTORICAL SOCIETY

The Wisconsin Historical Society helps people connect to the past by collecting, preserving and sharing stories.

This mission is fulfilled according to the following guiding principles:

- To reach out and partner with the broadest possible public
- To present and promote sound and authentic history
- To share our riches of staff, collections, and services in ways that captivate and respect our many audiences
- To collect and safeguard evidence of our diverse heritage according to the highest standards of stewardship

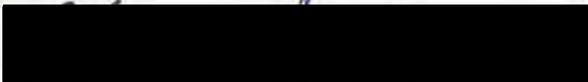
Wade House is one of eleven historic sites and museums throughout the state that are owned and operated by the Wisconsin Historical Society, a state agency. Located throughout the state, these sites and museums offer a wide range of daily activities, changing exhibits and unique special events that combine with historic architecture to bring four centuries of Wisconsin history to life.

A new Visitor & Learning Center, Carriage Museum, and reinterpretation at Wade House Historic Site will strengthen the delivery and fulfillment of the mission of the

Wisconsin Historical Society. This work, a \$13 million project, is funded approximately 50% by State of Wisconsin funds and 50% by private funds that the State has chosen to match in its 2009-11 fiscal year budget.

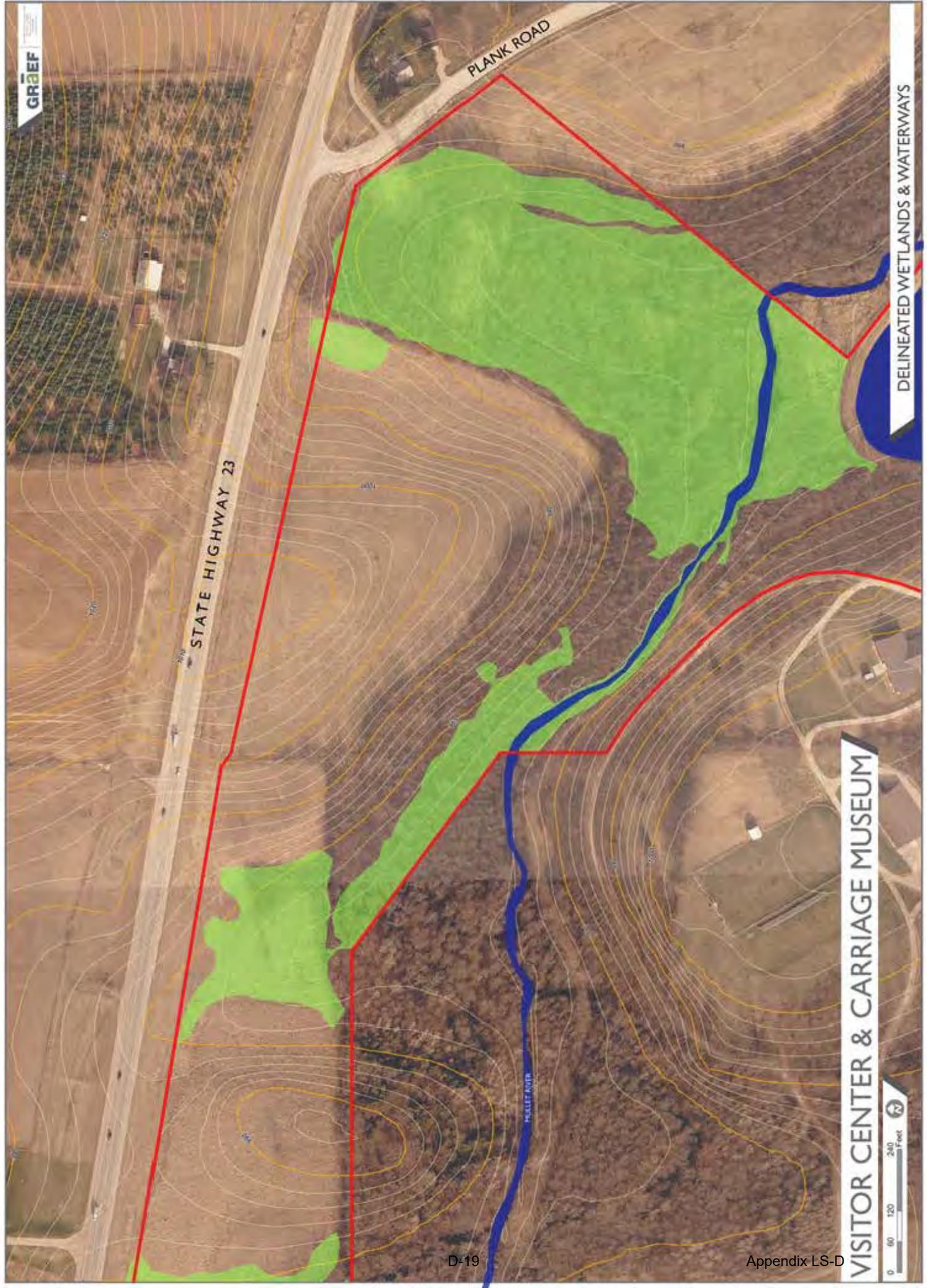
We appreciate your assistance with this issue and look forward to working with you and the WisDOT on the new entrance and extension of the bike trail. If you have any questions, please contact me at (608) 264-6440 to discuss.

Sincerely,

A black rectangular redaction box covers the signature area. A blue ink flourish extends from the right side of the box.

Dr. Ellsworth H. Brown
The Ruth and Hartley Barker Director
Wisconsin Historical Society
816 State Street
Madison, WI 53706

608-264-6440





United States Department of the Interior



National Park Service
Midwest Region
601 Riverfront Drive
Omaha, Nebraska 68102-4226



55-00708 (MWR-P/G)

JUN 03 2011

Ms. Lavane J. Hessler
Outdoor Recreation Grants Manager
Bureau of Community Financial Assistance
Department of Natural Resources
P.O. Box 7921
Madison, Wisconsin 53707

Dear Ms. Hessler:

This is to inform you of the approval for Amendment No. 1 to Land and Water Conservation Fund project 55-00708, Northern Unit Kettle Moraine Felling Acquisition. This converts 2.2 acres of land and adds 4.275 acres of replacement land.

Enclosed are your copy of the amendment and Standard Form 424. Any questions you have related to this conversion may be directed to me at 402-661-1548.

Sincerely,

Carol A. Edmondson
Outdoor Recreation Planner

Enclosures 2

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

JUN 13 2011

STATE Wisconsin
Project Amendment No. 1

AMENDMENT TO PROJECT AGREEMENT
(OMB No. 1024-0033, October 31, 2013)

THIS AMENDMENT To Project Agreement No. 55-00708 is hereby made and agreed upon by the United States of America, acting through the Director of the National Park Service and by the State of Wisconsin pursuant to the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964).

The State and the United States, in mutual consideration of the promises made herein and in the agreement of which this is an amendment, do promise as follows:

That the above mentioned agreement is amended by adding the following:

The 6(f)(3) boundary is amended by deleting 2.2 acres from the original park boundary and adding 4.275 acres to the park boundary for Kettle Moraine State Forest – Northern Unit.

In all other respects the agreement of which this is an amendment, and the plans and specifications relevant thereto, shall remain in full force and effect. In witness thereof the parties hereto have executed this amendment as of the date entered below.

THE UNITED STATES OF AMERICA

STATE

By [Redacted Signature]
(Signature)
LAND & WATER CONSERVATION
FUND PROJECT OFFICER

(Title)

Wisconsin
(State)
By [Redacted Signature]
(Signature)

National Park Service
United States Department of the Interior

Lavane J. Hessler
(Name)

Date June 3, 2011

ASLO
(Title)

Estimated Burden Statement: The public reporting burden for this collection of information is estimated to average 3 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form should be sent to the National Park Service, State and Local Assistance Programs Division, 1849 C Street NW, Washington, DC 20240.

Paperwork Reduction Act Statement: This form is necessary to provide data input into an NPS project database which provides timely data on projects funded over the life of the program. Such data is used to monitor project progress and to analyze program trends. A Federal Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Any comments on the burden estimate or other aspects of this collection of information may be addressed to the National Park Service, State and Local Assistance Programs Division, 1849 C Street NW, Washington, DC 20240.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Intent To Prepare a Supplemental Environmental Impact Statement: Fond du Lac & Sheboygan Counties, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA is issuing this notice to advise the public that a limited scope Supplemental Environmental Impact Statement (SEIS) will be prepared for the proposed capacity improvements to Wisconsin Highway 23 from U.S. Highway 151 to County Highway P in Fond du Lac and Sheboygan Counties, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Bethaney Bacher-Gresock, Environmental Program Manager, FHWA, 525 Junction Road, Suite 8000, Madison, WI 53717-2157; Telephone: (608) 662-2119. You may also contact Rebecca Burkel, Director, Bureau of Technical Services, Wisconsin Department of Transportation, 3502 Kinsman Blvd., Madison, WI 53704-2549; Telephone (608) 246-5399.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Wisconsin Department of Transportation (WisDOT) will prepare a limited scope SEIS in accordance with 23 CFR 771.130(f) and 40 CFR 1502.9 for the proposed capacity improvements along approximately 19 miles of Wisconsin Highway 23 from U.S. Highway 151 in the City of Fond du Lac to County Highway P in the City of Plymouth, in Fond du Lac and Sheboygan Counties, Wisconsin. The purpose of the SEIS is to clarify certain parts of the previously approved June 3, 2010 Final Environmental Impact Statement (FEIS) and to reconsider certain portions, including parts of the Section 4(f) evaluation and indirect and cumulative impacts analysis. In accordance with its regulations, FHWA also will evaluate and provide additional analysis, if needed, on any new or changed impacts to the human and natural environment since the issuance of the Record of Decision (ROD) on September 27, 2010. The ROD selected a build alternative involving construction of a 4-lane divided highway along the existing Wisconsin Highway 23 alignment, three interchanges (at County Highway K, County Highway UU, and County Highway G), and local road and access improvements. The ROD also selected a corridor preservation alternative for the

Wisconsin Highway 23 corridor (except for the U.S. 151 interchange where there will be no corridor preservation), to preserve the right-of-way needed for future interchanges and grade separations.

The SEIS will follow the same process and format as the original EIS (Draft EIS, FEIS, and ROD), except that scoping is not required. The FEIS and ROD are available at <http://www.dot.wisconsin.gov/projects/neregion/23/environ.htm>.

Public involvement is a critical component of the National Environmental Policy Act (NEPA) project development process and will occur throughout the development of the environmental documents. Environmental documents will be made available for review by resource agencies and the public. Public hearing(s) will be held following the availability of the Draft SEIS and as necessary. The public hearing(s) will be accessible and held at a convenient time and location. Individuals will be provided the opportunity to offer official comments by publicly expressing their views to representatives of WisDOT and others in attendance, privately to a court reporter, or by submitting written comments. WisDOT will provide FHWA with a transcript of the public hearing(s) and copies of submitted written comments.

Letters describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposed project. To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from interested parties. Comments or questions concerning this proposed action and the SEIS should be directed to the FHWA at the address above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway, Planning, and Construction. The regulations implementing Executive Order 12372 regarding the intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 11, 2012.

R. Kirk Fredrichs,
Assistant Division Administrator, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 2012-925 Filed 1-18-12; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2003-15754]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 211 of Title 49 of the Code of Federal Regulations, this document provides the public notice that by a document dated December 16, 2011, the Reading, Blue Mountain and Northern Railroad (RBMN) has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA has reopened and assigned the application Docket Number FRA-2003-15754.

Applicant: Reading, Blue Mountain and Northern Railroad, Mr. Jonathan Barket, AVP, Communications & Signals, 1 Railroad Boulevard, Port Clinton, Pennsylvania 19549.

RBMN seeks approval of the proposed discontinuance of the automatic block signal (ABS) system on Track 1 on the main line and Leighton Branch, Lehigh Division, between Milepost (MP) 119.3, Leighton, and MP 130.6, Independence, PA.

The reason given for the proposed change is that the signal system has been out of service since being damaged by weather in December 2003. RBMN applied, in Docket Number FRA-2003-15754, for an extension to the time allowed to repair the signal system after the damage. The application was denied due to not being filed correctly. At the time, there was another railroad operating in the application area and the application was not submitted as a joint application. RBMN did not resubmit a joint application as requested in FRA's decision letter denying the application. In the ensuing years, operations have changed, with RBMN being the sole operator on the trackage involved. RBMN records indicate that the ABS has been out of service since before the August 1996 acquisition of this section of railroad. Since the acquisition, RBMN states they have operated this section by means of Northeast Operating Rules Advisory Committee (NORAC) Form D permits. FRA records continue to show the area being operated under NORAC Rule 251. Therefore RBMN requests to discontinue the ABS.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200

McCann, Mary E.

From: Mccarthy, James
Sent: Wednesday, February 20, 2013 8:13 AM
To: Murphy, Robert - NRCS, Madison, WI; Jeremy Ziegler (jeremy.ziegler@wi.usda.gov)
Cc: Lynch, Tom; Zlotocha, Jennifer S.; Correspondence File - Madison
Subject: WI 23 project - NRCS-CPA-106 Farmland Conversion Impact Rating - FDL and Sheboygan Counties 1.089-165
Attachments: USDA.Farmland Conv Imp Rating_WIS23_RMMEdit.pdf

Thanks for your help Bob and Jeremy –

Jim

Jim McCarthy
608-251-2129 x 1115 (Direct)
james.mccarthy@strand.com

From: Murphy, Robert - NRCS, Madison, WI [<mailto:Robert.Murphy@WI.usda.gov>]
Sent: Wednesday, February 20, 2013 7:12 AM
To: Mccarthy, James
Cc: Ziegler, Jeremy - NRCS, Juneau, WI
Subject: WI 23 project - NRCS-CPA-106 Farmland Conversion Impact Rating - FDL and Sheboygan Counties

To: Jim McCarthy
Land Management and Environmental Scientist
Strand Associates, Inc.
910 W. Wingra Drive
Madison, WI 53715
608-251-2129 x 1115 (Direct)
James.mccarthy@strand.com

Subject: NRCS-CPA-106 - Farmland Conversion Impact Rating Form

Re: WisDOT Project ID 1440-13/15-00
WIS23 Fond du Lac – Plymouth
Fond du Lac and Sheboygan Counties, WI.

Jeremy Ziegler (NRCS, Juneau) forwarded me this request.

I reviewed the NRCS-CPA-106 form and supporting information submitted with your January 18, 2013 email, with respect to requirements of the Farmland Protection Policy Act. Three corridor alternatives listed on the form as B, C, and D are subject to the FPPA. Therefore I completed Parts 2, 4, and 5 of the form for your use. (See attached file: Farmland Conv Imp Rating_WIS23_RMMEdit.pdf).

Additionally, environmental assessments are typically reviewed by NRCS staff to determine if NRCS easements are affected.

The project does not affect any NRCS easements.

If you have any questions, please contact me.

