

**APPENDIX LS-F  
2010 RECORD OF DECISION**

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# **RECORD OF DECISION**

**By**

**U.S. Department of Transportation  
Federal Highway Administration**

**For**

**Wisconsin State Highway 23  
United States Highway 151 to County P  
Fond du Lac and Sheboygan Counties, Wisconsin**

**FHWA-WIS-EIS-04-03-F  
WisDOT ID 1440-13-00  
September 2010**

# TABLE OF CONTENTS

## RECORD OF DECISION

<b>A. DECISION</b> .....	<b>3</b>
1. Background .....	4
2. Preferred Alternative Description .....	4
3. Reasons for Selection .....	7
<b>B. ALTERNATIVES CONSIDERED</b> .....	<b>12</b>
<b>C. ISSUES OF LOCAL AND REGIONAL CONCERN</b> .....	<b>13</b>
<b>D. MEASURES TO MINIMIZE HARM</b> .....	<b>13</b>
<b>E. MONITORING AND ENFORCEMENT</b> .....	<b>17</b>
<b>F. CONCLUSION</b> .....	<b>17</b>

## FIGURES

Figure 1: WIS 23 Project Study Limits Approved by the Wisconsin State Legislature's Transportation Projects Commission.....	3
Figure 2: Alignment of Preferred Build Alternative.....	5
Figure 3: WIS 23 Typical Sections .....	6
Figure 4: Ice Age Crossing Trail.....	5
Figure 5: Old Plant Trail Typical Section .....	7
Figure 6: Access Control Between US 151 and County UU .....	7
Figure 7: Wisconsin American Parkway Roundabout.....	8
Figure 8: County K Jug-handle .....	8
Figure 9: County UU Interchange.....	9
Figure 10: County G Interchange.....	9
Figure 11: Local Road Connections and Extensions .....	10
Figure 12: J-Turn Concept.....	10
Figure 13: Alternative Organization.....	13

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United States Highway 151 to County P  
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### A. DECISION

This Record of Decision (ROD) addresses operational and safety concerns on Wisconsin State Highway (WIS) 23 from Fond du Lac to Plymouth. (See Figure 1)



Figure 1 WIS 23 Project Study Limits Approved by the Wisconsin State Legislature's Transportation Projects Commission

The selected build and corridor preservation alternatives for the WIS 23 project are described in the Final Environmental Impact Statement (FEIS), approved on June 3, 2010.

The selected build alternative (WIS 23 Mainline, Build-Four-Lane, Alternative 1) and the selected corridor preservation alternatives (WIS 23 Corridor Preservation and No Preservation for the US 151/WIS 23 System Interchange) are detailed in Chapter 2 of the FEIS and later in this ROD. The selection was based on study and public comment received as part of the process outlined in the National Environmental Policy Act (NEPA) and the Wisconsin Environmental Policy Act (WEPA). The planning, agency coordination, public involvement, and impact evaluation for the project have been conducted in accordance with NEPA as well as the Clean Water Act, Executive Orders regarding wetland and floodplain protection, the Fish and Wildlife Coordination Act, the Migratory Bird Treaty Act, the Executive Order on Environmental Justice 12898, the National Historic Preservation Act of 1966, and other state and federal laws, policies, and procedures for environmental impact analyses and preparation of environmental documents.

The study considered beneficial and adverse impacts of the project including indirect and cumulative effects. Direct impacts considered include the following: trails, natural resource areas, rivers, floodplains, wetland, wildlife, threatened and endangered species, soils, agriculture, noise, air, hazardous materials, visual aesthetics, archaeological resources, historical places, residential properties/relocations, neighborhoods/community groupings, environmental justice, community facilities, utilities, emergency services, work forces, tax base, economic, environmental, land use, traffic, and project cost. The process included public

hearings for the Draft Environmental Impact Statement (DEIS) in January 2005 and the Supplemental Draft Environmental Impact Statement (SDEIS) in February 2010.

## 1. Background

The DEIS for the project was signed on November 3, 2004. A Supplemental DEIS was prepared for the project in 2009 to address new information and new project components. These new components included a multiuse trail, grade separations, interchange treatments and corridor preservation measures that were not discussed in the DEIS.

The FEIS was signed on June 3, 2010 and published in the Federal Register on June 25, 2010. It contained the information provided in the SDEIS and also documented and responded to the comments received from the DEIS and SDEIS.

The alternatives presented in the DEIS, SDEIS, and FEIS for detailed analysis included both four-lane build alternatives and corridor preservation alternatives.

### Build Alternatives

In the DEIS, SDEIS, and FEIS, six Build-Four-Lane alternatives were evaluated between Fond du Lac and Plymouth, plus the No-Build Alternative. Alternative 1 improves WIS 23 on the existing alignment, while Alternatives 2 through 6 are variations of both on- and off-alignment options. Alternative 1 (on alignment, 4-lane expansion) was the Preferred Build Alternative presented in the SDEIS and FEIS. The SDEIS and FEIS also provided the evaluation of additional improvements not documented in the DEIS. The additional improvements are part of Alternative 1 and include local road improvements, inclusion of three interchanges, and the extension of the Old Plank Trail.

### Corridor Preservation

Evaluation of preservation alternatives was also presented in the SDEIS and FEIS for both the WIS 23 corridor and the US 151/WIS 23 interchange. The WIS 23 corridor preservation alternatives were either No Preservation or Corridor Preservation (for future interchanges, local road and access improvements, and grade separations). The corridor preservation alternatives for the US 151/WIS 23 interchange were No Preservation, Preservation for System Interchange 23-1, or Preservation for System Interchange 23-2.

