

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
March 2014**

ROD.1 DECISION

This Record of Decision (ROD) is consistent with and supersedes the ROD issued on September 27, 2010. This combined LS SFEIS and ROD (LS SFEIS/ROD) is in accordance with Section 1319 of Moving Ahead for Progress in the 21st Century highway bill. Section 1319(b) directs the lead agency, to the maximum extent practicable, to expeditiously develop a single document that consists of a Final Environmental Impact Statement (FEIS) and ROD, unless certain conditions exist. These conditions include substantial changes to the proposed action or significant new circumstances or information relevant to environmental concerns that bear on the proposed action.

This ROD is being incorporated, as a single document, with the LS SFEIS for the following reasons.

- The Selected Preferred Alternative described in this ROD is the same as the Preferred Alternative presented in the 2013 LS SFEIS. The Selected Alternative is essentially the same as the Preferred Alternative presented in the 2010 FEIS and ROD.
- There have not been changes to the proposed action, changed circumstances, or new information, that is significant and fundamentally different than those that were presented in the 2013 LS SFEIS.

This ROD is also prepared in accordance with 23 CFR 771.127 and 40 CFR 1505.2. A signature on this LS SFEIS/ROD represents approval of the Selected Build Alternative and Selected Corridor Preservation action. This ROD documents FHWA's and WisDOT's decision for the Selected Alternative that addresses the Purpose and Need of this project on WIS 23 from Fond du Lac to Plymouth (see Figure ROD.1-1).

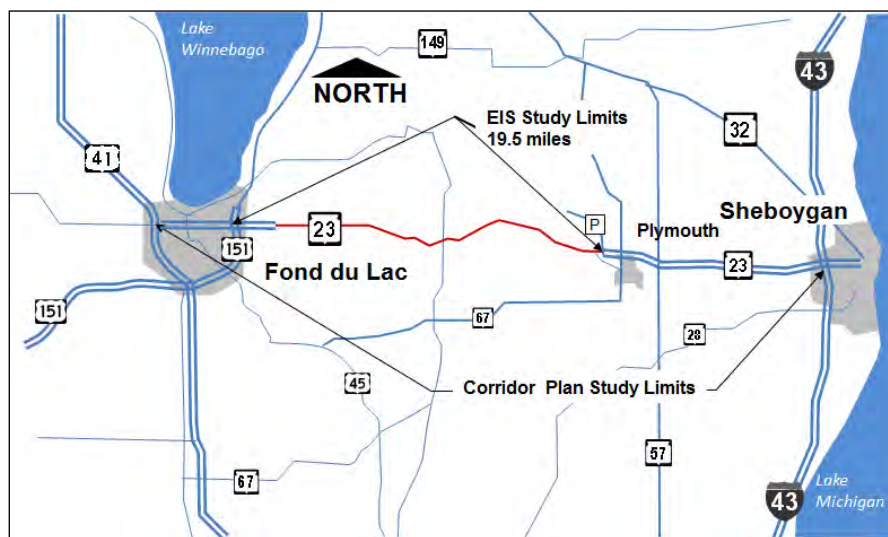


Figure ROD.1-1 WIS 23 Project Study Limits Approved by the Wisconsin State Legislature's Transportation Projects Commission

The Selected Build Alternative (WIS 23 Mainline, Build 4-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 Section 2 of this LS SFEIS/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 selected alternatives are the least environmentally damaging practicable alternatives that satisfied the project Purpose and Need. 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, agriculture, noise, air, hazardous materials, visual aesthetics, archaeological resources, historical places, residential properties/relocations, neighborhoods/community groupings, environmental justice, community facilities, utilities, emergency services, economic, environmental, land use, traffic, and project cost.

ROD.2 ALTERNATIVES CONSIDERED

A. Alternative Development

The WIS 23 project development process is depicted in Figure ROD.2-1. There were seven phases:

- The alternative screening phase.
- The alternatives presented in the 2004 DEIS.
- The alternatives presented in the 2009 SDEIS.
- The alternatives presented in the 2010 FEIS.
- The Selected Alternative presented in the 2010 ROD.
- The alternatives presented in the 2013 LS SDEIS.
- The alternatives and Selected/Preferred Alternative presented in this LS SFEIS/ROD.

The alternatives considered are described in more detail in Section 2 of this LS SFEIS/ROD. The following paragraphs summarize the alternative development process.