Thanks,

Bob Murphy

Acting State Soil Scientist
USDA, Natural Resources Conservation Service
8030 Excelsior Drive
Madison, Wisconsin 53717
608-662-4422 ext 202
email: robert.murphy@wi.usda.gov

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**FARMLAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS**

PART I (To be completed by Federal Agency)		3. Date of Land Evaluation Request 12/17/12, Updated 1/17/13	4. Sheet 1 of <u>1</u>
1. Name of Project ID 1440-13/15-00 WIS23 Fond du Lac - Plymouth		5. Federal Agency Involved FHWA	
2. Type of Project WisDOT 2 to 4-Lane On-Alignment Expansion		6. County and State Fond du Lac and Sheboygan Wisconsin	
PART II (To be completed by NRCS)		1. Date Request Received by NRCS 1/18/13	2. Person Completing Form Robert Murphy, NRCS, Madison
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form).		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	4. Acres Irrigated Average Farm Size N/A 204, 181
5. Major Crop(s) Corn, soybeans, hay, wheat/oats	6. Farnable Land in Government Jurisdiction Acres: 737884 % 89.9	7. Amount of Farmland As Defined in FPPA Acres: 578028 % 70.4	
8. Name Of Land Evaluation System Used LEag_WI	9. Name of Local Site Assessment System none	10. Date Land Evaluation Returned by NRCS 2/18/13	

PART III (To be completed by Federal Agency)	Alternative Corridor For Segment See description below			
	Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly	0	92 + 133	169 + 133	296 + 133
B. Total Acres To Be Converted Indirectly, Or To Receive Services	0	41.5	41.5 - 50+	41.5 - 50+
C. Total Acres In Corridor	0	270	345	470

PART IV (To be completed by NRCS) Land Evaluation Information				
A. Total Acres Prime And Unique Farmland	0	188.4	236.1	306.8
B. Total Acres Statewide And Local Important Farmland	0	37.6	55.5	93.4
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted	0	0.046	0.060	0.081
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value	0	91.6	91.6	91.7
PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)	0	72	72	71

PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))	Maximum Points				
1. Area in Nonurban Use	15		15	15	15
2. Perimeter in Nonurban Use	10		10	10	10
3. Percent Of Corridor Being Farmed	20		10	18	18
4. Protection Provided By State And Local Government	20		20	20	20
5. Size of Present Farm Unit Compared To Average	10		10	10	10
6. Creation Of Nonfarmable Farmland	25		5	20	25
7. Availability Of Farm Support Services	5		5	5	5
8. On-Farm Investments	20		10	12	15
9. Effects Of Conversion On Farm Support Services	25		5	8	8
10. Compatibility With Existing Agricultural Use	10		3	5	5
TOTAL CORRIDOR ASSESSMENT POINTS	160	0	93	123	131

PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)	100	0	72	72	71
Total Corridor Assessment (From Part VI above or a local site assessment)	160	0	93	123	131
TOTAL POINTS (Total of above 2 lines)	260	0	165	195	202

1. Corridor Selected: Site B - Preferred Altern. #1 based on 2010 SDEIS	2. Total Acres of Farmlands to be Converted by Project: Approximately 270	3. Date Of Selection: 12/23/09	4. Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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5. Reason For Selection:
Corridor A: No Build, Corridor B: 4 Lane on Alignment (Alt. 1), Corridor C: On and Off Alignment North (Alt. 2), Corridor D: Off Alignment South and North (Alt. 3)
Note: The above listed acreage estimates are based on the pending SEIS. An additional amount of acreage would be required for all alternatives. It is estimated that the preferred alternative would require 81 acres of land for interchanges and approximately 52 for plant road trail development thus, this additional total is 133+ acres.

Signature of Person Completing this Part: Drafted by Jim McCarthy (Strand for WisDOT)	DATE 1/17/13
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NOTE: Complete a form for each segment with more than one Alternate Corridor



Strand Associates, Inc.

910 West Wingra Drive

Madison, WI 53715

(P) 608-251-4843

(F) 608-251-8655

December 18, 2012

Mr. Jeremy Ziegler
 Area Resource Soil Scientist
 USDA–NRCS Juneau Area Office
 451 West North Street
 Juneau, WI 53039-1120

Re: Farmland Conversion Impact Rating Request
 WisDOT I.D. 1440-13/15-00
 WIS 23
 Fond du Lac to Plymouth
 Limited Scope Supplemental Draft Environmental Impact Statement (SDEIS)
 Fond du Lac and Sheboygan Counties

Dear Mr. Ziegler:

Strand Associates, Inc.[®] is providing environmental analysis and engineering services to the Wisconsin Department of Transportation (WisDOT) on behalf of the Federal Highway Administration (FHWA).

WisDOT is preparing a limited scope Supplemental Environmental Impact Statement (SEIS) for the WIS 23 corridor from Fond du Lac to Plymouth in Fond du Lac and Sheboygan Counties. The Final EIS for the WIS 23 project was approved on June 3, 2010, and a Record of Decision (ROD) was issued on September 27, 2010. The limited scope SEIS will clarify certain parts of the previously approved FEIS and reconsider certain portions, including parts of the Section 4(f) evaluation and indirect and cumulative impacts analysis. It is scheduled for release in spring 2013.

If the project receives necessary environmental approvals, construction is planned for 2015. The improvements include expanding the existing two-lane road to a four-lane divided highway. Additional improvements include constructing a jug-handle at County K and diamond interchanges at County UU and County G.

The Preferred Alternative crosses directly through the following sections of the corresponding Townships:

Township	Town	Range	Sections
Empire	15N	18E	7, 8, 9, 10, 11, and 12
Forest	15N	19E	7, 8, 9, 16, 15, 14, and 13
Greenbush	15N	20E	18, 7, 8, 9, 10, 11, 14, and 13
Plymouth	15N	21E	18 and 17

Mr. Jeremy Ziegler
Area Resource Soil Scientist
Page 2
December 18, 2012

We have estimated farmland impacts as documented on the FARMLAND CONVERSION IMPACT RATING form for the preferred alternative described on the United States Department of Agriculture (USDA)–Natural Resource Conservation Service (NRCS) form NRCS-CPA-106 via http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045395.pdf

The part VI (Corridor Assessment Criteria) scoring totaled 100 of 160 points using USDA/FHWA guidance. Since the corridor assessment score was greater than 59 points, the form requires the USDA-NRCS to complete the remaining sections. Provided with this form are (1) an overview map and (2) an additional alignment detail map. Please note the Wisconsin Department of Agriculture, Trade, and Consumer Protection issued an Agriculture Impact Statement on October 17, 2006. The document can be e-mailed or forwarded to you at your request.

If you would please complete and provide the FARMLAND CONVERSION IMPACT RATING form for the project by February 8, 2013, it would be appreciated. Thank you for your assistance.

If you have questions, please contact me at (608) 251-4843 or by e-mail at Tom.Lynch@strand.com.

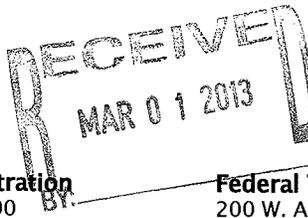
Sincerely,

STRAND ASSOCIATES, INC.®


Thomas W. Lynch, P.E., P.T.O.E.
Senior Associate

Enclosures: FARMLAND CONVERSION IMPACT RATING form
Reference Maps

c: Robert Wagner, WisDOT Project Manager



Federal Highway Administration
525 Junction Road, Suite 8000
Madison, WI 53717-2157

Federal Transit Administration
200 W. Adams Street, Suite 320
Chicago, IL 60606-5232

February 27, 2013

Richard L. Heath, Executive Director
Bay-Lake Regional Planning Commission
441 South Jackson Street
Green Bay, WI 54301

Subject: Conformity of the Update to the *Year 2035 Sheboygan Area Transportation Plan (SATP)* and the *2013-2016 Sheboygan Metropolitan Planning Area Transportation Improvement Program (TIP)* with Respect to the State of Wisconsin Air Quality Implementation Plan

Dear Mr. Heath:

The Federal Highway Administration and Federal Transit Administration have jointly reviewed the update to the *Year 2035 Sheboygan Area Transportation Plan (SATP)*, the *2013-2016 Sheboygan Metropolitan Planning Area Transportation Improvement Program (TIP)*, and accompanying air quality analysis submitted on January 22, 2013. The plan and program apply to the Sheboygan metropolitan planning area. The conformity analysis applies to all of Sheboygan County, which is designated as a moderate nonattainment area under the 1997 eight-hour ozone National Ambient Air Quality Standard and a marginal nonattainment area under the 2008 ozone NAAQS. Our reviews compared the SATP and TIP with the requirements of Titles 23 and 49 of the United States Code, the 1990 Clean Air Act Amendments (CAAA), and related implementing regulations. The air quality conformity portion of our review was coordinated with and concurred in by the U.S. Environmental Protection Agency, the Wisconsin Department of Transportation, and the Wisconsin Department of Natural Resources.

The analysis demonstrates that motor vehicle emissions based on the planned transportation system are projected to remain within the motor vehicle emissions budgets associated with Wisconsin 8-Hour Ozone Redesignation Request and Maintenance Plan, which USEPA determined to be adequate for conformity purposes on May 21, 2010.

Accordingly, we jointly find the SATP and TIP for the Sheboygan Metropolitan Planning Area to be in conformance with the transportation planning requirements of Titles 23 and 49 U.S.C., the CAAA, and related regulations including those for determining conformity with the Wisconsin State Air Quality Implementation Plan (SIP).

This conformity finding is valid for a period of four years. A new air quality conformity determination will be required if either the SATP or TIP is modified by adding, removing or changing the implementation schedule of a regionally significant or non-exempt project or if any

other triggering events specified in 40 CFR 93.104 occur. Conformity can also lapse if the transportation plan or TIP is not updated within the required renewal period of four years.

Should you have any questions regarding this conformity finding, please contact me at (608) 829-7518.

Sincerely yours,

A large black rectangular redaction box covers the signature area.

Dwight E. McComb
Systems Planning & Performance Manager
On Behalf of the U.S. Department of Transportation
Federal Highway Administration
Federal Transit Administration

ecc: Mark Gottlieb, WisDOT Secretary
Sandra Beaupre, WisDOT Bureau of Planning & Economic Development
Patricia Trainer, WisDOT Bureau of Technical Services
Brian Brock, WisDOT Northeast Region
Michael Friedlander, WDNR Bureau of Air Management
Michael Leslie, USEPA Region 5
Christopher Bertch, FTA Region V

Amended Memorandum of Agreement (MOA) Amendment #1 (dated February 2013)
Supersedes MOA document executed June-July 2009 (dated February 2009)
Project ID 1440-13/15-00 (STH 23)
Fond du Lac and Sheboygan Counties, Wisconsin

RECEIVED
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**AMENDED
MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION
AND
THE WISCONSIN STATE HISTORIC PRESERVATION OFFICE
REGARDING CONSTRUCTION OF STH 23
CTH K TO CTH P (PROJECT ID 1440-13/15-00 WHS #06-0864/FD/SB)
FOND DU LAC AND SHEBOYGAN COUNTIES, WISCONSIN
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36CFR 800.6**

Whereas, the Federal Highway Administration (hereinafter FHWA), the Wisconsin State Historic Preservation Office (hereinafter SHPO), the Wisconsin Department of Transportation (hereinafter WisDOT), and St. Mary's Springs Academy executed a Memorandum of Agreement in June-July 2009 (signed on June 2009 and July 2009, respectively); and

Whereas the same parties have agreed that an amendment to this Memorandum of Agreement should be executed; and

Whereas, the Sippel site (47SB394) is eligible for the National Register, and

Whereas, the undertaking could have effects on the Sippel site (47SB394), and

Whereas, the St. Mary's Springs Academy (formerly referred to as the St. Mary's Springs Academy Complex) is eligible for the National Register; and

Whereas contributing resources have been demolished within the historic property boundary of the St. Mary's Springs Academy; and

Whereas, the SHPO has concurred with a revised historic property boundary of the St. Mary's Springs Academy (Attachment 1); and

Whereas, the consulting parties concur the proposed project actions will not adversely affect the National Register eligible St. Mary's Springs Academy; and

Whereas, the Storm Front (47FD497) site and the Forest Home Cemetery (BFD-0092) were identified through field research; and have been avoided by project redesign; and

Whereas the Ho-Chunk Nation, Oneida Nation of Wisconsin, Menominee Indian Tribe of Wisconsin, and the Iowa Tribe of Oklahoma have been provided a copy of the above-mentioned Memorandum of Agreement of June-July 2009, the archaeological report titled: *Archaeological Investigations Along STH 23 and Alternate Corridors from CTH K in Fond du Lac County to CTH P. in Sheboygan County, Wisconsin*, and the data recovery plan titled: *A Mid Nineteenth Century Yankee Homestead in the Town of Greenbush, Sheboygan County* addressing findings and effects; and

Whereas, this undertaking is not on federal or tribal land, and all burials will be treated as inadvertent and un-cataloged discoveries in accordance with Wis. Stat. §157.70; and

Whereas, it is in the public interest to expend public funds to minimize and mitigate the potential impacts of this project on significant historic properties; and

Now, therefore, the above-mentioned Memorandum of Agreement of June-July 2009 is amended by replacing all its stipulations with the following. [See Attachment #2 for a list of stipulations in the above-mentioned Memorandum of Agreement of June-July 2009 which no longer apply.]

STIPULATIONS

The FHWA shall ensure that the following measures are carried out:

I. Archaeological Resources

- AR1. The Sippel (47SB394) archaeological site is located entirely within the Area of Potential Effects (APE) and cannot be avoided through project redesign. The WisDOT will implement the project data recovery plan titled: The Sippel (47SB394) Site: A Mid Nineteenth Century Yankee Homestead in the Town of Greenbush, Sheboygan County (Attachment #3).
- AR2. Prior to construction, WisDOT or its agent will ensure that protective fencing is placed at the Storm Front (47FD497) to prevent inadvertent disturbances. A qualified archaeologist shall assist in the location and placement of the fence. This area shall not be used for the staging of equipment and personnel, sources of borrow, or a location for the placement of waste material or batch plant.