In February 2010, the Wisconsin Department of Transportation (WisDOT) held the project's second public hearing to gather input from area residents, businesspersons, and local officials. Subsequent meetings were also held with state and federal resource agencies and local officials. Based on this input, in May 2010 WisDOT announced the selection of the Preferred Build Alternative (Alternative 1) and the Preferred Corridor Preservation alternatives (WIS 23 Corridor Preservation and No Preservation for the US 151/WIS 23 System Interchange).

## 2. Preferred Alternative Description

The selected build and corridor preservation alternatives are described in the following paragraphs. Figure 2 illustrates the alignment of the Preferred Build Alternative. Construction of the WIS 23 4-lane improvements, including the extension of the Old Plank Trail, construction of local road and access improvements, and construction of interchanges at County K, County UU, and County G are planned for 2015. The selected corridor preservation measures will be enacted between 2013 and 2017 through State Statute 84.295.

The cost of the proposed improvement is estimated at \$189 million, adjusted to reflect the cost in the year the funds will be spent. This estimate includes right-of-way acquisition, relocation assistance, and construction costs.



**Figure 2 Alignment of Preferred Build Alternative**

**A. WIS 23 Corridor**

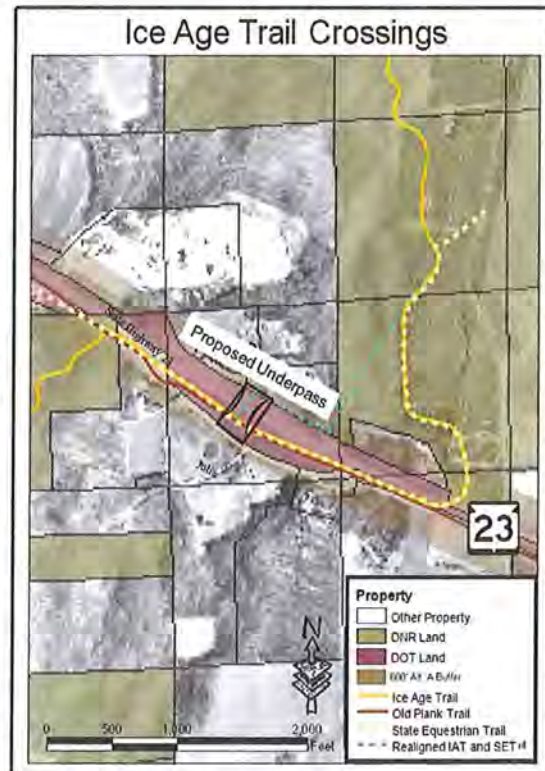
**1. Cross Section**

The Preferred Build Alternative constructs a full four-lane divided highway on the existing alignment for the full length of the project. From US 151 to County UU, WIS 23 will essentially have a suburban cross section. This includes four 12-foot lanes, 6-foot inside shoulders, 10-foot outside shoulders, and an 18-foot median with mountable curb. The outside edges may flow into either a rural section with a ditch or a suburban section with mountable curb and gutter. The design speed for this section of roadway will be 55 mph and posted for 45 mph. Figure 3 on the following page illustrates this cross section.

From County UU east to County P in Sheboygan County, WIS 23 will have a typical expressway cross section. This includes four 12-foot lanes, 6-foot inside shoulders, 10-foot outside shoulders, and a 60-foot median. Generally, the existing roadbed will carry the eastbound lanes, and the westbound lanes will be constructed north of the existing roadway. The exception to this is between County W and Division Road, where the new lanes will be south of the existing roadbed. Figure 3 on the following page illustrates this cross section.

**2. Ice Age Trail (IAT) and State Equestrian Trail**

The IAT and the State Equestrian Trail cross WIS 23 at the Kettle Moraine Forest. Since the IAT and State Equestrian Trail cross perpendicular to WIS 23, and because there is no opportunity to avoid the trails in the nearby area, mitigation is needed. As agreed by the Wisconsin Department of Natural Resources (WDNR) the U.S. Department of the Interior, National Park Service (NPS), and the U.S. Department of the Interior, Fish and Wildlife Service (Fish & Wildlife), the IAT and State Equestrian Trail will travel under WIS 23 with a specifically designed bridge on WIS 23. The underpass will provide a clear width of 20 feet and a minimum vertical clearance of 12 feet for the combined trails. The proposed crossing would be located near the existing connection of Julie Court with WIS 23 (see Figure 4).