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, and Build Alternatives. Only the Build 4-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 Council on Environmental Quality (CEQ) regulations and to serve as a baseline for comparison. Subsequently, several alignments were considered during the development of the Build 4-Lane Alternative.

2. Alternatives Presented in the DEIS

In the DEIS, six Build 4-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.

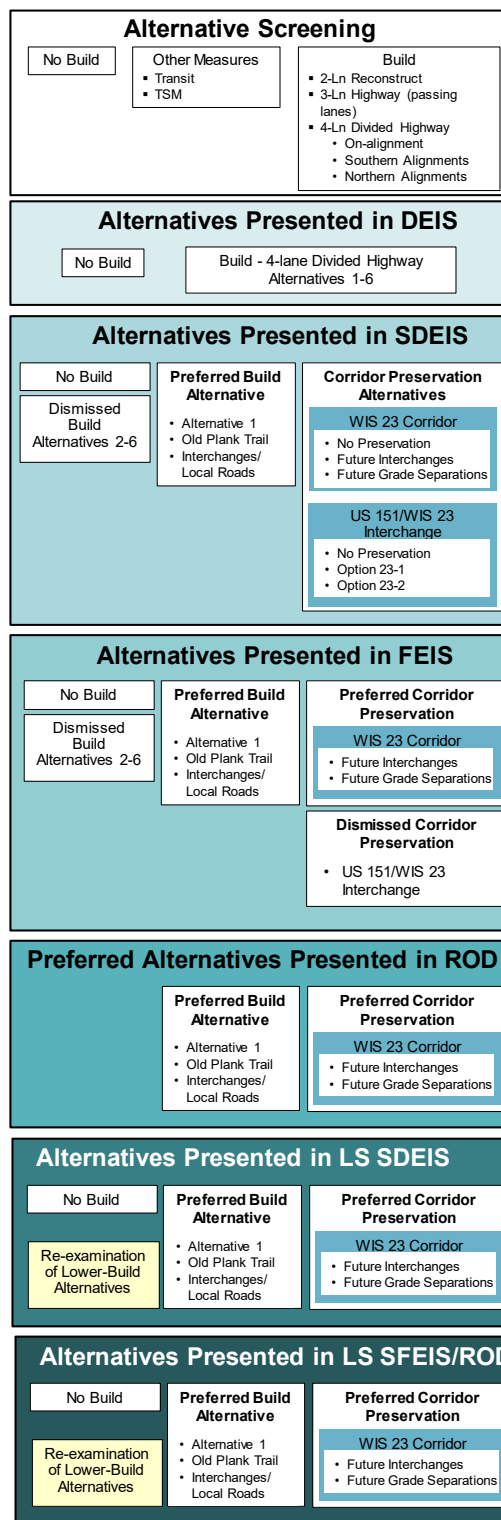


Figure ROD.2-1 Alternative Development Process

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 right of way 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.

4. Alternatives Presented in the LS SDEIS and this LS SFEIS/ROD

In June 2011, 1000 Friends of Wisconsin, Inc. filed a complaint against the United States Department of Transportation (US DOT), the FHWA, and the WisDOT for approving the WIS 23 Corridor Expansion Project. Additional legal proceedings were stayed.

As part of the design process and the preparation of the LS SDEIS, new traffic forecasts were prepared in 2012 for the WIS 23 corridor. The forecasts were lower than those presented in the 2010 FEIS. Because of this, WisDOT performed an updated screening analysis of alternatives, including those previously dismissed from detailed review. The updated screening analysis is included as Section 2.6 of this LS SFEIS/ROD. The screening analysis included a reexamination of each alternative, including 2-lane alternatives with passing lanes and a Hybrid Alternative, to see if it was consistent with the Purpose and Need criteria. Detailed information on that screening criteria is provided in Section 1.5 of this LS SFEIS/ROD.

In the LS SDEIS and this LS SFEIS the Preferred/Selected Build Alternative and the Preferred/Selected Corridor Preservation Alternative remained the same as those presented in the 2010 FEIS and 2010 ROD.