II. Discoveries – 36 CFR 800.6

DI. Archaeological

- A. The WisDOT Project Engineer (PE) or Project Manager (PM) shall notify all parties of this MOA in writing ten working days prior to the start of construction and monitoring.
- B. At preconstruction meetings, the WisDOT PE/PM shall ensure the stipulations contained in this MOA are reviewed with and understood by the responsible party(ies). Responsible parties also include sub-contractors.
- C. Prior to construction, the WisDOT or authorized agent shall petition the Director of the Wisconsin Historical Society (WHS) for permission to work within the recorded boundaries of two known uncatalogued burial sites, Academy Hill Mound (47 FD-17/BFD0150) and the unnamed burial site (47 FD-245), in compliance with Wis. Stat. §157.70. These activities include, but are not limited to, removal of the existing pavement, sidewalk, roadbed (Sub-grade and Base course), parking surfaces, building foundation wall/floor removal, and any excavation below the ground/soil elevation for underground utilities or other designated features.
1. A professional archaeologist, as defined in the Secretary of the Interior's Professional qualifications Standards (48 FR 44738), will monitor construction-related activities

- within the recorded boundaries of the Academy Hill Mound (47 FD-17/BFD0150) and unnamed burial site (47FD245).
2. Upon completion of monitoring, the archaeologist will submit a summary report of the results of the monitoring.
- D. Upon discovery of a significant undisturbed archaeological resource, the archaeologist will inform the on-site WisDOT PE/PM to stop construction activities in the immediate area. The on-site WisDOT PE/PM shall ensure protective fencing is installed. The archaeologist will provide the on-site WisDOT PE/PM with a time estimate for completion of field activities. The area will remain fenced until field activities are completed. Upon completion, the archaeologist shall notify the WisDOT PE/PM that construction activities may resume.
- E. WisDOT will ensure that all construction contracts contain provisions describing potential delays to the contractor, in the event of a discovery of archaeological materials or human remains during construction. This will include language to stop construction in the area of the discovery to permit implementation of mitigation measures. These provisions shall include the opportunity for consulting tribes to perform tribal ceremonial activities.
- F. The WisDOT on site PE/PM will immediately notify WisDOT BTS-CR, who will notify all signatories of this MOA of any discoveries encountered during construction.
- G. All archaeological research undertaken for this project will meet the Wisconsin *Archaeological Survey Guide for Public Archaeology in Wisconsin*, as revised (dated 2012).
- H. WisDOT shall ensure a qualified archaeologist conducts archaeological surveys for all proposed borrow sites, batch plants, waste sites and staging areas to be used for this undertaking. Upon completion of these efforts, the archaeologist will submit a summary report of the results.
1. Non-tribal land:
 - a). If potentially significant archaeological materials unrelated to a human burial are discovered, the on-site WisDOT PE/PM in consultation with WisDOT BEES shall ensure Section 106 procedures pursuant to 36 CFR 800 will be followed or another area will be obtained.
 - b). If human remains are discovered, all activities will cease, and the on-site WisDOT PE/PM will ensure compliance with Wis. Stat. §157.70.
 2. Tribal Land: Prior to any proposal request, for any activity on tribal land, consultation with appropriate THPO or Tribal Representative is required.

D2. Human Remains

- A. Because this project does not involve federal or tribal land, treatment of discovered human remains will comply with Wis. Stat. §157.70 Any such finds will be considered within the category of a "known uncatalogued burial site", and a Wisconsin Historic Preservation Division standard contract for treatment of human remains will be followed. (Attachment #4).
- B. WisDOT BTS-CR, will notify all signatories of this MOA of any human remains discoveries encountered during construction

- C. Human skeletal elements discovered in non-burial context (unintended or accidental location) are considered isolated human remains.
 - 1. Isolated remains may include, but not limited to; teeth, bones in previously disturbed context (e.g. fill), and bones in refuse context.
 - 2. Disposition of these remains will be coordinated with the signatories of this MOA upon completion of the construction activities.

III. Public Interpretation

- P1. The WisDOT or its agent shall prepare appropriate material for public interpretation of the significant information gained from the historic properties investigated as part of WisDOT Project ID 1440-13/15-00, (STH 23/CTH "K" to CTH "P"), Sheboygan and Fond du Lac Counties. The extent of public interpretation will proportionally reflect the significance and quantity of recovered historic materials. The FHWA/WisDOT will make the final determination regarding sufficient funding to appropriately interpret the data recovered and to account for inflationary costs. The anticipated cost of the public interpretation for this undertaking is not to exceed \$15,000.
- P2. WisDOT shall form a committee, known as the "Public Interpretation Committee" [PIC] consisting of the FHWA, WisDOT, SHPO, Consulting Tribes, archaeology consultant, and a representative of a local historical society or local state historic site.
- P3. The PIC shall establish a Public interpretation plan [Plan]. The Plan shall include background information on the general nineteenth century history of the area and specifically, information based on the archaeological and architectural history survey results and analyses of what activities occurred historically in and around the project area. As well, the Plan shall include a description of what surveys were undertaken to derive this information, and how they were carried out.
- P4. The PIC shall incorporate into the Plan: a mechanism(s) to display the public interpretation, and include locations for the public interpretation.
 - A. Potential mechanisms for public interpretation may include signage, portable/temporary public or museum type displays, handouts and Internet-based materials.
 - B. Potential locations for public interpretive displays may include the WHS Wade House Historic Site, other public buildings, or historical centers.
- P5. The mechanism for the public interpretation will be chosen within one (1) year after the data recovery is completed. The public interpretation plan will be completed within one (1) year after the mechanism(s) of interpretation is selected.
- P6. WisDOT, in coordination with interested parties, will conduct a media day during the field portion of the project. Any media contacts will be reported to BTS-CR and FHWA.

IV. Curation

- C1. WisDOT will ensure all appropriate records and materials resulting from the archaeological investigations are curated in accordance with the Secretary of Interior Guidelines, 36 CFR 79.

V. Administrative Conditions

A. Reports on Implementation – 36 CFR 800.6

- R1. On or before January 1 of each year until the terms of this agreement have been fulfilled, FHWA or its agent shall prepare and provide an annual report to the SHPO, consulting tribes addressing the stipulations in this MOA.
- R2. WisDOT will ensure that an interim report of findings will be submitted to the SHPO annually, until completion of the data recovery, which consists of field and laboratory work.
- R3. The archaeologist will provide WisDOT a draft technical report for review and approval within two (2) years upon completion of the data recovery, which includes lab analysis and historical research. All reports will be in compliance with contemporary professional standards and with the Department of Interior's Format Standards for Final Reports of Data Recovery Programs (47 FR 5377-79). Precise locational data may be provided only in a separate appendix if it appears that its release could jeopardize the security of the archaeological site(s).

B. Professional Qualifications

- Q1. WisDOT shall ensure that all archaeological and architecture/history work conducted pursuant to this agreement is carried out by or under the supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards. These guidelines include field research, analysis, report preparation and curation.
- Q2. WisDOT will ensure that all archaeological efforts pertaining to human remains are carried out by or under the supervision of a person or persons meeting qualifications stipulated in Wis. Stat. §157.70.

C. ASI Updates

- D1. WisDOT will ensure that information resulting from the archaeological monitor and data recovery is provided to the State Archaeologist in a form acceptable for inclusion in the WHS Historic Preservation - Public History Division database.

Amended Memorandum of Agreement (MOA) Amendment #1 (dated February 2013)
Supersedes MOA document executed June-July 2009 (dated February 2009)
Project ID 1440-13/15-00 (STH 23)
Fond du Lac and Sheboygan Counties, Wisconsin

D. Dispute Resolution – 36 CFR 800.7

- CR1. Should any signatory or concurring party to this MOA object to any action carried out or proposed by the FHWA with respect to the implementation of this amended MOA for the STH 23: CTH K to CTH P undertaking (WisDOT ID: 1440-13/15-00) Sheboygan and Fond du Lac Counties Wisconsin. The FHWA shall consult with the objecting signatory to resolve the objection. The signatories shall resolve disputes regarding the completion of the terms of the Agreement in compliance with 36 CFR 800.6. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of the ACHP to assist. If after initiating such consultation the FHWA determines that the objection cannot be resolved through consultation, the FHWA shall forward all documentation relevant to the objection to the Council in accordance with 36 CFR 800.7.
- CR2. Disputes regarding disposition of human remains will be in accordance with stipulations set forth in Wis. Stat. §157.70.

E. Amendments/Termination – 36 CFR 800.6

Any party to this amended agreement may propose to the FHWA that the agreement be amended or terminated, whereupon the agency shall consult with the other parties to this agreement to consider such an action. The execution of any such action shall be governed by 36 CFR 800.6.

F. Duration – 36 CFR 800.6

This amended agreement shall be null and void if its terms are not carried out within three (3) years of date of completion of construction (2015 projected), which includes field and laboratory work, unless the signatories agree to an extension for carrying out its terms. In such event, FHWA shall so notify the parties to this agreement and if it chooses to continue with the undertaking, shall re-initiate review of the undertaking in accordance with 36 CFR Part 800.

Amended Memorandum of Agreement (MOA) Amendment #1 (dated February 2013)
Supersedes MOA document executed June-July 2009 (dated February 2009)
Project ID 1440-13/15-00 (STH 23)
Fond du Lac and Sheboygan Counties, Wisconsin

Execution of this amended Memorandum of Agreement by the FHWA, the WisDOT and the Wisconsin SHPO, and its subsequent acceptance by the ACHP, and implementation of its terms, evidence that FHWA has afforded the ACHP an opportunity to comment on the STH 23: CTH K to CTH P undertaking (WisDOT ID: 1440-13/15-00) Sheboygan and Fond du Lac Counties Wisconsin, and the plan for taking in account historic properties during implementation of the undertaking.

Federal Highway Administration

By: 

Date: 3/5/13

Bethaney Bacher-Gresock, Environmental Program Manager

Wisconsin State Historic Preservation Office

By: 

Date: 3/19/13

Michael Stevens, Wisconsin State Historic Preservation Officer

Invited Signatories:

Wisconsin Department of Transportation

By: 

Date: 3/4/13

Rebecca Burkel, Director, Bureau of Technical Services

St. M 

Date: 6/4/13



Division of Transportation
System Development
Northeast Regional Office
944 Vanderperren Way
Green Bay, WI 54304-0080

Scott Walker, Governor
Mark Gottlieb, Secretary
Internet: www.dot.wisconsin.gov
Telephone: Phone: (920) 492-5643
Facsimile (FAX): (920) 492-5640
E-Mail: ner.dtsd@dot.wi.gov

May 31, 2013

St. Mary's Springs Academy
255 County Road K
Fond du Lac, WI
54937

Attention: Alan H. Marcuvitz
William B. Everson

Alan and Bill,

As part of the WIS 23 Expansion project from Fond du Lac to Plymouth, the Wisconsin Department of Transportation (WisDOT) northeast region, the State Historical Society and St. Mary's Springs Academy (Academy) had a Memorandum of Agreement (MOA) in place in 2008 that set forth a detailed requirement to move the Guardian Angel with Child Statue (the Statue) from its present location. As you know, since that time, the MOA has been rewritten and does not include any language in the agreement on the Statue as it is no longer within the historic boundary of the Academy.

Although no longer required by the MOA, this letter documents WisDOT's commitment to move the Statue as detailed in the 2008 MOA as it falls within the area of property acquisition. Attached is the description from the 2008 MOA that WisDOT will honor as part of our project development process. However, items 1 and 2 of the attachment no longer apply, and the Academy will determine the location of the Statue on their property on County K. Also, WisDOT will no longer need to provide visual documentation of the Statue's new location to the consulting parties as previously spelled out in the 2008 MOA.

We appreciate the Academy's efforts in working with us on this project and look forward to a successful completion. Should you have any questions or wish to discuss this matter further, please contact me by calling 1 (920) 492-5678.



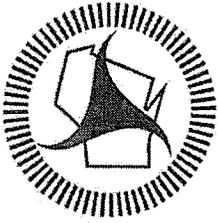
Colleen Harris, P.E.
Deputy Director

Attach.

Attachment #1

Relocation of the Guardian Angel with Child Statue

1. The new location for the Statue will:
 - a. Be within the historic boundaries of the St. Mary's Springs Academy Complex.
 - b. Not detract from any other contributing element in the Complex.
 - c. Involve as short a move as possible given that it meets the above criteria.
2. The SHPO will be given an opportunity to comment on the new location in sufficient time before the move so that adjustments to the location can be made if necessary.
3. WisDOT or its agent will consult with the St. Mary's Springs Academy to determine the roles and responsibilities for accomplishing the move of the Guardian Angel with Child Statue (the Statue).
 - a. It is permissible under the terms of this MOA, for the St. Mary's Springs Academy to assume the lead or principal role in overseeing the relocation of the Statue.
 - b. If the St. Mary's Springs Academy does assume the lead or principal role, the costs associated with this role will be reimbursable by WisDOT.
 - c. If the St. Mary's Springs Academy does assume the lead or principal role WisDOT or its agent will arrange a meeting to establish how the activities will be done and what contracts and approvals may be needed to facilitate WisDOT's reimbursement of the St. Mary's Springs Academy.
 - d. If the St. Mary's Springs Academy does not assume the lead or principal role WisDOT BEES and WisDOT Northeast Region will consult on who will be responsible for which specific activities.
4. WisDOT BEES or WisDOT Northeast Region will develop and confirm with the St. Mary's Springs Academy the role of insuring the proper relocation of the Statue.
 - a. The St. Mary's Springs Academy's role will include identifying the appropriate relocation site, alerting appropriate St. Mary's Springs Academy staff about the impending move, and establishing appropriate safeguards for the safety of students and staff at the St. Mary's Springs Academy during site preparation, moving the Statue, and restoration of the former site.
 - b. Costs for such identifying, preparing and safeguarding the site and the move shall be reimbursable, provided the St. Mary's Springs Academy follows the procedures provided to it by WisDOT.
5. WisDOT or the St. Mary's Springs Academy per Item 1 above, will ensure that the Statue is moved by a qualified professional mover who has the capacity to move large historic objects properly
 - a. Prior experience with similar moves is preferred.
 - b. Familiarity with John Obed Curtis, Moving Historic Buildings, 1979, (Moving Historic Buildings) will be required. The mover may gain this familiarity after being selected, but before s/he is awarded the contract.
 - c. Familiarity with Moving Historic Buildings will be demonstrated to BEES by a mutually agreeable method including but not limited to face-to-face meeting, written response/proposal, or telephone conference call.



Wisconsin Department of Transportation

www.dot.wisconsin.gov

Scott Walker
Governor

Mark Gottlieb, P.E.
Secretary

Office of the Secretary
4802 Sheboygan Avenue, Room 120B
P O Box 7910
Madison, WI 53707-7910

Telephone: 608-266-1113
FAX: 608-266-9912
E-mail: sec.exec@dot.wi.gov

April 1, 2013

George R. Poirier
Division Administrator
Federal Highway Administration
U.S. Department of Transportation
525 Junction Rd. Suite 8000
Madison, Wisconsin 53717

Marisol Simon
Regional Administrator
Federal Transit Administration
U.S. Department of Transportation
200 W. Adams Street, Suite 2410
Chicago, Illinois 60606-5232

Dear Mr. Poirier and Ms. Simon:

Under the authority delegated to me by Governor Scott Walker, I am hereby approving the 2013-2016 Transportation Improvement Program (TIP) for the Sheboygan Metropolitan Planning Organization (MPO). The Wisconsin Department of Transportation (WisDOT) will reflect by reference the 2013-2016 federal aid projects covered by this approval in our 2013-2016 Statewide Transportation Improvement Program (STIP), subject to the understandings I have indicated below.

The TIP, adopted by the Bay-Lake Regional Planning Commission, the designated MPO for the Sheboygan Urbanized Area, in Resolution No. 1-2013 on February 27, 2013, represents a cooperative effort between the MPO, local communities, the Sheboygan transit operator, and WisDOT, and is designed to meet the objectives and recommendations of the 2035 regional transportation system plan. A copy of the resolution approving the TIP is attached.