**Figure 4 Ice Age Trail Crossing**

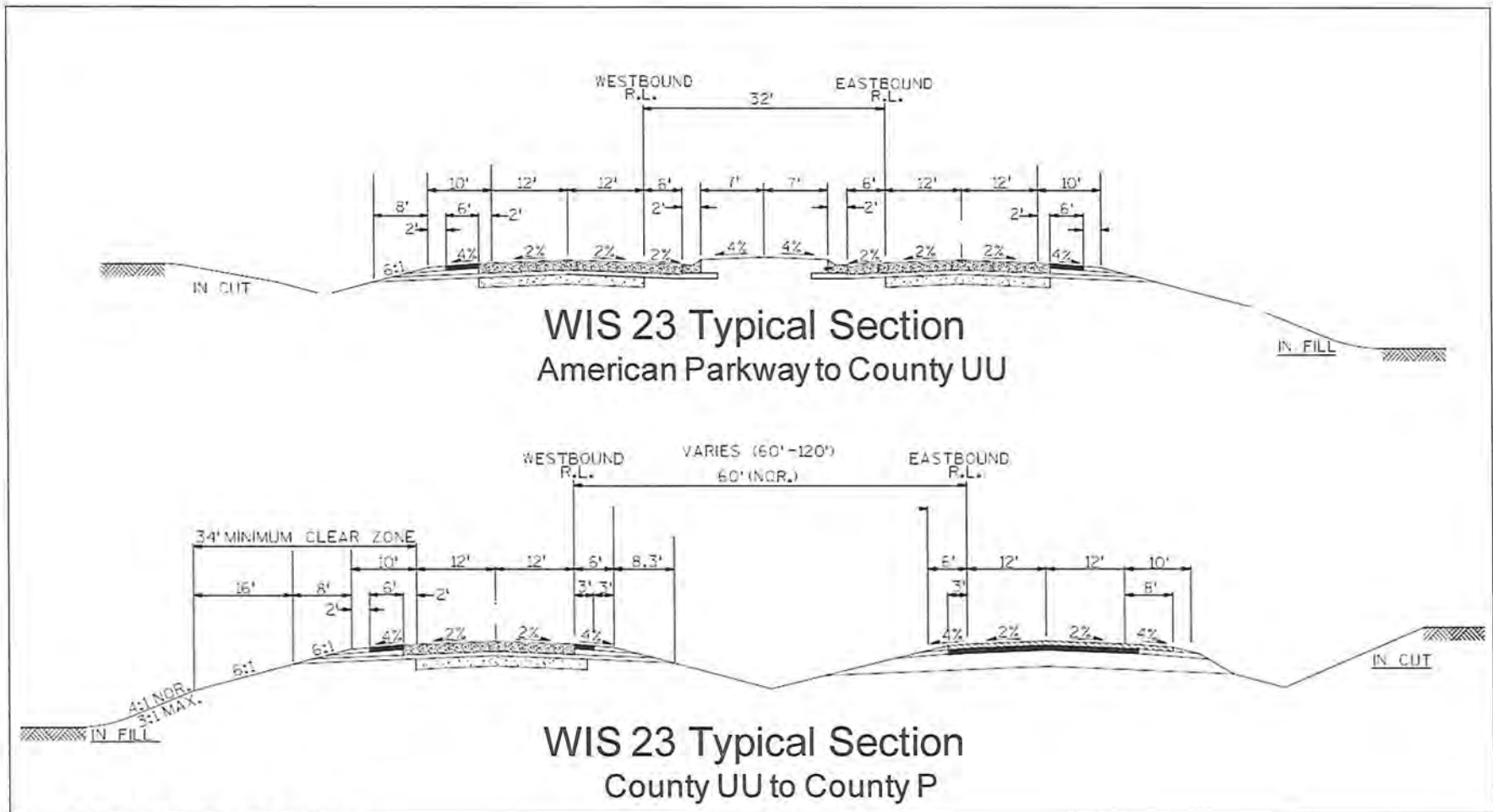


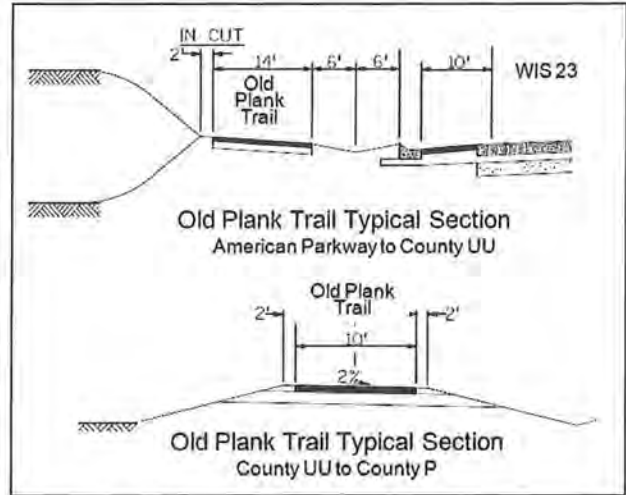
Figure 3 WIS 23 Typical Sections



**B. Old Plank Trail Extension**

The existing Old Plank Trail currently connects the City of Sheboygan with the Town of Greenbush on the northern limits of the cities of Sheboygan Falls and Plymouth and the Village of Kohler. This existing trail is located within state-owned highway right-of-way (R/W) and is maintained by the Sheboygan County Planning and Parks Department. Sheboygan County documents the possible extension of the trail to Fond du Lac County in the Old Plank Trail Plan, 1991. The US 151 bypass of the City of Fond du Lac constructed a multiuse trail along the bypass roadway that connects the Wild Goose State Trail south of the city and the WIS 149 trail in Peebles. Fond du Lac County and Sheboygan County support the extension of the Old Plank Trail from Greenbush to Fond du Lac.

In response to these existing plans and actions made by local governments, the project has incorporated an extension of the Old Plank Trail in the Preferred Build Alternative. The trail will generally be located within the proposed roadway R/W on the south side of the four-lane expansion. Figure 5 illustrates the Old Plank Trail typical section. Starting at the west end of the project, the trail will be located along the north side of WIS 23 to County UU, where it will cross to the south side of WIS 23. The trail will have a 10-foot-wide asphaltic surface.



**Figure 5 Old Plank Trail Typical Section**

**C. Local Roads–Interchanges–Access Control**

**1. Access controls between US 151 and County UU**

In an effort to preserve the future investment in WIS 23 improvements, the Preferred Build Alternative constructs a jug-handle intersection at County K and a diamond interchange at County UU. Several side roads will have their direct access to WIS 23 removed but are provided alternate access via frontage roads and other local connections. These access controls are shown in Figure 6.