B. Selected Alternative Description

The Selected Build and Corridor Preservation alternatives are summarized in the following paragraphs and are the environmentally preferable alternatives because they cause the least damage to the biological and physical environment and still satisfy the project Purpose and Need. The selected alternatives are the least environmentally damaging practicable alternatives. A fuller description of the Selected Build and Corridor Preservation alternatives is described in Section 2.7 of this LS SFEIS/ROD. Figure ROD.2-2 illustrates the alignment of the Selected 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 jug-handle/interchanges at County K, County UU, and County G are planned to begin in 2015. The Selected Corridor Preservation measures are planned to be enacted between 2014 and 2018 by WisDOT under the authority of State Statute 84.295.

The cost of the proposed improvement and improvements associated with the corridor preservation is estimated at \$166.2 million, adjusted to reflect the cost in the year the funds will be spent. This estimate includes right of way acquisition, relocation assistance, design, utility relocation, and construction costs.

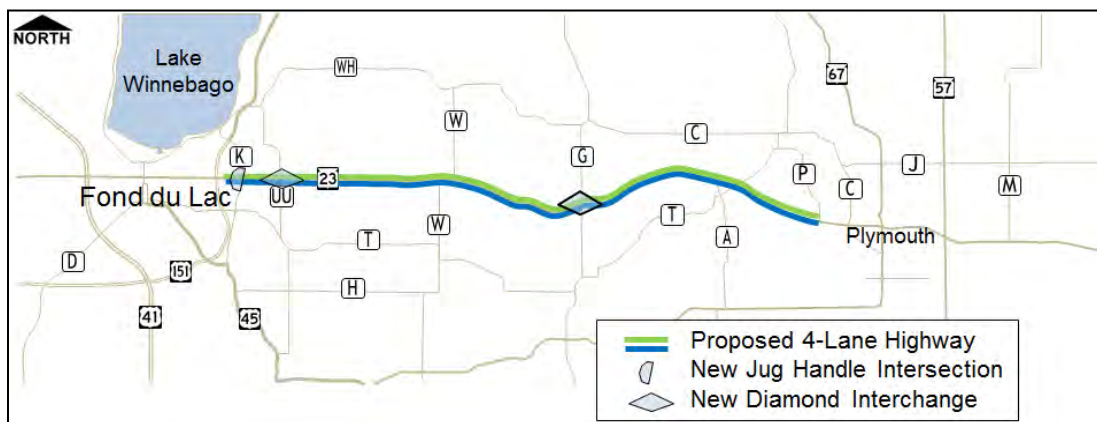


Figure ROD 2-2 Alignment of Selected Build Alternative

1. WIS 23 Build Alternative - Mainline

The Selected Build Alternative will have the following characteristics.

a. Cross Section

The Selected Build Alternative constructs a full 4-lane divided highway on the existing alignment for the full length of the project. From Wisconsin American Drive 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.

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.

b. Grade Separated Ice Age Trail (IAT) and State Equestrian Trail Crossing of WIS 23

As agreed to by state and federal agencies, the IAT and State Equestrian Trail will travel under WIS 23. The underpass trail 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 Julie Lane.

2. Old Plank Road Trail Extension

The Selected Build Alternative will extend the Old Plank Trail from Greenbush west to the city of Fond du Lac. The trail will generally be located within the proposed roadway right of way on the south side of the four-lane expansion. Starting at the west end of the project, the trail will be located along the north side of WIS 23 from US 151 to County UU, where it will cross to the south side of WIS 23. The trail will have a 10-foot-wide asphaltic surface.

3. Interchanges, Access Controls, and Local Roads

The Selected Build Alternative will construct a roundabout at Wisconsin American Drive, a jug-handle intersection at County K, and diamond interchanges at County UU and County G. Several side roads will have their direct access to WIS 23 removed but are provided alternate access via frontage roads and other local connections.

The Selected Build Alternative will modify access on public streets between Taft Road and County P. The modifications include J-turns at Tower Road North, 7 Hills Road, County W, County T, County U, County A, and County S. Numerous intersections will be converted to allow right-in, right-out movements only. Table ROD.2-1 summarizes the access controls associated with the Selected Build Alternative.