Based on our review, we believe that the TIP fulfills the federal transportation and planning requirements (Title 23 USC 134 and 135 and their implementing regulations 23 CFR 450 as amended by MAP-21, SAFETEA-LU, ISTEAA, and TEA-21) with respect to the inclusion of: 1) a four-year priority list of projects; 2) a financial plan that reflects federal, state and local resources that are reasonably expected to be available during this program period; and 3) both transit and highway projects to be funded with Federal Transit Act and Title 23 funds. Opportunities for public review and comment on the proposed TIP were provided through a public meeting and legal notice requesting citizen input.

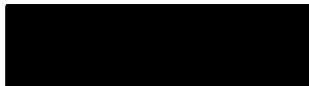
George Poirier
Marisol Simon
April 1, 2013
Page 2

In accordance with 23 CFR 450.334, the Wisconsin Department of Transportation hereby certifies that the metropolitan transportation planning process is addressing major issues facing the State and its urbanized areas, and is being carried out in accordance with the following requirements:

- (1) 23 U.S.C. 134 and 135, 49 U.S.C. 5303 and 5304, and this part;
- (2) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;
- (3) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
- (4) Sections 1101(b) of the Moving Ahead for Progress in the 21st Century Act (MAP-21) (P.L. 112-141), and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;
- (5) 23 CFR part 230, regarding implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
- (6) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR parts 27, 37, and 38;
- (7) In non-attainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;
- (8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- (9) Section 324 of title 23 U.S.C., regarding the prohibition of discrimination based on gender; and
- (10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

I look forward to your timely action on this matter.

Sincerely,



Mark Gottlieb, P.E.
Secretary

cc: Jeff Agee-Aguayo, MPO
Dwight McComb, FHWA
Chris Bertch, FTA
Brian Brock, WisDOT Northeast Region
John Nordbo, WisDOT Bureau of Planning and Economic Development

RESOLUTION 1-2013

Resolution of the Bay-Lake Regional Planning Commission approving the *Sheboygan Metropolitan Planning Area Transportation Improvement Program (TIP): Calendar Years 2013 – 2016*, determining air quality conformity for the Update to the *Year 2035 SATP* and its implementing *2013 – 2016 TIP*, and certifying the Metropolitan Transportation Planning Process for the Sheboygan Metropolitan Planning Area.

WHEREAS, the Bay-Lake Regional Planning Commission is the officially designated Metropolitan Planning Organization (MPO) for metropolitan transportation planning in the Sheboygan Metropolitan Planning Area; and

WHEREAS, U.S. Department of Transportation regulations provide for self-certification that the metropolitan transportation planning process is being carried out in conformance with all applicable requirements of federal law; and

WHEREAS, metropolitan transportation planning, including the preparation of Transportation Plans and Transportation Improvement Programs (TIPs) or TIP Amendments, is required of metropolitan planning areas and by federal statutes and regulations within the purview of the U.S. Department of Transportation, including Title 23 of the U.S. Code, Section 134 (and its implementing regulation, 23 CFR 450[c], as amended), and Title 49, U.S. Code (Federal Transit Act, as amended); and

WHEREAS, the Update to the *Year 2035 SATP* was adopted by the Bay-Lake Regional Planning Commission in March 2011 following a plan preparation effort involving public outreach and numerous meetings of the Sheboygan MPO Technical and Policy Advisory Committees; and

WHEREAS, a specific air quality conformity analysis was undertaken with respect to the Sheboygan County non-attainment area for ground-level ozone, with the result that the Update to the *Year 2035 SATP* and its implementing *2013 – 2016 TIP* have been determined to conform to the existing State of Wisconsin implementation plan for the achievement and maintenance of national ambient air quality standards, as required by the Federal Clean Air Act Amendments of 1990 and their implementing regulations; and

WHEREAS, citizen input was received on the *2013 – 2016 TIP* through a public participation process which included a public comment period and public hearing, as well as public meetings of the Sheboygan MPO Technical and Policy Advisory Committees, and which otherwise conformed to provisions for TIP development in the 2012 update to the *Sheboygan MPO Public Participation Plan*; and

WHEREAS, the *2013 – 2016 TIP* for the Sheboygan Metropolitan Planning Area was reviewed (and modified, where necessary) by professionals and by elected officials representing municipalities in the Sheboygan Metropolitan Planning Area as well as by private sector transportation providers before subsequently being recommended for approval by the Sheboygan MPO Technical and Policy Advisory Committees at their joint meeting on February 21, 2013.

NOW, THEREFORE BE IT RESOLVED:

FIRST: That the Bay-Lake Regional Planning Commission approves the *Sheboygan Metropolitan Planning Area Transportation Improvement Program (TIP): Calendar Years 2013 – 2016* as being compatible with existing transportation plans and programs in the Sheboygan Metropolitan Planning Area.

SECOND: That the Bay-Lake Regional Planning Commission determines that the Update to the *Year 2035 SATP* and its implementing *2013 – 2016 TIP* for the Sheboygan Metropolitan Planning Area

conform to the State of Wisconsin Implementation Plan for the achievement and maintenance of national ambient air quality standards, as required by the Federal Clean Air Act Amendments of 1990 and their implementing regulations.

THIRD: That the Bay-Lake Regional Planning Commission, as MPO for the Sheboygan Metropolitan Planning Area, and in accordance with 23 CFR 450.334(a), hereby certifies that the metropolitan transportation planning process is addressing major issues facing the Sheboygan Metropolitan Planning Area, and is being conducted in accordance with all applicable requirements of:

- (1) 23 U.S.C. 134 and 49 U.S.C. 5303, and this subpart;
- (2) Sections 174 and 176 (c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR Part 93;
- (3) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR Part 21;
- (4) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
- (5) Sections 1101 (b) of the "Moving Ahead for Progress in the 21st Century" Act (MAP-21, Pub. L. 112-141) and 49 CFR Part 26 regarding the involvement of disadvantaged business enterprises in the US DOT funded projects;
- (6) 23 CFR Part 230, regarding the implementation of an equal opportunity program on Federal and Federal-aid highway construction contracts;
- (7) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et. seq.*) and 49 CFR Parts 27, 37 and 38;
- (8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- (9) Section 324 of Title 23, U.S.C., regarding the prohibition of discrimination based on gender; and
- (10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR 27 regarding discrimination against individuals with disabilities.

FOURTH: That the Bay-Lake Regional Planning Commission certifies that the 2013 – 2016 TIP for the Sheboygan Metropolitan Planning Area contains only projects that are consistent (in scope, termini and the implementation schedule) with the Update to the *Year 2035 Sheboygan Area Transportation Plan (SATP)*.

FIFTH: That the Bay-Lake Regional Planning Commission endorses the continuation of the urban transportation planning process in the Sheboygan Metropolitan Planning Area.


Cheryl R. Maxwell, Chairperson
Bay-Lake Regional Planning Commission

ATTEST:

I, Lois L. Trever, Secretary-Treasurer of the Bay-Lake Regional Planning Commission, hereby certify that the above is a true copy of a resolution adopted by the Bay-Lake Regional Planning Commission on the 27th day of February, 2013.


Lois L. Trever, Secretary-Treasurer
Bay-Lake Regional Planning Commission

From: [Widholm, Julie T - DNR](#)
To: [Lynch, Tom](#)
Cc: [Wagner, Robert - DOT \(Northeast Region\)](#); [VanPrice, Kathie - DOT](#); [Correspondence File - Madison](#)
Subject: RE: WIS 23 FDL and Sheboygan Co WisDOT 2987-00-14 - T&E Countywide Lists 1.089-165/347
Date: Thursday, April 18, 2013 8:00:06 AM

Tom –

Looks good. The only comment that we have is to clarify on the turtle exclusion fencing that its temporary fencing for construction, not the permanent fencing that is sometimes put up in high turtle mortality areas. Let me know if you have questions.

Thanks

Julie

 **Julie Widholm**
Environmental Analysis & Review Specialist
WI Department of Natural Resources
141 NW Barstow St, Room 180
Waukesha WI 53188
desk: 262-574-2112
cell: 262-424-2834
website: dnr.wi.gov
Facebook: facebook.com/WIDNR

From: Lynch, Tom [mailto:Tom.Lynch@strand.com]
Sent: Thursday, April 11, 2013 4:47 PM
To: Widholm, Julie T - DNR
Cc: Wagner, Robert - DOT (Northeast Region); VanPrice, Kathie - DOT; Correspondence File - Madison
Subject: FW: WIS 23 FDL and Sheboygan Co WisDOT 2987-00-14 - T&E Countywide Lists 1.089-165/347

Hello Julie,

We are completing the documentation for the WIS 23 project in Fond du Lac and Sheboygan Counties. In addition to the rare species information that you have provided Jim McCarthy and myself, we are inserting the following commitments into the environmental document. If these look acceptable, please respond to this email.

Thank you.

Tom

Thomas W. Lynch P.E. PTOE
Senior Associate
Strand Associates Inc.
910 West Wingra Dr

A. Rare Plants:

To date no specific locations of individual plants nor populations of rare plants have been identified for the Preferred Build Alternative. December 2012 Natural Heritage Inventory reviews and coordination with WDNR indicates that some species have occurrences on the project corridor or within similar habitat types nearby. Based on WDNR coordination to date the WDNR has requested that plant surveys be conducted for the snow trillium (*Trillium nivale*)

B. Rare Animals:

a. Reptiles and Amphibians: Since environmental documentation was initiated there have been changes to the categorization of two rare species. Both of these species have either management techniques that are suitable and easily employable on transportation projects. The following paragraphs summarize WDNR comments for these species. It is noted that based on recent WDNR rare and endangered species coordination, the Butler's garter snake and the Blandings turtle may be delisted from the WDNR threatened species listings. Should revisions occur to NR 27 the recommendations for these species may be reduced accordingly.

- i. Butler's Garter Snake (*Thamnophis butleri*) - Threatened - requires no further investigation. Butler's garter snake was initially investigated through a field survey in 2005. These past investigations for Butler's garter snake indicate that neither a population of the snake nor special habitat management is needed for this species in the project area. Statewide the Butler's garter snake populations are stable and the species may be delisted.
- ii. Blandings Turtle (*Emydoidea blandingii*) - Threatened - requires construction period protection measures. Blanding's turtle has been a common species of record or one in-need-of-mitigation for numerous years on numerous projects. Because of the more widely distributed Blandings turtle, the WDNR has requested special turtle protection measures, including exclusion fencing, be used to help protect this species.

b. Freshwater Mussels: Freshwater mussel investigations were completed previously by WDNR staff at the Sheboygan River crossing of the current alignment in Section 7 of the town of Forest and in the Mullet River in Section 10/11 of the town of Greenbush. Three rare freshwater mussel species were identified in a Sheboygan River investigation adjacent to the existing crossing and two of the three were identified at the Mullet River. WDNR will conduct wading surveys 6-9 months before construction to determine which if any of the three state-listed mussel species occur in the respective streams. Should freshwater mussel species be identified from WDNR mussel surveys, WisDOT will arrange with WDNR staff to translocate necessary species upstream.

- i. Slippershell Mussel (*Alasmidonta viridis*) - Threatened
- ii. Ellipse Mussel (*Venustaconcha ellipsiformis*) - Threatened
- iii. Rainbow Shell Mussel (*Villosa iris*) - Endangered

c. Local Nesting Migratory Bird Species - Non-state and non-federally listed, but nesting migratory bird species are required to be protected or nests avoided. Site clearing and demolition for bridge and culvert construction will need to be scheduled to avoid migratory bird species nesting and brooding seasons - both for

cavity nesting species that may occupy bridge or culvert structures and threatened or endangered woodland nesting species of neotropical migrants (see below). WisDOT will work with WDNR to restrict work on existing structures and in floodplain forests during nesting period to minimize impacts on these species.

- d. Rare State-Listed Woodland Nesting Species – WisDOT will work with the WDNR to avoid clearing and grubbing operations within the Mullet River and wooded environs of the Kettle Moraine areas during nesting season to avoid disturbance to rare migratory woodland nesting bird species. These species are state-listed, but have additional protections from take or disturbance during the nesting and breeding season. These restrictions allow construction at all times provided that tree removals are completed outside of this construction window limitation. If these restrictive clearing measures are not possible, WisDOT or the contractor may consider initiating incidental take arrangements 6-9 months prior to construction. Species that these limitations apply:
- i. Red Shouldered Hawk (*Buteo lineatus*) - Threatened
 - ii. Cerulean Warbler (*Dendroica cerulean*) - Threatened
 - iii. Acadian Flycatcher (*Empidonax virescens*) - Threatened
 - iv. Hooded Warbler (*Wilsonia citrine*) - Threatened

From: Widholm, Julie T - DNR [<mailto:Julie.Widholm@wisconsin.gov>]
Sent: Friday, March 22, 2013 1:04 PM
To: Mccarthy, James
Cc: Lynch, Tom
Subject: RE: WIS 23 FDL and Sheboygan Co WisDOT 2987-00-14 - T&E Countywide Lists

Hi Jim –

Attached are the lists of rare species and communities for Fond du Lac and Sheboygan Counties. Let me know if you need anything else or have questions. These lists are no longer available to the public, the data is only available by Township-Range.

Thanks for your patience.

-Julie

From: Mccarthy, James [<mailto:James.Mccarthy@strand.com>]
Sent: Friday, March 15, 2013 1:57 PM
To: Widholm, Julie T - DNR
Cc: Lynch, Tom
Subject: WIS 23 FDL and Sheboygan Co WisDOT 2987-00-14 - T&E Countywide Lists

Hello Julie –

We were looking to use some cumulative listing data for T&E species in FDL and Sheboygan Counties.

This information used to be on-line with just a county map and a columnar listing of species occurring in the county.

We were hoping to use this county summary to contrast the specific listings we have for the four townships that the WIS23 project crosses.

http://dnr.wi.gov/topic/NHI/documents/Sheboygan_County.pdf - Town and Range Based Data online data as of 3/15/13

Could you let us know if the map-based option or just a tabular listing by county is

available from you as the transportation liaison?

I have attached one example for FDL County. This is an old example dated 4/2/09 from a previous project. It is probably outdated.

Thanks, *Jim McCarthy*
Land Management and Environmental Scientist
Strand Associates, Inc.
910 W. Wingra Drive
Madison, WI 53715

608-251-2129 x 1115 (Direct)
James.mccarthy@strand.com

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Kettle Moraine State Forest - Northern Unit
N 1765 CTH G
Campbellsport WI 54010

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



2013 JUN 5 PM 1 44
WISDOT-NE REGION

May 31, 2013

Robert J. Wagner
WisDOT Northeast Region
944 Vanderperren Way
Green Bay, WI 54304

Re: WIS 23 Project I.D. 1440-13/15-00

Dear Mr. Wagner:

This letter is in reference to the Wisconsin Department of Transportation (WisDOT) Highway 23 Project in the Sheboygan County as it relates to the Wisconsin Department of Natural Resources, Kettle Moraine State Forest - Northern Unit.