**Figure 6 Access Control Between US 151 and County UU**

The roundabout at Wisconsin American Parkway will provide access to the Wisconsin American Development from WIS 23. This type of connection is shown in Figure 7.



**Figure 7 Wisconsin American Parkway Roundabout**

The County K jug-handle will bridge WIS 23 over County K. West of County K, traffic would have on and off access to WIS 23 using dedicated lanes that allow right-in/right-out maneuvers. This type of connection is shown in Figure 8. Currently roundabouts are being proposed for the jug-handle terminals at County K, but during the design phase, these could become standard intersections. The County K jug-handle will become the primary access to St. Mary's Springs Academy and the Whispering Springs area.



**Figure 8 County K Jug-handle**

The County UU Interchange is also part of the Preferred Build Alternative. Several access roads will be placed adjacent to the interchange to provide access to adjacent parcels. Figure 9 provides an illustration of the interchange. Currently roundabout ramp terminals are being proposed but the final control type will be made during the design phase.



Figure 9 County UU Interchange

The County G Interchange is part of the Preferred Build Alternative. One access road will be constructed adjacent to the interchange to provide access to Division Road (south). Figure 10 provides an illustration of the interchange. Roundabout ramp terminals or standard intersection terminals could be constructed and will be determined during the design phase of the project.



Figure 10 County G Interchange

## 2. Local Road Connections and Extensions

The Preferred Build Alternative includes local road connections and extensions on the east end of the project near County P in Sheboygan County. These include extending Coary Lane to Sandstone Lane, connecting Twinkle Lane with Valley Lane, and extending Sandstone Lane to connect with Inez Court. Figure 11 schematically illustrates these connections and extensions.



Figure 11 Local Road Connections and Extensions

3. Access Controls between Taft Road and County P

The project studied access on public streets between Taft Road and County P. Several safety enhancements were considered for geometric deficiencies, exposure to cross traffic, and conductivity to local roads. J-turns are being considered at several high-volume intersections. This intersection concept only allows right-in/right-out/left-in movements and removes the most hazardous movements from the intersection. This alternative is shown in Figure 12. Other at-grade intersection treatments are also being considered at high use intersections. Ultimate intersection configuration decisions will be made in final design and in consultation with local officials.



Figure 12 J-Turn Concept

D. Corridor Preservation

1. WIS 23 Corridor

For the WIS 23 corridor, the selected alternative is WIS 23 Corridor Preservation. This preserves the R/W needed for future interchanges and grade separations, including interchanges at County A and County W and grade separations at the Scenic View Drive, Tower Road, Sugarbush Road, and 7 Hills Road intersections. Other intersections along the corridor will be at-grade with right-in/right-out access or cul de sacs. WIS 23 Corridor Preservation is described in Section 2.5 of the FEIS.

2. US 151/WIS 23 Interchange

For the US 151/WIS 23 interchange, the selected alternative is No Corridor Preservation. This option does not use official mapping to preserve R/W needed for future transportation improvements. The alternative is described in Section 2.5 of the FEIS.

Figures 2.6-11 to 2.6-25 from the FEIS are attached and show the alternatives.

### 3. Reasons for Selection

Throughout the study process, much input was received regarding environmental resources as well as community, transportation, and community considerations. All input was considered when selecting an environmentally balanced alternative that met the purpose and need.

#### A. Build Alternative

The following summarizes key reasons for the selection of the preferred build alternative:

- The Preferred Build Alternative will improve the highway facility's ability to meet current design standards for this Connector route.
- The Preferred Build Alternative increases the traffic mobility by adding capacity and minimizing public and private access.
- The Preferred Build Alternative will provide a safe and dependable highway connection to and from regional communities while reducing conflicts between local and through traffic. Access control will be utilized to minimize private entrances, and turn lanes will be added at intersections to improve safety.
- A four-lane expressway on the existing alignment received support from the majority of the public input, was backed unanimously by the PAC, and received consensus approval by local officials.
- The Preferred Build Alternative received support from most of the state and federal agencies.
- The Preferred Build Alternative meets the needs of the project while minimizing adverse impacts to farmland, wetlands, historical resources, and archaeological sites. Needed R/W and project costs are also minimized by the Preferred Build Alternative.
- The Preferred Build Alternative implements several key recommendations of the Value Planning Study of July 2003.
- The extension of the Old Plank Trail is consistent with the local jurisdictions' plans for multiuse trail development along the WIS 23 corridor between the Village of Greenbush and the City of Fond du Lac.

#### B. Corridor Preservation Alternatives

For the WIS 23 corridor, the Corridor Preservation alternative was selected as the Preferred Alternative. Reasons for this selection include the following:

- WIS 23 Corridor Preservation will protect R/W for transportation improvements that are likely to be needed in the future. In preserving these areas for future transportation improvements, development within those areas can be minimized or avoided, reducing project costs.
- WIS 23 Corridor Preservation, while having some current effect on property owners, will reduce impacts to the property owners in the long term. Without corridor preservation, these property owners may invest in improvements that may later need to be removed or relocated for transportation improvements.
- Implementation of the improvements associated with the WIS 23 Corridor Preservation measures is likely to occur within the 20-year planning horizon. Therefore R/W that is preserved will be used in the relatively near future.
- WIS 23 Corridor Preservation measures will facilitate future access reductions. Without preserving R/W needed for future access roads, development could make access removal prohibitively expensive. This in turn would diminish the future safety and mobility of the corridor.

For the US 151/WIS 23 interchange, No Corridor Preservation is the Preferred Alternative. Reasons for this selection include the following:

- Operations modeling indicates the current diamond interchange with conventional improvements can operate at satisfactory Levels of Service until the year 2045. Additional improvements under the interchange bridges may be able to extend its life for 5 to 10 more years. The full need for the improvement is likely not to be realized for 35 to 45 years.
- The effects of mapping on properties within the footprint are substantial. Option 23-1 severs an existing business park that is currently marketing parcels within the footprint. Mapping this option would eliminate the marketability of these parcels and, unless they were purchased by WisDOT, would place an undue hardship on the owner. Option 23-2 has less dramatic effects on property owners yet still removed the utility of their land for 35 to 45 years.
- There are limited monies available for R/W purchases associated with corridor preservation measures of this magnitude. Because anticipated improvements are far into the future and there are many current statewide needs, it is unlikely that additional monies could be allocated toward R/W purchases associated with this corridor preservation.
- 35 to 45 years is a distant planning horizon with greater uncertainties than the typical 20-year planning horizon. Economic, energy, and transportation conditions could be substantially different than what exists today, reducing or changing the need for improvements.

## **B. ALTERNATIVES CONSIDERED**

The project development process is depicted in Figure 13. There are four main categories, alternative screening phase, alternatives depicted in the DEIS, alternatives presented in the SDEIS, and alternatives presented in the FEIS.

### **1. Alternative Screening**

In the early stages of the project, WisDOT staff worked with the Public Advisory Committee (PAC) to develop broad improvement concepts. These included the No-Build Alternative, other measures such as transit and Transportation System Management (TSM), and Build Alternatives. Only the Build-Four-Lane Alternative met enough of the project purpose and need to move into the alternative development phase to be presented in the DEIS. The No-Build Alternative was also presented in the DEIS to comply with CEQ regulations and to serve as a baseline for comparison. Subsequently, several alignments were considered during the development of the Build-Four-Lane Alternative.

### **2. Alternatives Presented in the DEIS**

In the DEIS, six Build-Four-Lane alternatives were presented. Of the six alternatives, the last three were variations of the third alternative. Therefore, three alternatives were analyzed in greater detail. These three alternatives included combinations of off- and on-alignment corridors. The DEIS provided an evaluation of broad corridors and schematic access arrangements to provide a reasonable representation of the impacts.

### 3. Alternatives Presented in the SDEIS and FEIS

Based on the comments and information gathered with the release of the DEIS, Alternative 1 was selected as the Preferred Build Alternative for the WIS 23 corridor. Following subsequent comments from the public and agencies, additional components were added to the Preferred Build Alternative to enhance its function and meet community needs. These added components include extending a multiuse trail along WIS 23 as well as providing grade-separated interchanges/connections at several high use intersections.

In the SDEIS and FEIS corridor preservation measures were also evaluated to preserve future R/W where roadway improvements are likely to be needed. As mentioned previously, two project elements were considered for corridor preservation. The first focused on the WIS 23 corridor and what land may be needed for future interchanges and overpasses. The second focused on the US 151/WIS 23 system interchange.

### C. ISSUES OF LOCAL AND REGIONAL CONCERN

To date, the meetings and other coordination activities have indicated there are some issues of concern. The following general concerns have been raised: conversion of farmland, impacts to farm operations, impacts to wetlands, uplands and wildlife habitats, and safety concerns. Specific concerns include the following:

- Concerns about disturbing farms and business along Alternative 1 rather than building Alternative 2.
- Comments supporting the design of the combined Ice Age Trail (IAT) and State Equestrian Trail crossing beneath WIS 23.
- Several objection letters to the J-turn access type that was proposed at County G (now proposed as a diamond interchange)
- Several comments and objections regarding the Option 23-1 and Option 23-2 corridor preservation options, with Option 23-2 receiving more support.
- Objections to the R/W required to construct Old Plank Trail.

### D. MEASURES TO MINIMIZE HARM

Specific measures to minimize harm and mitigate environmental impacts are discussed in detail in Section 5 of the FEIS, including:

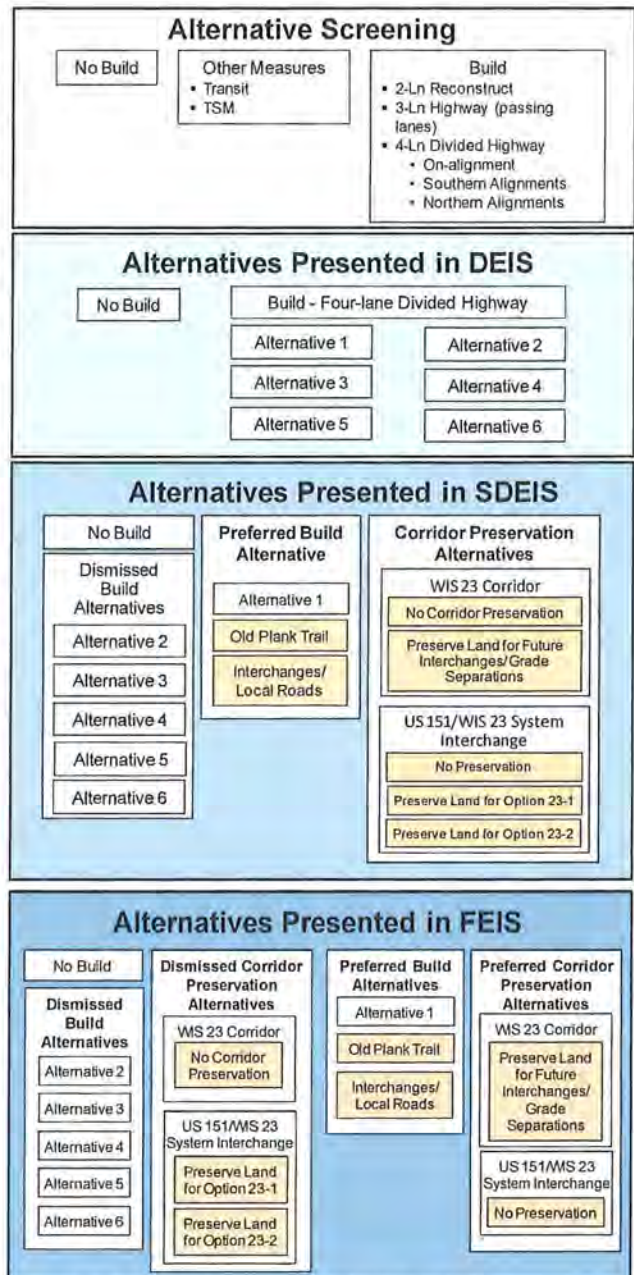


Figure 13 Alternative Organization

- Transportation
- Access Control
- Aesthetics
- Noise and Air Quality
- Property Acquisition
- Material Source/Disposal Sites
- Water Quality, Hydrology, and Hydraulics
- Fish, Wildlife, and Threatened and Endangered Species
- Wetlands
- Uplands and Woodlands
- Contaminated Sites
- Utilities
- Historical and Archaeological Resources
- Public Use Lands
- Agricultural Land
- Pollution Prevention

Of these measures, there are specific project commitments to Transportation; Aesthetics; Noise and Air Quality; Water Quality, Hydrology, and Hydraulics; Fish, Wildlife, and Threatened and Endangered Species; Wetlands; Contaminated Sites; Utilities Historic and Archaeological Resources; Public Land Use; and Agricultural Land.

#### 1. Transportation

At least two lanes of traffic will be open on WIS 23 at all times during construction. Side-road access to WIS 23 will be intermittently closed to accommodate construction activities. A Transportation Management Plan will be developed during design and implemented during construction.

#### 2. Aesthetics

Efforts will be made to minimize potential aesthetic impacts of the WIS 23 expansion in the area of the Niagara Escarpment. This will include minimizing cuts and following the existing topography to the extent possible.

#### 3. Noise and Air Quality

A notice has been sent to adjacent municipalities notifying them that noise levels adjacent to the roadway will impact properties and that they should consider these impacts in their land use plans.

WisDOT initially determined that noise barriers were reasonable along the north side of WIS 23 to reduce noise impacts to apartments near Whispering Springs Drive between County K and County UU. Subsequent analysis with Traffic Noise Model (TNM 2.5) software was completed for impacted receptors near Hilltop Drive, Mary Hill Park Drive, and Hillside Circle. Results indicated that specific noise abatement measures are not reasonable. Typically, noise abatement consists of noise barriers. Wis Admin Code Trans 405 requires abatement to provide an 8-decibel reduction for a reasonable cost (e.g., cost of less than approximately \$30,000 per abutting residence). With these Trans 405 requirements, it has been determined that noise walls along WIS 23 are not reasonable.

WisDOT has sent a project status update newsletter to area residents notifying them that design refinements and the updated noise analysis indicate that noise abatement is not reasonable.

#### 4. Water Quality, Hydrology, and Hydraulics

The Preferred Build Alternative (Alternative 1) will install an additional bridge crossing of the Sheboygan River, an additional box culvert crossing of an unnamed tributary to the Sheboygan



River, and extend the existing box culvert over the Mullet River<sup>1</sup>. Measures to mitigate adverse effects from the culvert extension will be addressed during design. Precautions will be taken at the Sheboygan River, Mullet River, and tributary to the Sheboygan River crossings to preclude erosion and stream siltation. All crossing work will be coordinated with the WDNR to protect fish habitat and water quality. Impacts to water quality will be minimized through the implementation of erosion control measures according to the erosion control plan included in the construction contract, the Standard Specifications, and project special provisions. In addition, construction near surface waterways will be avoided during periods of high snowmelt or rains. Erosion control devices will be installed before erosion-prone construction activities begin, and areas will be promptly restored to grass or permanent cover.

Discussions with the WDNR have identified the importance of minimizing hydrology-altering effects and the potential resulting impacts to wetlands and environmental features or corridors on the alignment. This will be emphasized where construction may impact surface flow or prevent groundwater recharge and where sensitive environmental habitats exist, such as at the Sheboygan and Mullet River crossings and the Taycheedah Creek project areas.

#### 5. Fish, Wildlife, and Threatened and Endangered Species

Since this study project has been scheduled for 2015, the list of state and federal threatened and endangered species and methods to minimize harm will be revisited about 3 years before construction. At that time, a biological assessment will be prepared for the selected corridor if federally listed species are present in the project area.

Additionally, the project will be designed to minimize impacts to any state-threatened or endangered species. Should state-threatened or endangered species be located during subsequent evaluations or assessments within the selected corridor, WDNR/WisDOT coordinated efforts will be made to reach a mitigation plan to address the issue.