The WisDOT's proposed WIS 23 Highway Project will require 2.21 acres of state forest land to be acquired for highway use. To mitigate this impact, Wis DOT will transfer 4.275 acres of land to the Kettle Moraine State Forest - Northern Unit. In addition, WisDOT will provide a common, grade-separation trail crossing for the Ice Age National Scenic Trail and the state forest equestrian trail.

With the construction of the proposed WIS 23 improvements, avoiding impacts to the state forest is not feasible. However, we do believe the mitigation plan proposed by WisDOT is acceptable. In addition, we agree on the following:

- (1) Agree with the mitigation measures being proposed, and
- (2) Agree that with these mitigation measures, the WIS 23 project will not adversely affect the activities, features, or attributes of the Kettle Moraine State Forest - Northern Unit qualifying it for protection under Section 4(f).

Thank you for your cooperation in this matter. Do not hesitate to contact me if you have further questions.

Sincerely,

[Redacted Signature]
Jerry Leiterman
Superintendent

Cc: Jason Quast, Assistant Forest Superintendent
Paul Sandgren, Acting SER Parks and Forests Manager, WI DNR
James Jackley, SER Land Agent, WIDNR
Jim Morrissey, SD Real Estate Supervisor, WIDNR



**Division of Transportation
System Development**
Northeast Regional Office
944 Vanderperren Way
Green Bay, WI 54304

**Scott Walker, Governor
Mark Gottlieb, P.E., Secretary**
Internet web site: www.dot.wisconsin.gov

Telephone: (920)492-5643
Facsimile (FAX): (920)492-5640
E-mail: greenbay.dtd@dot.wi.gov

June 27, 2013

Department of the Army
St. Paul District, Corps of Engineers
180 Fifth Street East, Suite 700
St Paul, Minnesota 55101-1678
Tamara E. Cameron

RE: 1440-13/15-00
STH 23
Fond du Lac to Plymouth
Fond du Lac and Sheboygan Counties
Regulatory (2010-00379-JRS)

A Final EIS (FEIS) was released for the WIS 23 corridor in Fond du Lac and Sheboygan Counties in June 2010. The Federal Highway Administration (FHWA) issued a Record of Decision (ROD) on September 27, 2010. The ROD approved the 4-Lane Build On-Alignment Alternative for WIS 23 from Fond du Lac to Plymouth, the construction of several interchanges, the extension of a multiuse trail, and the corridor preservation for two interchanges and several grade separations.

In June of 2011, 1000 Friends of Wisconsin, Inc. filed a complaint against the United States Department of Transportation (US DOT), the FHWA, and the Wisconsin Department of Transportation (WisDOT) for approving the WIS 23 Corridor Expansion Project. The complaint alleges that US DOT, FHWA, and WisDOT approved the FEIS without full and adequate consideration of the environmental impacts of the project. In addition, the complaint alleges incomplete consideration of 2-lane nonexpansion alternatives, inadequate analysis of indirect and cumulative effects (ICE), inadequate consideration of impacts to Section 4(f) properties, and improper public hearing format.

In response to portions of the complaint, FHWA and WisDOT are preparing a Limited Scope Supplemental Draft Environmental Impact Statement (LS SDEIS) in accordance with Title 23, Part 771.130 (f) of the Code of Federal Regulations (23 CFR 771.130). The applicable text states:
§ 771.130 Supplemental environmental impact statements.

(f) In some cases, a supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation or the evaluation of location or design variations for a limited portion of the overall project. Where this is the case, the preparation of a supplemental EIS shall not necessarily:

- (1) Prevent the granting of new approvals;*
- (2) Require the withdrawal of previous approvals; or*
- (3) Require the suspension of project activities; for any activity not directly affected by the supplement. If the changes in question are of such magnitude to require a reassessment of the entire action, or more than a limited portion of the overall action, the Administration shall suspend any activities which would have an adverse environmental impact or limit the choice of reasonable alternatives, until the supplemental EIS is completed.*

St. Paul District, Corps of Engineers
Tamara E. Cameron
June 27, 2013

The LS SDEIS will be used to address issues of limited scope associated with the overall project. These issues include:

- Updating and clarifying portions of the original Purpose and Need.
- Enhancing and clarifying the discussion of alternatives that do not include capacity expansion.
- Clarifying the discussion of impacts to Section 4(f) resources and reconsidering determinations on three of those resources.
- Revising, updating, and clarifying the ICE analysis.
- Seeking additional public involvement and offering a hybrid-style public hearing.

The US Army Corps of Engineers is a cooperating agency on this project and we are notifying you of this development. We anticipate the release of the LS SDEIS this summer and you will receive a copy in which you may review and comment on.

Additionally, the provisions of Section 1319(b) of the Moving Ahead for Progress in the 21st Century [Public Law 112-141, 126 Stat. 405] directs the lead agency to develop a single document that consists of the Final Environmental Impact Statement (FEIS) and Record of Decision (ROD). The FHWA is considering combining the LS SFEIS and ROD for this project in accordance with this provision.

If you have any questions, please contact me at (920) 492-5983

Sincerely,



Robert J. Wagner
Project Manager

c: Joey Shoemaker
Rebecca Grasser

Lynch, Tom

Subject: FW: INFORMATION - WisDOT Project ID 1440-15/15-00 Wis 23 - FHWA finding regarding Section 4(f) applicability of the Sippel archeological site (47SB394)

Importance: High

From: Bacher-Gresock, Bethaney (FHWA)

Sent: Friday, June 28, 2013 3:15 PM

To: Draeger, Jim R - WHS (Jim.Draeger@wisconsinhistory.org)

Cc: Bacher-Gresock, Bethaney (FHWA); Becker, James - DOT (James.Becker@dot.wi.gov); Wagner, Robert - DOT (Northeast Region) (Robert.Wagner@dot.wi.gov); VanPrice, Kathie - DOT (Kathie.VanPrice@dot.wi.gov); Banker, Sherman J - WHS (Sherman.Banker@wisconsinhistory.org); Cook, Kimberly A - WHS (Kimberly.Cook@wisconsinhistory.org)

Subject: INFORMATION - WisDOT Project ID 1440-15/15-00 Wis 23 - FHWA finding regarding Section 4(f) applicability of the Sippel archeological site (47SB394)

Mr. Jim Draeger, Wisconsin State Historic Preservation Officer:

The purpose of this email is to inform the Wisconsin State Historic Preservation Office (hereinafter SHPO) of the Federal Highway Administration – Wisconsin Division Office’s (hereinafter FHWA-WI) finding that the Sippel archeological site (47SB394), eligible for the National Register, meets regulatory criteria excepting it from Section 4(f) approval per 23 CFR 774.13(b).

23 CFR 774.13 Exceptions

The Administration has identified various exceptions to the requirement for Section 4(f) approval. These exceptions include, but are not limited to:

...

(b)Archeological sites that are on or eligible for the National Register when:

- (1)The Administration concludes that the archeological resource is important chiefly because of what can be learned by the data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken and where the Administration decides, with agreement of the official(s) with jurisdiction, not to recover the resource; and*
- (2)The official(s) with jurisdiction over the Section 4(f) resource, have been consulted and have not objected to the Administration finding in paragraph (b)(1) of this section.*

This finding does not subsume the FHWA-WI’s legal requirement or responsibility to comply with Section 106 of the National Historic Preservation Act or the implementing regulations at 36 CFR 800. All commitments, including the data recovery plan, identified in the attached *Amended Memorandum of Agreement (MOA) Between the Federal Highway Administration and the Wisconsin State Historic Preservation Office Regarding Construction on STH 23 CTH K*

to CTH P (WisDOT Project ID 1440-13/15-00, WHS #06-0864/FD/SB) Fond du Lac and Sheboygan Counties, Wisconsin (signed by your office March 19, 2013) remain in full effect.

Unless the SHPO objects, the FHWA-WI interprets the SHPO's signed agreement with the MOA reflection of consultation and lack of objection to this Section 4(f) exception. Please do not hesitate to contact me if there are any questions regarding the Sippel site finding of exception to Section 4(f) approval.

Bethaney Bacher-Gresock

Major Projects - Environmental Lead
FHWA - Wisconsin Division Office
City Center West
525 Junction Road, Suite 8000
Madison WI 53717

(p) 608-662-2119

(f) 608-829-7526



Division of Transportation
 System Development
 Northeast Region
 944 Vanderperren Way
 Green Bay, WI 54304

Scott Walker, Governor
 Mark Gottlieb, P.E., Secretary
 Internet web site: <http://www.dot.wisconsin.gov>

Telephone: (920) 492-5643
 Facsimile (Fax): (920) 492-5640
 E-mail: greenbay.dtd@dot.wi.gov

TWL File Copy

June 27, 2013

«CONTACT»
 «BUSINESS»
 «ADDRESS»
 «CSZ»

RE: 1440-13/15-00
 STH 23
 Fond du Lac to Plymouth
 Fond du Lac and Sheboygan Counties

The Wisconsin Department of Transportation and the Federal Highway Administration are preparing a Limited Scope Supplemental Draft Environmental Impact Statement (LS SDEIS) for the WIS 23 corridor from Fond du Lac to Sheboygan. This LS SDEIS will clarify and update the 2010 Final Environmental Impact Statement.

In the process of preparing the LS SDEIS, we have updated the evaluation of noise levels for developed lands and minimized their impact on these lands as much as practical.

We believe it is important to do all we can to ensure that the future noise levels we foresee are compatible with future development on presently undeveloped lands. The Wisconsin Department of Transportation's Noise Information program is designed to assist in reaching this goal.

Enclosed are the discussion of the Noise Information Program and the specific updated noise information included in the environmental document for the above project that may be useful to you. If you have any questions, please call me at (920) 492-5983.

Sincerely,



Robert J. Wagner
 Project Manager

BUSINESS	CONTACT	ADDRESS	CSZ
Fond du Lac County Highway Department	Mr. Thomas Janke, Commissioner	310 Dixie Street	Fond du Lac, WI 54936-1234
Fond du Lac County Planning	Mr. Sam Tobias, Director	160 S. Macy Street	Fond du Lac, WI 54935
Sheboygan County Highway Department	Mr. Greg Schnell, Transportation Director	1211 N. 23rd Street	Sheboygan, WI 53081
Sheboygan County Planning	Mr. Aaron Brault, Director	508 New York Avenue, Room 335	Sheboygan, WI 53081
City of Fond du Lac	Mr. Wayne Rollin, Community Development	160 S. Macy Street	Fond du Lac, WI 54935
City of Fond du Lac	Mr. Joseph Moore, City Manager	160 S. Macy Street	Fond du Lac, WI 54935
City of Fond du Lac	Mr. Paul DeVries, City Engineer	160 S. Macy Street	Fond du Lac, WI 54935
City of Fond du Lac	Mr. Jordan Skiff, DPW	160 S. Macy Street	Fond du Lac, WI 54935
Town of Plymouth	Mr. Jim Lubach, Town Chairman	W5085 Green Tree Road	Plymouth, WI 53073
Town of Greenbush	Mr. Mike Limberg, Town Chairman	W8537 Limberg Lane	Glenbeulah, WI 53023
Town of Empire	Mr. James Pierquet, Town Chairman	W3204 Fourth Street Road	Fond du Lac, WI 54935-1818
Town of Greenbush	Ms. Laura Raeder, Town Clerk	N6152 Riverview Road	Plymouth, WI 53073
Town of Forest	Ms. Brenda Phipps, Town Clerk	N6802 Sugarbush Drive	Glenbeulah, WI 53023
Town of Empire	Ms. Marie Pierquet, Town Clerk	N6199 Loehr Road	Mt. Calvary, WI 53057
Bay-Lake Regional Planning Commission	Mr. Michael Morgan, Town Clerk	W3897 Fourth Street Road	Fond du Lac, WI 54935-9340
East Central WI Regional Planning Commission	Mr. Richard Heath, Executive Director	441 South Jackson Street	Green Bay, WI 54303-2757
Wisconsin Department of Transportation	Mr. Eric Fowle, Executive Director	400 Ahnaip Street, Suite 100	Menasha, WI 54952
Division of Transportation System Development	Mr. Robert J. Wagner, Project Manager	944 Vanderperren Way	Green Bay, WI 54304
Northeast Regional Office			

BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

P.O. Box 39 • Odanah, WI 54861

Tribal Historic Preservation Office

2013 SEP 27 AM 11 08

September 19, 2013

WISDOT-NE REGION

Robert J. Wagner, P.E.
WISDOT, Northeast Region
994 Vanderperren Way
Green Bay, WI 54324-0080

RE: 1440-13/15-00
WIS 23, Fond du Lac to Plymouth
Fond du Lac and Sheboygan Counties

Dear Mr. Wagner:

The Bad River Tribal Historic Preservation Office has received a request for review of your federal undertaking under Section 106 of the National Historic Preservation Act.

In order for us to process your request, the Bad River Tribal Historic Preservation Office requires payment of a processing fee of **\$650.00** for each request for review of each federal undertaking received for projects beyond the exterior boundaries of the Bad River Indian Reservation. **BRBAND 1**

The Bad River Tribal Historic Preservation Office - *106 Review Processing Fees* not only expedites your request for review, but also supports our efforts to obtain self-sufficiency. Further, this fee will enable us to provide other educational development efforts to enhance public knowledge of the history of the Bad River Band of the Lake Superior Tribe of the Chippewa.

To process your request, please make checks payable to: **Bad River Tribe – THPO/NAGPRA Services**

Insert this Reference:

RE: #106-2013-August-1017/Project ID 1440-13/15-00

And mail your payment to:

**Bad River Band of Lake Superior Tribe of
Chippewa Indians
ATTN: Accounting
P.O. Box 39
Odanah, WI 54861**

Once payment is received, our office will promptly respond to your request.

Your efforts to maintain compliance with Section 106 of the National Historic Preservation Act is greatly appreciated.

Sincerely,


Loretta Livingston, Bad River THPO Processing Clerk



REPLY TO
ATTENTION OF

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

September 26, 2013

Operations
Regulatory (2010-00379-JRS)

Robert Wagner
WisDOT - Northeast Region
944 Vanderperren Way
Green Bay, Wisconsin 54324-0080

Dear Mr. Wagner:

This letter is in response the Limited Scope Supplemental Draft Environmental Impact Statement (LSDEIS) received by this office on July 22, 2013, for the Wisconsin State Highway 23 Fond du Lac to Plymouth expansion project (Project ID 1440-13/15-00). The project site is located along the existing WIS 23 corridor within Fond du Lac and Sheboygan Counties.

The U.S. Army Corps of Engineers (Corps) is acting as a cooperating agency for the National Environmental Policy Act (NEPA) review of the proposed project due to the requirement for a Clean Water Act Section 404 permit. As part of any subsequent Department of the Army (DA) review, the Corps will need to comply with NEPA requirements in addition to completing a public interest review. It is our understanding that the LSDEIS was prepared to address a number of additions to the document since our last review, specifically updating and clarifying portions of the original Purpose and Need; enhancing and clarifying the discussion of alternatives; clarifying the discussion of impacts to Section 4(f) resources and reconsidering determinations on three of those resources; revising, updating, and clarifying the ICE analysis; and additional public involvement. Lastly, we have reviewed the document to ensure that all environmental consequences have been adequately evaluated.