Bridge and culvert construction will be scheduled to avoid migratory bird species nesting and brooding seasons. Work on existing structures will be restricted during May 15 to August 20, the bird nesting/brooding seasons or use of netting can be used to minimize impacts. The Natural Heritage Inventory indicates that the State Threatened Blanding's turtle (*Emydoidea blandingii*) occurs within the Upper Sheboygan River Basin. No further surveys are required for this species whose travel corridors should be maintained wherever suitable habitat occurs on both sides of the project. However, during construction, the following conservation measures will be followed during the breeding season (late May through June): to discourage turtles from nesting in soils disturbed by construction, the perimeter of disturbance areas within 2 miles of wetlands and waterways associated with the Sheboygan River will be protected with silt fence. Turtles that become trapped within a disturbance area will be carefully removed and relocated outside the silt fence. Fresh water mussel populations or habitat on the wetland factor sheets in the FEIS will be reevaluated during the design phase to similarly minimize effects to additional aquatic species. Mussel species in project waterways (Mullet or Sheboygan) rivers and environs include the Ellipse (*Venustaconcha ellipsiformis*) and slipper shell (*Alasmidonta vividus*). To date, current commitments indicate WisDOT will perform an underwater survey assessment to confirm the presence or absence of mussel beds for the Sheboygan River crossing. If mussel beds are identified, additional investigation will be made during the summer months to locate suitable upstream sites to transplant affected species.

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<sup>1</sup> Note: The FEIS incorrectly stated a bridge would span the Mullet River. This mis-statement applied to all three build alternatives since they all used the same Mullet River crossing. Agencies were notified of the discrepancy on August 4, 2010 and were given the opportunity to provide additional comments until August 19, 2010. The WDNR responded that extending the existing culvert is acceptable providing measures to mitigate any adverse effects in the extension are incorporated into the design, for example maintaining a continuous channel grade and avoiding alignments that would cause debris dams.

## 6. Wetlands

### a. Avoidance

The FEIS provides a broad determination of the wetlands anticipated to be impacted. During design wetland delineation will be performed to assess wetlands that will be impacted. This delineation will be coordinated with the WDNR and the USACE. Where possible and practical, design revisions will be implemented to avoid wetland impacts.

The Old Wade House Wetland Mitigation site is owned by the Wisconsin Historical Society and lies adjacent to the WIS 23 corridor. The mitigation site was created in the late 1990s when restoration and wetland enhancement work was done and is located on the northern boundary of the Old Wade House property. At this location, the added lanes are being built north of the existing WIS 23 roadway to avoid the mitigation site. The Old Plank Trail will travel adjacent to but not encroach upon this mitigation site. Figure 14 illustrates the Old Plank Trail as it travels adjacent to the wetland mitigation site.

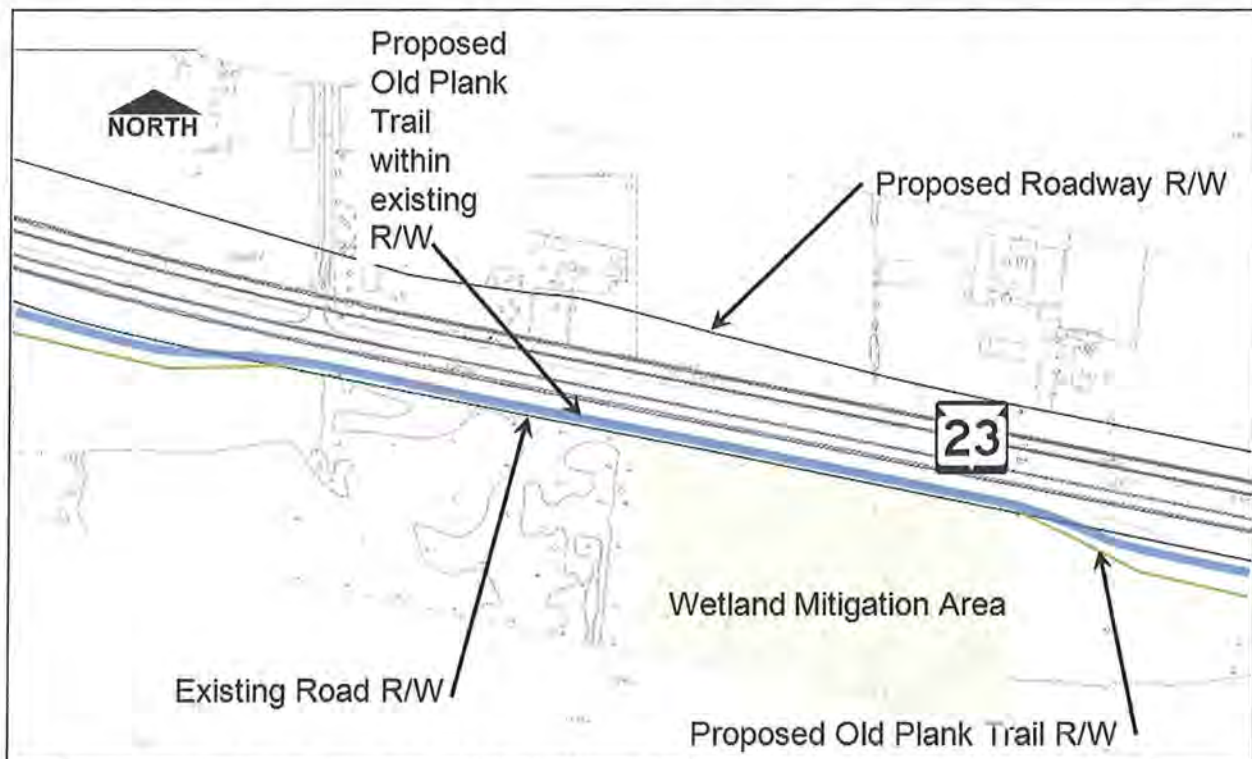


Figure 14 Old Plank Trail and Old Wade House Wetland Mitigation

### b. Minimize Wetland Impacts

WisDOT, in coordination with the WDNR, has identified wetland sites that may be affected by the proposed alternatives. Approximate wetland limits have been mapped so that impacts are known for the engineering phase. WisDOT design will provide additional measures to minimize wetland impacts, such as keeping roadway side slopes as steep as practicable, utilizing beam guard or median barriers where appropriate, addressing localized wetland hydrology issues, and disposing of excavated material on new roadway side slopes.