The following comments are being submitted for the WIS 23 Fond du Lac to Plymouth expansion project LSDEIS. Please note that our comments are provided based on a corridor-level study pursuant to NEPA, and do not presume agreement with build design plans to be developed in the future as part of any subsequent Section 404 application.

USACE 1

1. The purpose and need discussion for the proposed pedestrian trail is not adequate for the magnitude of impacts the trail would cause (10.2 acres of wetland fill). The LSDEIS states that there are currently no adequate facilities for nonmotorized transportation along WIS 23 between Greenbush and the City of Fond du Lac; however, there is no discussion describing the true need for a nonmotorized transportation link between Greenbush and the City of Fond du Lac along STH 23. Existing and future anticipated nonmotorized traffic volumes should be evaluated as part of this discussion.

Operations
Regulatory (MVP-2010-00379-JRS)

USACE 2

2. The act of describing the environmental consequences of preserving corridor level ROW should not be construed to imply future authorization for impacts. Should an interchange be proposed at a later date, the environmental consequences of the proposal would need to be identified at a design level. Future interchanges would also need to meet our public interest review and Section 404(b)(1) guidelines. Once completed, our agency would need to determine that the project as proposed is the least environmentally damaging practicable alternative (LEDPA) before any DA authorization could be issued.

USACE 3

3. The LSDEIS states that wetland locations were field-delineated by WisDOT staff and WDNR reviewers. To date the Corps has not concurred with the wetland locations. Therefore, please be advised that wetland boundaries are subject to change pending Corps review.

USACE 4

4. The LSDEIS does not identify proposed temporary impacts to wetlands or change in wetland type/conversion impacts (eg. forested to herbaceous) for ROW clear zones, utility crossings, etc. These impacts should be considered in the LSDEIS if they have the potential to become relevant in the design phase.

USACE 5

5. Our Section 404(b)(1) guidelines state that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. Although the SDEIS identifies various alternatives for the actual roadway expansion (to include alternative routes and alternative lane configurations), it does not appear that the proposed trail was included in the analysis of each alternative. Please note that the Corps' review of a Section 404 permit for this project must include an evaluation of alternatives for the proposed trail. Any Section 404 application submittal should include an alternatives analysis that clearly outlines why the proposed trail alignment and configuration should be considered as part of the LEDPA for the overall project.

USACE 6

6. Compensatory mitigation should replace the aquatic functions and values unavoidably lost due to the project. We urge WisDOT to take all practicable and appropriate steps to ensure that compensatory mitigation is located within the same watershed(s) as the impact site(s), and that it would support the sustainability or improvement of aquatic resources within the same watershed(s).

USACE 7

7. It is understood that WisDOT regulations require allow for the contractor(s) to select borrow sites and obtain any permits that may be needed. Please note that this does not preclude the Corps from evaluating impacts in accordance with NEPA as it pertains to our authority under the Clean Water Act. If off-site fill material is not obtained from a licensed commercial facility, the Corps may be required to evaluate potential impacts and incorporate additional analysis into our administrative record for this project. This evaluation would be required prior to conducting any authorized work in waters of the United States.

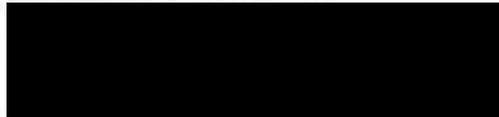
Operations
Regulatory (MVP-2010-00379-JRS)

USACE 8

8. It is understood that during this design phase the need for utility relocations may not be known. However, planning efforts currently include, but are not limited to identifying impacts that result from residential and business displacements, impacts to Section 4(f) lands, wetlands, archaeological sites, and historic structures. Considerable resources are being expended on surveying and identifying environmental factors. We ask that you also identify utility lines within the area that could be affected and consider engaging utility companies early in the planning process to develop a reasonable relocation scenario.

We appreciate your request for comments and look forward to continued coordination on this project. If you have any questions, contact Ann Nye in our Green Bay field office at (651) 290-5859. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,



for Tamara E. Cameron
Chief, Regulatory Branch

Copy furnished:
Jim Doperalski, WDNR
George Poirier, FHWA
Ken Westlake, USEPA
Peter Fasbender, USFWS

RESOLUTION NO. 42-13

**RESOLUTION SUPPORTING THE WISCONSIN DEPARTMENT OF TRANSPORTATION'S
PROPOSAL TO DESIGN AND CONSTRUCT A FOUR-LANE FACILITY
ON STATE HIGHWAY 23 FROM PLYMOUTH TO FOND DU LAC**

WHEREAS, the Wisconsin Department of Transportation has determined there is a need to provide for additional capacity and to improve operational efficiency and safety for local and through traffic on the existing State Highway 23 from Plymouth to Fond du Lac, and

WHEREAS, Fond du Lac County has gone on record as supporting the construction of a full interchange at County Trunk Highway G and State Highway 23, with the adoption of Resolution No. 135-09, on March 16, 2010, and

WHEREAS, State Highway 23 from Sheboygan past Plymouth is currently a four-lane highway, and the plan to continue construction of that four-lane facility to Fond du Lac was enumerated in the 1999 state budget, and

WHEREAS, the Wisconsin Department of Transportation has recently announced its intention to begin construction of the State Highway 23 Plymouth to Fond du Lac project in fiscal year 2015, as previously scheduled, which effectively eliminates a proposed three-year delay in starting the project that was shown in the recent Transportation Projects Commission semiannual report, and

WHEREAS, the Wisconsin Department of Transportation has also announced that the substantial completion of the project would be in fiscal year 2018, with the potential advancement to fiscal year 2017, pending availability of funds, receipt of a record decision from the Federal Highway Administration, and resolution of the pending litigation from an outside group opposed to the four-lane expansion project, and

WHEREAS, the State Highway 23 corridor from Plymouth to Fond du Lac is extremely important to Sheboygan, Plymouth and Fond du Lac for economic development reasons, as well as for ensuring efficient transportation of goods and services, and

WHEREAS, there is a significant number of commuters, as well as travelers, throughout the state that utilize State Highway 23 on a day-to-day basis, sharing the two lane-highway with agricultural vehicles and over the road trucks, and

WHEREAS, significant accidents have occurred on the current two-lane facility, including a fatality in August of this year.

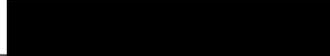
FCNTY 1

NOW, THEREFORE, BE IT RESOLVED that the Fond du Lac County Board of Supervisors supports the Wisconsin Department of Transportation's proposed construction of a four-lane facility – and opposes anything less than a four-lane facility – from Plymouth to Fond du Lac to significantly improve safety, advance economic growth and support efficient travel throughout the state.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the appropriate Wisconsin Department of Transportation officials.

Dated September 17, 2013

SUBMITTED BY:
HIGHWAY, AIRPORT AND
FACILITIES COMMITTEE


Joseph W. Koch


John G. Zorn


Karen Madigan


John E. Muentner, Sr.

Richard R. Wetzel

FISCAL NOTE: This resolution does not require an appropriation from the county general fund. Funding for the design and construction of the four-lane improvement on State Highway 23 from Plymouth to Fond du Lac will come from appropriations from the state's Major Highway Program.

APPROVED BY:


Allen J. Buechel
COUNTY EXECUTIVE

APPROVED BY:


William J. Bend
CORPORATION COUNSEL



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

SEP 09 2013

REPLY TO THE ATTENTION OF: E19J

George Poirier
Federal Highway Administration
525 Junction Road, Suite 8000
Madison, Wisconsin 53717

Re: Draft Limited Scope Supplemental Environmental Impact Statement, Wisconsin State Highway 23 Fond du Lac to Plymouth, Fond du Lac and Sheboygan Counties, Wisconsin – CEQ # 20130215

Dear Mr. Poirier:

The U.S. Environmental Protection Agency has reviewed the Limited Scope – Supplemental Draft Environmental Impact Statement (EIS) for the above mentioned project. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

The Federal Highway Administration (FHWA) and the Wisconsin Department of Transportation (WisDOT) propose capacity expansion along Wisconsin State Highway 23 (WIS 23) between Fond du Lac and Plymouth, Wisconsin. This part of WIS 23 is currently a two-lane highway; the majority of the rest of WIS 23 is four-lane. Traffic projections and safety concerns outline the need for increased capacity and improved roadway conditions.

FHWA and WisDOT issued an original Draft EIS for this project in 2004, a Draft Supplemental EIS in early 2010, and a Final EIS in late 2010. In June 2011, 1000 Friends of Wisconsin, Inc. filed a complaint against WisDOT, the U. S. Department of Transportation, and FHWA for approving the WIS 23 corridor expansion. Additional legal proceedings were staying pending the preparation of this Limited Scope – Supplemental Draft EIS.

EPA provided comments on the previous EISs. Our comments focused on impacts to aquatic resources and diesel emissions and included clarifying information.

EPA 1 Based on our review the Limited Scope – Supplemental Draft EIS and the Record of Decision (ROD) from the 2010 Final EIS, we assign a rating of **Lack of Objections (LO)**. However, we

have one point of clarification for the Limited Scope –Supplemental Final EIS. Our summary of ratings is enclosed.

EPA 2

In our 2010 letter on the Final EIS, we requested clarification on the type of structure proposed over the Mullet River (bridge or culvert). EPA recommends the Limited Scope – Final Supplemental EIS include clarifying language about the type and diameter, if appropriate, of the culvert extension over the Mullet River. We recommend the culvert be properly sized to ensure that base flow will be accommodated. We also recommend the culvert be bottomless. If the culvert extension is a pipe or four-sided culvert, we recommend the culvert be buried to allow for natural substrate to accumulate within the structure. Further, we recommend work on the culvert be done in low-flow conditions. It may be appropriate to consider a dam and pump-around to isolate work areas and complete construction in dry conditions.

EPA 3

EPA reaffirms that we reserve the right to provide additional comments during the Clean Water Action (CWA) Section 404 permit process, jointly administered by the EPA and the U.S. Army Corps of Engineers. We consider corridor preservation to be a suitable topic in the NEPA process; however, EPA reserves the right to comment on the corridor preservation alternative and its alternatives during the forthcoming CWA Section 404 permit process.

Thank you in advance for consideration of our comment. We look forward to receiving the Limited Scope –Final Supplemental EIS and ROD on this project. Should you have any questions, please do not hesitate to contact me or Elizabeth Poole of my staff at (312) 353-2087 or poole.elizabeth@epa.gov.

Sincerely,


Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Enclosure: Summary of Ratings Definitions

cc: Robert Wagner, Wisconsin Department of Transportation
Joey Shoemaker, U.S. Army Corps of Engineers
Julie Widholm, Wisconsin Department of Natural Resources

WISDOT-NE REGION
2013 SEP 16 PM 1:08



WISCONSIN LEGISLATURE

P.O. Box 7882 • Madison, WI 53707-7882

FOR IMMEDIATE RELEASE

September 4, 2013

CONTACT:

Senator Joe Leibham Senator Rick Gudex
(608) 266-2056 (608) 266-5300

Rep. Steve Kestell Rep. Dan LeMahieu Rep. Jeremy Thiesfeldt Rep. Mike Endsley
(608) 266-8530 (608) 266-9175 (608) 266-3156 (608) 266-0656

Area Legislators Get Highway 23 Back On Schedule *WISDOT Announces Project Will Begin In 2015*

MADISON, WI - State Senators Joe Leibham (R-Sheboygan), Rick Gudex (R-Fond du Lac) with Representatives Steve Kestell (R-Elkhart Lake), Dan LeMahieu (R-Cascade), Jeremy Thiesfeldt (R-Fond du Lac) and Mike Endsley (R-Sheboygan) announced today that the Wisconsin Department of Transportation (DOT) has restored the start date for construction on Highway 23 to 2015.

After the DOT recently announced plans to delay construction of Highway 23 between Plymouth and Fond du Lac until 2018, Sen. Leibham, Rep. Kestell and Rep. Endsley met with Secretary Mark Gottlieb to stress the importance of this project and to demand an earlier start date. Each office received dozens of calls and emails from local residents concerned about the continued delay.

LEGIS 1

“We made it clear to the DOT that a funding delay of Highway 23 is completely unacceptable,” Leibham who serves on the Joint Committee on Finance and the Senate Transportation Committee said. “This is an important highway project that has been long in coming and for safety and efficient travel purposes needs to be completed as soon as possible.”

Leibham and Kestell, in a bi-partisan effort, worked to enumerate this project in the budget during the 1999 State Budget.

LEGIS 2

All area legislators expressed support for the restoration of the 2015 date. “The four-lane expansion improvements to Highway 23 are important to Sheboygan and Fond du Lac counties, as well as the rest of the state. We will continue to ensure the proper planning and completion of this important road expansion project to address both safety and economic concerns,” the legislators said.

In response to concerns expressed by area legislators, DOT informed them that construction will begin in 2015 as previously scheduled. This eliminates the three-year delay in the start of the project that was shown in the recent Transportation Projects Commission (TPC) semiannual report.

The DOT will schedule State Highway 23 for substantial completion in fiscal year 2018. This would be a delay of only one year from the previous scheduled completion of 2017. Pending availability of funds either from project savings or increased appropriations, the DOT would advance the completion to 2017.

The revised schedule is subject to resolution of pending federal litigation and receipt of a record of decision from the Federal Highway Administration early in 2014. It also assumes no reduction in funding in the major highway program in the FY16-17 or FY18-19 state budgets.

Attachment – 9/4/13 letter from Secretary Mark Gottlieb

###

Stockbridge-Munsee Tribal Historic Preservation Office

Sherry White - Tribal Historic Preservation Officer

W13447 Camp 14 Road

P.O. Box 70

Bowler, WI 54416

2013 AUG 21 PM 1 06

WISDOT-NE REGION

Date 8/16/13
Project Number Project 1446-13/15-00
TCNS Number _____
Company Name WI DOT

We have received your letter for the above listed project. Before we can process the request we need more information. The additional items needed are checked below.

Additional Information Required:

- Site visit by Tribal Historic Preservation Officer
- Archeological survey, Phase 1
- Colored maps
- Pictures of the site
- Any reports the State Historic Preservation Office may have
- Review fee of \$300.00 must be included with letter
- Has site been previously disturbed, please explain what the use was and when it was disturbed

After reviewing your letter:

- We are in the process of gathering more information on this site and will respond to your project request once all information has been gathered.
- This project has the potential to affect a Mohican cultural site, please contact us
- This project is not within Mohican area of interest
- This project is within Mohican territory, but we are not aware of any cultural site within the project area.

Additional comments _____

STOCK 1 Should this project inadvertently uncover a Native American site, we require you to halt all construction and notify the Stockbridge-Munsee Tribe immediately.