### c. Wetland Compensation

Compensation for unavoidable wetland loss will be carried out in accordance with the interagency *Wetland Mitigation Banking Technical Guideline* developed as part of the WisDOT/WDNR *Cooperating Agreement on Compensatory Wetland Mitigation*. Unavoidable wetland loss will be fully compensated at an appropriate replacement ratio that would be no less than 1:1 (one acre restored/created for each acre lost). The final ratio

could vary depending on the criteria presently in place in the *Wetland Mitigation Banking Technical Guideline*.

The final wetland mitigation plan will be developed during the engineering design phase (estimated to be 2010-2015). The development of the plan will be guided by the WDNR and WisDOT procedures for compensating mitigation of unavoidable wetland losses resulting from highway construction (DNR/WisDOT 1991) and applicable sections of the *WisDOT Wetland Mitigation Banking Technical Guideline*, of which the Interagency Coordination Agreement was signed on July 20, 1993, and revised in March 2002, by the FHWA, the USACE, and the WDNR. Compensation will be consistent with 33 CFR Part 332. The WisDOT and the WDNR are continuing to coordinate efforts to improve wetland compensation plans. These agencies have expressed the mutual goal of establishing compensation sites that are consistent with the Federal Rule regarding site location and wetland functions and reversing the wetland loss trend in Fond du Lac and Sheboygan Counties. WisDOT's mitigation site selection will include pursuit of a consolidation site within the watersheds of this corridor.

In addition to the WDNR and USACE coordination regarding permitting and mitigation, the USF&WS and the USEPA will also be involved in the development of the plan.

If efforts fail to locate willing landowners during the engineering design phase, WisDOT will direct the impacts to be debited to either the Hope Marsh in Marquette County or the Peshtigo/Brook site in Oconto County.

#### 7. Contaminated Sites

A Phase 1 site assessment has been performed. During the design process, the Phase 1 assessment will be updated as warranted and Phase 2 investigations will be performed for sites that can not be avoided.

#### 8. Utilities

WisDOT and FHWA will continue coordination efforts with utilities, municipalities, and counties to avoid or minimize impacts to and of the utilities along WIS 23. If impacts are unavoidable, WisDOT will coordinate with these parties to avoid or minimize interruptions in service during construction. WisDOT will alert utility companies performing relocations in response to this project of environmental resources that should be considered in their relocation plans.

#### 9. Historic and Archaeological Resources

Section 106 requirements have been completed according to the agreement between FHWA, SHPO, and WisDOT for projects with construction in outlying years. An MOA between the FHWA, SHPO, WisDOT, and St. Mary's Springs Academy has been signed fulfilling the project's Section 106 requirements. The FHWA will ensure that the measures listed in the MOA are carried out. WisDOT will continue to coordinate with SHPO, Native American Tribes, and interested agencies as needed related to St. Mary's Springs Academy and the Sipple archaeological site.

#### 10. Public Use Lands

WIS 23 crosses the Northern Unit of the Kettle Moraine State Forest, the Ice Age Trail, and the State Equestrian Trail in Sheboygan County, and they cannot be avoided by any of the alternatives. WIS 23 improvements will include a grade-separated crossing for the trails, improving the functionality and safety of both trails. The underpass is compensation for impacts to the trails. Lands taken from the Kettle Moraine State Forest (6(f) lands) will be replaced in accordance with the National Park Service's Land and Water Conservation Fund Program conversion process.

WIS 23 passes by the Old Wade House State Park and is adjacent to the Old Plank Road Trail. The proposed WIS 23 expansion would take place on the north side of the existing highway and

would not impact the State Park lands. Improvements to the Old Plank Road Trail (trail extension to the Park and west to Fond du Lac) will result in acquisition of State Park lands. The trail improvements are compensation for the land acquisition.

#### 11. Agricultural Lands

Full consideration will be given to the recommendations of the DATCP's Final Agricultural Impact Statement.

### E. MONITORING AND ENFORCEMENT

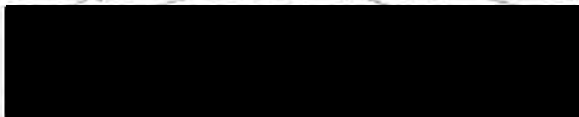
Project development will be monitored by FHWA and WisDOT to ensure conformance with the mitigation commitments made in the FEIS prior to the authorization of federal-aid highway funds. Other specific required actions include the following:

1. Relocation Assistance Plans for displaced residents and businesses require approval by the Wisconsin Department of Commerce under Wis. Stats. 32.25. Acquisition will be conducted in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
2. Stream and wetland impacts associated with the Preferred Alternative are subject to individual Section 404 permits required by USACE.
3. A water quality certification, Section 401 permit, is required by the WDNR.
4. The proposed highway improvement project will be in accordance with the standards of erosion control and stormwater management established in Trans 401.

### F. CONCLUSION

Based on the analysis and evaluation documented in the FEIS, and after careful consideration of all social, economic, and environmental factors (including comments received during the environmental impact study process), the FHWA adopts the selected alternative described herein as the proposed action for this project.

Date: September 27, 2010



George Poirier, Division Administrator  
FHWA, Wisconsin Division