STOCK 2 Please do not resubmit projects for changes that are not ground disturbance


Sherry White, Tribal Historic Preservation Officer

Wisconsin Department of Transportation



COMMENT SHEET

Public Hearing
Project ID 1440-13/15-00

WIS 23 Expansion Project - Fond du Lac to Plymouth Fond du Lac and Sheboygan Counties

From: (Please Print)

To:

Name: Jeff Agee - Aquayo, Bay-Lake RPE
Address: 441 S. Jackson Street,
Green Bay, WI Zip: 54301
Phone Number: (920) 448-2820,
Ext. 325

Robert Wagner - Project Manager
WisDOT Northeast Region Office
944 Vanderperren Way
Green Bay, WI 54324-0080

BAYLAKE 1

Project Comments:

Disappointed that this project has been delayed once again, but understand the fiscal and legal challenges involved. Please let our office know if the project will be delayed further, as our air quality conformity analysis assumed that everything will be built and open to traffic by 2020.

I will review the air quality information in the EIS and provide further comment if edits need to be made.

BAYLAKE 2

Thank you!

Thank you for sharing your comments with us!

Please reply and return by September 30, 2013, for it to be included in the project record.

Note: This is a self-mailer—either deposit in the comment box or fold and return; postage is paid.



**Division of Transportation
System Development**
Northeast Regional Office
944 Vanderperren Way
Green Bay, WI 54304

**Scott Walker, Governor
Mark Gottlieb, P.E., Secretary**
Internet web site: www.dot.wisconsin.gov

Telephone: (920)492-5643
Facsimile (FAX): (920)492-5640
E-mail: greenbay.dtd@dot.wi.gov

November 14, 2013

Department of the Army
St. Paul District, Corps of Engineers
180 Fifth Street East, Suite 700
St Paul, Minnesota 55101-1678
Tamara E. Cameron

RE: 1440-13/15-00
WIS 23
Fond du Lac to Plymouth
Fond du Lac and Sheboygan Counties
Regulatory (2010-00379-JRS)

In the Corp's September 26, 2013, letter commenting on the Limited Scope Supplemental Environmental Impact Statement (LS SDEIS) for the WIS 23 project in Fond du Lac and Sheboygan Counties, the Corps provides eight comments. We will respond to all eight comments in the publishing of the LS SFEIS and the Record of Decision. Two of the Corp's comments, Comments 1 and 5, focus on the Old Plank Road Trail extension. Comment 1 questioned the purpose and need for the trail and Comment 5 requested information regarding the alternatives analysis for the trail, to confirm that the Preferred Alternative for the trail is the least environmentally damaging practicable alternative.

These comments prompted the October 21, 2013, phone discussion which discussed the Corp's most recent response letter with the Corp's July 22, 2010, FEIS response letter. In that discussion, we stated that we would send draft responses for the first and fifth comments for the Corp's review.

Enclosed is our intended response to Comments 1 and 5. We have also included exhibits that show the anticipated wetland impacts from the Old Plank Road Trail extension for your information. We request the Corp's concurrence of the trail extension's purpose and need, range of alternatives, and Preferred Alternative by December 20, 2013, so that we can incorporate it into the LS SFEIS. If you have further comments regarding our responses to Comments 1 or 5, the trail, or other questions regarding the project, please call me at (920) 492-5983

Sincerely,



Robert J. Wagner
Project Manager

cc: Ann Nye
Joey Shoemaker
Rebecca Graser

WisDOT Response to USACE September 26, 2013 Comments

11-11-2013

In its March 9, 2010 comment letter to the 2009 SDEIS, USACE questioned the justification for the extension of the Old Plank Road Trail and questioned the true need for nonmotorized transportation along WIS 23. In response to that comment, FHWA/WisDOT expanded the purpose and need discussion for the trail extension in the 2010 FEIS.

After the release of the 2010 FEIS, USACE's letter of July 22, 2010 had the following statement concurring with the purpose and need and the alternatives considered:

"The U.S. Army Corps of Engineers is acting as a cooperating agency for the National Environmental Policy Act (NEPA) review for the proposed project due to the requirement for a Clean Water Act Section 404 permit. We have evaluated the document pursuant to NEPA guidelines and concur with the document regarding purpose and need, range of alternatives and the WisDOT preferred alternative."

In 2013 FHWA/WisDOT released a Limited Scope Supplemental Draft Environmental Impact Statement (LS SDEIS) to address issues of limited scope. The LS SDEIS reconsidered certain portions of the 2010 FEIS, including parts of the Section 4(f) evaluation and indirect and cumulative impacts analysis. It also reviewed new or changed impacts to the human and natural environment since the issuance of the Record of Decision. Data within the purpose and need was updated to reflect conditions that changed since the 2010 FEIS was published. The purpose and need and alternatives analysis remained the same as presented in the 2010 FEIS. In its letter of September 26, 2013, USACE made the following comments:

". . . 1. The purpose and need discussion for the proposed pedestrian trail is not adequate for the magnitude of impacts the trail would cause (10.2 acres of wetland fill). The LSSDEIS states that there are currently no adequate facilities for nonmotorized transportation along WIS 23 between Greenbush and the City of Fond du Lac; however, there is no discussion describing the true need for a nonmotorized transportation link between Greenbush and the City of Fond du Lac along WIS 23. Existing and nonmotorized traffic volumes should be evaluated as part of this discussion.

5. Our Section 404(b)(1) guidelines state that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other alternatives for the actual roadway expansion (to include alternatives routes and alternative lane configurations). It does not appear that the proposed trail was included in the analysis of each alternative. Please note that the Corp's review of a Section 404 permit for this project application submittal should include an alternatives analysis that clearly outlines why the proposed trail alignment and configuration should be considered as part of the LEDPA [Least Environmentally Damaging Practicable Alternative] for the overall project. . . . "

This comment is similar to the USACE comment for the 2009 SDEIS and contrary to USACE's concurrence with the purpose and need and alternatives contained in its letter of July 22, 2010.

The following paragraphs describe both the purpose and need and the alternatives considered for the extension of the Old Plank Road Trail.

Purpose and Need

There are several factors that support the extension of the Old Plank Road Trail from Greenbush to Fond du Lac and provide the basis for purpose and need. They include:

- Lack of east-west bicycle facilities in the general corridor area.
- Local governmental support through resolutions and community plans.

- 2009 Wisconsin Act 28 creating Statute 84.01(35) that requires bicycle and pedestrian facilities be incorporated into highway projects funded by certain state and federal monies¹. This is further elaborated by Wisconsin Administrative Rule Trans 75 and supported by FHWA's 2010 policy statement for bicycle and pedestrian facilities.

Background

The existing Old Plank Road Trail currently connects the city of Sheboygan with the town of Greenbush on the east 3.5 miles of the study corridor. The Old Plank Road Trail is connected to the Interurban Trail in the city of Sheboygan and the Ice Age Trail in the Kettle Moraine State Forest. It is also connected to numerous roadways that have bike lanes, paved shoulders, or planned bicycle facilities. The Old Plank Road Trail currently accommodates bicyclists, runners, walkers, in-line skaters, and horseback riders. Sheboygan County estimates there were 164,000 users of the trail in 2012. The proposed Old Plank Road Trail extension is planned to connect to the Prairie Trail in Fond du Lac that was constructed adjacent to the US 151 bypass. The Prairie Trail connects the Wild Goose State Trail south of the city and the Peebles Trail northeast of the city. Ultimately, the Old Plank Road Trail extension, along with the extension of the Eisenbahn and other State Trails will help create a regional network of interconnected bicycle trails within Fond du Lac and Sheboygan Counties (see Figure 1).

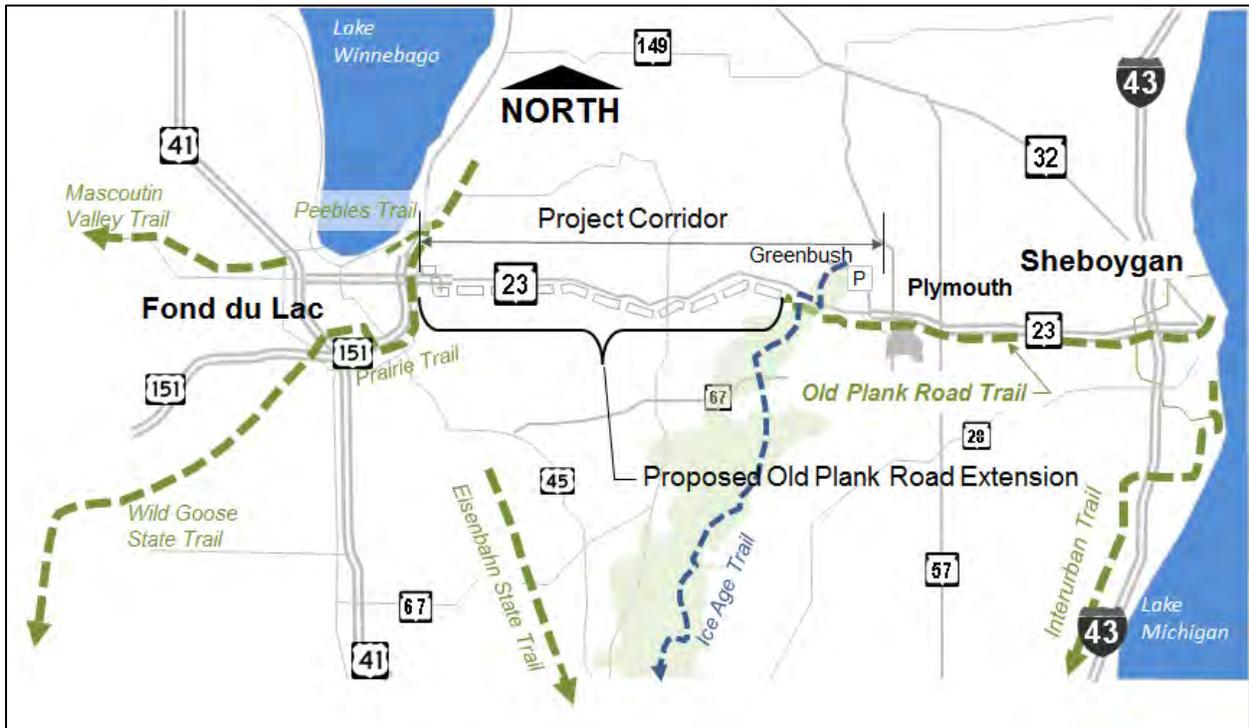


Figure 1 Regional Bike Trails

Shortage of East-West Bicycle Facilities on the WIS 23 corridor

The 2010 FEIS and 2013 LS SDEIS described the lack of east-west bicycle facilities along the WIS 23 corridor. Natural features along the WIS 23 corridor, including the Sheboygan River, Mullet Marsh, and the Kettle Moraine State Forest, make the local road network discontinuous in the east-west direction. For the 16-mile segment where the Old Plank Road Extension is proposed, the longest continuous stretch of east-west local roadway within 3 miles of the corridor is about 6 miles. Traveling the 16.2 miles from the Prairie Trail in Fond du Lac to the end of the existing Old Plank Road Trail in Greenbush, a cyclist would need to travel 19.5 miles on both WIS 23 and local roads, crossing WIS 23 twice.

¹ Unless the project falls under one of five exceptions.

The shoulder widths on the existing WIS 23 facility, combined with the high traffic volumes, provide a poor bicycle Level Of Service (LOS) of F. The Preferred 4-Lane Build On-Alignment is proposing 8 foot paved shoulders. Yet even with the expanded shoulder the high traffic volumes and speeds associated with WIS 23 provide a bicycle LOS D in the 2035 design year. If the proposed WIS 23 roadway provided the only bicycle accommodations between Greenbush and Fond du Lac, westbound cyclist would travel on the existing Old Plank Road Trail from Sheboygan to Greenbush, cross the 4-lane divided expressway at grade, and then ride on the WIS 23 shoulder (bicycle LOS D). This is not an ideal bicycle accommodation and requires an at-grade crossing of a 4-lane expressway.

Local Government Support

Local governments realized the need for and importance of providing pedestrian and bicycle accommodations along the WIS 23 corridor. Many governments have expressed their support of the trail extension either by sending FHWA/WisDOT letters and resolutions in support of the trail extension and/or incorporating the trail in their official plans. The following paragraphs summarize the letters, resolutions, and plans that demonstrate local government support for the trail.

- 2011 Sheboygan County Comprehensive Plan—The Old Plank Road Trail extension is incorporated in the 2011 Sheboygan County Comprehensive Plan. The plan states the proposed Old Plank Road Trail extension “would provide a connection to the City’s trail network. The length of this trail provides great connections between the cities in Sheboygan County.”
- Sheboygan County Pedestrian and Bicycle Plan, 2035—The plan lists the midterm plan goal of extending the Old Plank Road Trail as an off-road path to the county line.
- Fond du Lac County Resolution—On January 27, 2004, Fond du Lac County sent a letter to WisDOT supporting the extension of the Sheboygan County’s Old Plank Trail to Fond du Lac. The resolution No 134-03, adopted January 20, 2004, supported a multiple purpose recreation trail adjacent to WIS 23 between the east county line and Fond du Lac.
- Fond du Lac County Trail Map—The Fond du Lac County Trail map shows the proposed WIS 23 Trail.
- City of Fond du Lac Letter of Support—On December 4, 2003 the city of Fond du Lac sent a letter to WisDOT supporting the inclusion of a multi-modal facility as part of the WIS 23 project. The letter states, “it would be logical to extend the existing multi-modal trail from Greenbush to Fond du Lac as part of the upcoming project. This would not only connect two of the larger cities in the this part of the state, it would also provide multi-modal connection to the trail along the US 151 Fond du Lac Bypass, and to other existing county and state trails.”
- Town of Empire Resolution—On March 16, 2004 the Town of Empire sent a letter to WisDOT stating that on March 10, 2004 the Town Board went on record in support of the consideration of the Old Plank Road Trail extension as part of the WIS 23 reconstruction.
- WisDOT’s Connections 2030 Long-Range Multimodal Transportation Plan for the Fond du Lac Metropolitan Planning Area shows a trail connection or extension from US 151 south of WIS 23 east. According to the proposed future activities, under short term (2008–2013), the transportation plan supports the construction of a trail along WIS 23 from US 151 to the Old Plank Road Trail near Greenbush.
- WisDOT-Sheboygan County Trail Agreement—In April 2006 The Wisconsin Department of Transportation and Sheboygan County signed a State/County Trail Agreement. This agreement proposed that WisDOT would provide right of way for a bicycle/pedestrian trail to provide a safe traveling route for bicycles and pedestrians. Its usage would be restricted to nonmotorized transportation purposes. Sheboygan County would be responsible for surfacing the trail from its

current trail end to the county line. The County would also maintain the trail and be responsible for all future operation and maintenance of the trail.

WisDOT Law and FHWA Policy:

In 2009, Wisconsin Act 28 created Statute 84.01(35) that requires WisDOT to ensure bicycle and pedestrian accommodations are provided on all new highway construction and reconstruction projects funded in whole or in part from certain state or federal funds. The administrative rule, Trans 75 was enacted to provide the framework for implementation of the state statute. It prohibits WisDOT from funding a new construction or reconstruction project without bicycle and pedestrian facilities unless the project falls under five exception criteria.²

Factors considered in the enactment of 2009 Wisconsin Act 28 and Trans 75 included health, safety, environmental transportation, and quality of life. Another important factor included encouraging meaningful mode shift from single-occupancy vehicles to nonmotorized travel modes. Infrastructure to support the mode shift must be provided and often must be in place before the true demand and use are realized. As more bicycle and pedestrian infrastructure is added and interconnected, Wisconsin residents will have the choice to use nonmotorized travel modes for work and shopping trips.

The extension of the Old Plank Road Trail, while providing a recreational function, also serves a transportation role. The city of Fond du Lac's Comprehensive Plan includes the expansion of residential housing to County UU. There already are residential subdivisions on the north side of WIS 23 east of County K. Currently there is no good bicycle or pedestrian facility that connects these residential areas to the city's employment and retail centers. Pedestrians and cyclists must use WIS 23's road shoulder to access the central city. The extension of the Old Plank Road Trail will provide a separated bicycle and pedestrian facility. As the area develops the trail will provide residents with a transportation choice to access retail and employment areas. It will also provide transportation options to those without access to motor vehicles.

Enactment of the Wisconsin statute and administrative rule also helped Wisconsin comply with FHWA's policy regarding pedestrian and bicycle accommodation. FHWA's 2010 policy statement includes the following verbiage:

"The DOT policy is to incorporate safe and convenient walking and bicycling facilities into transportation projects. Every transportation agency, including DOT, has the responsibility to improve conditions and opportunities for walking and bicycling and to integrate walking and bicycling into their transportation systems. Because of the numerous individual and community benefits that walking and bicycling provide — including health, safety, environmental, transportation, and quality of life — transportation agencies are encouraged to go beyond minimum standards to provide safe and convenient facilities for these modes."

FHWA reviews all projects that it funds for compliance with this policy. The extension of the Old Plank Road Trail that is incorporated in the Preferred Alternative satisfies this policy requirement.

² The exception criteria primarily focus on constrained urban environments where impacts would be unacceptable, freeway facilities, and sparsely populated and trafficked roadways where the traffic volumes are so low the roadway itself can serve the bicycle and pedestrian traffic.

Trail Alternatives

Roadway Corridor Alternatives

WisDOT evaluated a series of both on-alignment and off-alignment alternatives in the early stages of the project. The analysis of these alternatives is summarized in Sections 2.4 and 2.5 of the SDEIS and Sections 2.4 and 2.5 of the LS SDEIS. Through the initial corridor analysis, a uniform corridor was used to determine probable impacts and effectiveness. The uniform width of the corridors was made wide enough to accommodate a multiuse trail. Through the screening process, Alternative 1- the on-alignment alternative, was selected because it best met the project purpose and need. It also had fewer impacts when compared with the off-alignment alternatives that were considered. Alternative 1 required from 116 to 215 acres less right of way, depending on which off-alignment alternative it was compared with. It also impacted between 0.8 to 27.4 fewer wetland acres than Alternatives 2 through 6.

Factors Influencing Trail Location

Once the corridor was selected, WisDOT evaluated the appropriate location for the extension of the Old Plank Road Trail. The trail could travel on the south side of the proposed WIS 23 right of way along the eastbound lanes, or it could travel on the north side of the proposed WIS 23 right of way along the westbound lanes. The trail routing could also be a combination of south and north right of way locations. Factors influencing the trail routing location include the following:

1. Existing Trail Location—The existing Old Plank Road Trail ends on the south side of WIS 23 at the Old Wade House property. The Old Plank Road Trail extension would need to connect to the existing trail at this location.
2. Safe Trail Crossings—It is highly desirable to avoid an at-grade crossing of a 4-lane divided expressway for bicycles and pedestrians. Grade-separated crossings avoid dangerous bicycle and pedestrian conflicts with WIS 23 traffic and generally are much more comfortable for nonmotorized trail users. Therefore, if the Old Plank Road Trail is to be routed partially or fully on the north WIS 23 right of way, the change in routing from its current south location should occur at a planned grade separation. Planned grade separations include the proposed Ice Age Trail/Equestrian Trail underpass, the proposed interchange at County G, the proposed interchange at County UU, and the proposed jug-handle at County K.
3. Existing Snowmobile Routing—Snowmobile routes exist on the north side of WIS 23 from US 151 to Whispering Springs Drive and on the south side of WIS 23 from Division Road to the existing Old Plank Road Trail. While not having dedicated right of way, they represent corridors free of physical encumbrances and have an established routing system.

Old Plank Trail Routing Alternatives Analysis

As mentioned, it is highly desirable to have the Old Plank Road Trail extension cross WIS 23 at planned grade separations at County K, County UU, County G, and the Ice Age Trail. These grade separation locations provide logical boundaries for trail location analysis sections. Figure 2 illustrates these sections.

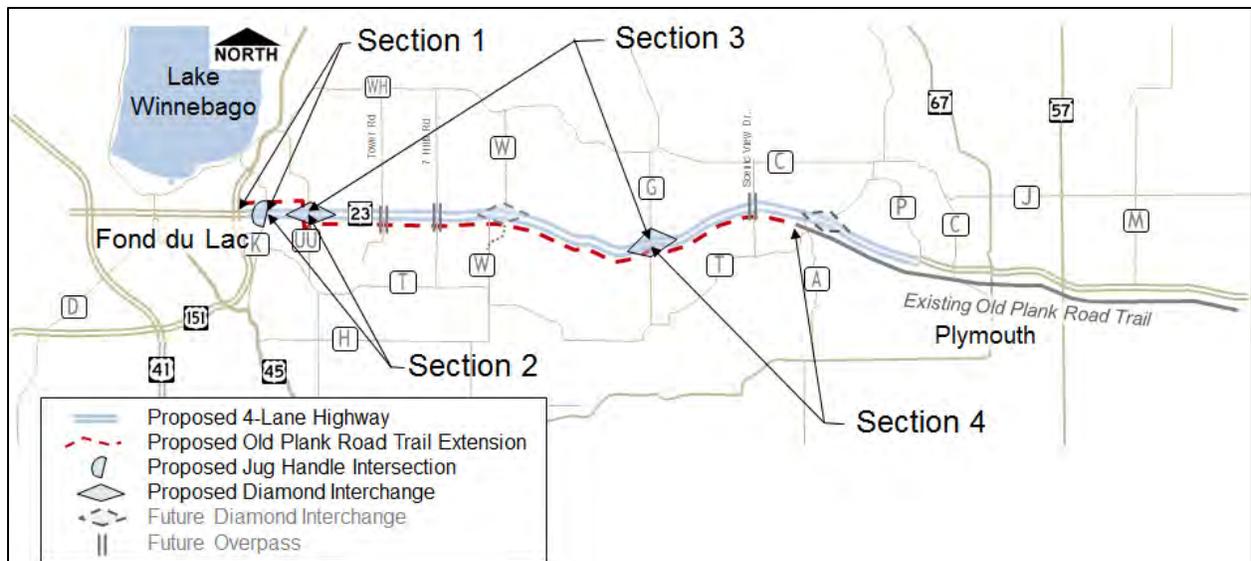


Figure 2 Old Plank Road Trail Extension Sections

The following table summarizes the trail location evaluation for each section and provides the reasons supporting the selection of the preferred trail location.

South WIS 23 Right of Way Trail Location	North WIS 23 Right of Way Trail Location	Preferred Location and Reason
Section 1—US 151 to County K		
A trail located on the south WIS 23 right of way would not impact any wetlands however it would impact six residential homes and two businesses severely reducing their frontage. No direct access to St Mary's Springs Academy High School would be provided.	A trail located on the north WIS 23 right of way would match the existing snowmobile corridor and would impact about 0.4 acres of wetlands. It would have no impacts to residential or business properties. A trail on the north right of way would provide direct access to St Mary's Springs Academy High School.	North—The preferred trail location for Section 1 is on the north side of the WIS 23 right of way because it provides the best access to St Mary's Spring Academy. The trail location would impact 0.4 acres of wetlands; however, it has substantially fewer residential and business impacts than a south WIS 23 right of way trail location. It also provides a better logical connection to the preferred trail location in Section 2.
Section 2- County K to County UU		
A trail located on the south WIS 23 right of way would have wetland impacts of 0.1 acres or less. This alignment would be mostly adjacent to agricultural land with few residential homes. This location would not provide access to two residential subdivisions north of WIS 23.	A trail located on the north WIS 23 right of way would have wetland impacts of 0.1 acres or less. A trail located on the north WIS 23 right of way would provide direct trail access to Whispering Springs and Hilltop Drive neighborhood residents.	North—The preferred trail location for Section 2 is on the north WIS 23 right of way. This location provides the best trail access for the Whispering Springs and Hilltop Drive neighborhoods and while it impacts 0.1 wetland acres or less, compared to the south alternative it does not require additional wetlands.
Section 3-County UU to County G		
A trail located on the south WIS 23 right of way would impact about 5.2 acres of wetlands. A trail on the south WIS 23 right of way would not relocate any homes or businesses	A trail located on the north WIS 23 right of way would impact about 13.7 acres of wetlands. The impacts on the north would include two high quality Aquatic Bed wetlands, of which one is the Pit Road wetland mitigation site. From Log Tavern to Division Road, a trail on the north WIS 23 right of way would also	South—The preferred trail location for Section 3 is on the south side of the roadway. The preferred south WIS 23 right of way location would impact fewer wetlands (5.2 acres) than a trail on the north WIS 23 right of way (13.7 acres). A south right of way location also avoids the Pit Road wetland mitigation site and

South WIS 23 Right of Way Trail Location	North WIS 23 Right of Way Trail Location	Preferred Location and Reason
	require the relocation of two homes and a possible business.	avoids two residential and one business relocations.
Section 4 -County G to Ice Age Trail crossing		
A trail located on the south WIS 23 right of way would impact about 4.5 acres of wetlands. A trail at this location would not require any modifications to the proposed Ice Age Trail underpass. A trail on the south side of WIS 23 right of way would provide direct access to the Old Wade House State Park.	A trail located on the north WIS 23 right of way would impact about 3.3 acres of wetlands. It would also require the extension of the proposed Ice Age Trail underpass. A trail on the north WIS 23 right of way would not provide direct trail access to the Old Wade House State Park unless a separate trail extension were constructed.	South–The preferred trail location for Section 4 is on the south side of the roadway because it provides better trail access to Old Wade State Park and does not require an extension of the Ice Age Trail underpass. This routing affects 4.5 acres of wetlands which is 1.2 acres more wetland impacts than the north alternative. It generally has fewer agricultural and residential impacts.

The preferred Old Plank Road Trail location, when evaluated as a whole facility, is the least environmentally damaging practicable alternative. The trail borders the Alternative 1 WIS 23 highway alignment that had fewer wetland and right of way impacts than other corridors that were evaluated. The trail location within the WIS 23 corridor was selected to minimize overall impacts, including wetland impacts, and provide maximum trail accessibility. As the project progresses further into design and into the Section 404 permitting process, WisDOT will work with the USACE to further reduce wetland impacts, and mitigate wetland losses that do occur.



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

REPLY TO
ATTENTION OF

JAN 27 2014

Operations
Regulatory (2010-00379-AMN)

Robert Wagner
WisDOT - Northeast Region
944 Vanderperren Way
Green Bay, Wisconsin 54324-0080

Dear Mr. Wagner:

This letter is in response to the request for concurrence with the Limited Scope Supplemental Draft Environmental Impact Statement (LS SDEIS) for the Wisconsin State Highway 23 Fond du Lac to Plymouth expansion project (Project ID 1440-13/15-00). The LS SDEIS was received by this office on July 22, 2013, with supplemental information being received on November 22, 2013. The project site is located along the existing WIS 23 corridor within Fond du Lac and Sheboygan Counties.

We concur with the revised purpose and need statement and have determined that it would satisfy CWA Section 404 requirements. The overall purpose of the project is to provide additional highway capacity to service existing and projected traffic volumes and improve operational efficiency and safety for local and through traffic while avoiding or minimizing environmental effects. The need for the project is demonstrated through a combination of factors including system linkage and route importance, transportation demand and regional economic development, legislative and planning history, existing and future traffic volumes and resulting operation, existing highway geometric characteristics, access, safety, and nonmotorized travel accommodations.

We also concur with the array of alternatives initially considered and dismissed (Non-Highway Including Transit Alternatives & Reconstruct Existing 2-Lane Highway Alternative), and with alternatives carried forward as detailed in Section 2 of the LS SDEIS which includes the No Build Alternative and Build Alternatives 1 through 6. Furthermore, the Corps concurs with dismissal of Build Alternatives 2 through 6 because they are more damaging to the aquatic environment when compared to the Preferred Build Alternative.

The Corps concurs with selection of the Preferred Build Alternative (Alt. 1) which includes the WIS 23 Mainline 4-Lane Expansion, Old Plank Road Trail Extension, and Local Roads-Interchanges-Access Control; as detailed in Section 2.7 of the LS SDEIS. Based on information provided in Section 4.6, the preferred alternative appears to impact the least amount of aquatic resources of the practicable alternatives and would satisfy CWA Section 404 requirements in this regard.

Operations
Regulatory (MVP-2010-00379-AMN)

Please note that our determinations are based on a corridor level analysis and we expect that further efforts to avoid, minimize, and mitigate for wetland impacts will take place during the design phase of the project. If there are any substantial changes or if new information is brought forward, we may reconsider these determinations.

We look forward to continued coordination on this project. If you have any questions, contact Ann Nye in our Green Bay Field Office at (651) 290-5859. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

A black rectangular redaction box covering the signature of Tamara E. Cameron.

Tamara E. Cameron
Chief, Regulatory Branch

Copy furnished:
Jeremiah Schiefelbein, WDNR
George Poirier, FHWA
Ken Westlake, USEPA
Peter Fasbender, USFWS



Preserving America's Heritage

February 18, 2014

Bethaney Bacher-Gresock
Major Projects Environmental Manager
Federal Highway Administration
Wisconsin Division
525 Junction Road, Suite 8000
Madison, WI 53717

Ref: *Amendment to the Memorandum of Agreement regarding the Construction of
STH 23: CTH K to CTH P (Project ID 1440-13-00/1440-15-00)
Fond du Lac and Sheboygan Counties, Wisconsin*

Dear Ms. Bacher-Gresock:

The Advisory Council on Historic Preservation (ACHP) has received a copy of the fully signed Amendment to the Memorandum of Agreement (MOA) for the above-referenced project. In accordance with Section 800.6(b)(1)(iv) of the ACHP's regulations, the ACHP acknowledges receipt of the Amendment. The filing of this Amendment and execution of its terms, completes the requirements of Section 106 of the National Historic Preservation Act and the ACHP's regulations.

We appreciate your providing us with a copy of this MOA Amendment and will retain it for inclusion in our records regarding this project. Should you have any questions or require additional assistance, please contact Najah Duvall-Gabriel at (202) 606-8585 or via e-mail at ngabriel@achp.gov.

Sincerely,


LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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