Table ROD 2-1 Access Treatments¹	
Intersection	Access Treatment
Wisconsin American Drive	Multi-Lane Roundabout
County K	Jug-handle
Whispering Springs Drive	RI/RO
Hilltop Drive	Cul-de-sac
County UU	Diamond Interchange
Taft Road	RI/RO
Tower Road North	J-turn
Tower Road South	RI/RO
Poplar Road North	RI/RO
Poplar Road South	RI/RO
7 Hills Road North	J-turn
7 Hills Road South	J-turn
Hinn Road	RI/RO
County W South	J-turn
County W North	J-turn
Loehr Rd	RI/RO
Log Tavern Road North	At-grade T intersection
Log Tavern Road South	Cul-de-sac
Triple T	Rerouted to Pit Road South
Pit Rd North	At-grade Intersection
Pit Rd South	At-grade Intersection
Banner Rd	Cul-de-sac
Triple T Rd North	At-grade T intersection
Hillview Rd North	RI/RO with Dedicated Left-In
Hillview Rd South	RI/RO
Hickory Road	Cul-de-sac
County G	Diamond Interchange
Division Rd North	Cul-de-sac
Division Rd South	Access Road to County G
Chickadee Dr	RI/RO
County U	J-turn
Sunrise Rd	At-grade T intersection
Spring Valley Dr	At-grade T intersection
Scenic View Dr North	At-grade Intersection
Scenic View Dr South	At-grade Intersection
County T	J-turn
Plank Rd–West	RI/RO
Sugarbush Road North	RI/RO with Dedicated Left In
Sugarbush Road South	RI/RO with Dedicated Left In
County A North	J-turn
County A South	J-turn
Plank Rd–East	RI/RO
Castle Rock Court	At-grade Intersection
Julie Court West	At-grade Intersection
Julie Court East	Cul-de-sac
Ridge Rd North	Cul-de-sac
Ridge Rd South	At-grade T-intersection
County S North	J-turn
County S South	J-turn
Coary Lane	Removed from WIS 23
Twinkle Lane	Removed from WIS 23
County P North and South	At-grade intersection
Inez St	At-grade T intersection
Branch Road	Removed from WIS 23–Extended to Inez Court

The Selected Build Alternative includes local road connections and extensions near County P in Sheboygan County to enable the closure of direct access points onto WIS 23. Valley Lane will be extended to connect with Twinkle Lane.

¹ Access treatments have been modified because as a result of the detailed design refinements that are part of the normal project development process.

4. WIS 23 Selected Corridor Preservation Alternative (For Future Interchanges and Grade Separations)

WisDOT selected the Corridor Preservation Alternative described in 2.8 of this LS SFEIS/ROD. This Wisconsin action will preserve the WIS 23 corridor using Section 84.295 of the Wisconsin Statutes. If and when improvements associated with the corridor preservation are implemented, property that was acquired through this corridor preservation action will have to have been acquired in accordance with the Uniform Act and conform with 23 CFR 710, Subpart E Property Acquisition Alternatives.

The Selected Corridor Preservation Alternative will have the following characteristics.

a. WIS 23 Corridor

The selected WIS 23 Corridor Preservation Alternative is the environmentally preferable alternative. This preserves the right of way needed for future interchanges and grade separations and reduces impacts that could occur in the future if no preservation measures were performed. The areas for corridor preservation and the associated future improvement include:

- Grade separation (overpass) at Tower Road
- Cul-de-sacs at Poplar Road
- Grade separation (overpass) at 7 Hills Road
- Cul-de-sac at County W south and Hinn Road
- Rerouting of County W south to County W north roughly along Poplar Road and Loehr Road
- Diamond interchange at County W north intersection.
- Grade separation (overpass) at Scenic View Drive
- Cul-de-sac at Plank Road
- Grade separation at Sugarbush Road
- Diamond interchange at County A

b. US 151/WIS 23 Interchange

For the US 151/WIS 23 interchange, the selected alternative is No Corridor Preservation and is the environmentally preferable alternative. This option does not use official mapping to preserve right of way needed for future transportation improvements.

Figures 2.7-13 to 2.7-25 from this LS SFEIS/ROD show the Selected Build and Corridor Preservation Alternatives.

5. Impacts

Table ROD 2-2 summarizes the impacts associated with the selected alternatives.

Table ROD 2-2 Environmental Cost Matrix		LS SFEIS/ROD	
Values and Impact Categories	UNIT	Selected Build Alternative Total	Selected Corridor Preservation Measures
Road Length	Miles	19.07	N/A
FOUR-LANE EXPANSION AND ACCESS PRESERVATION COST			
Design	Millions \$	9.0	N/A
Real Estate ²	Millions \$	26.5	N/A
Utility	Millions \$	5.4	N/A
Construction	Millions \$	87.3	
SUBTOTAL	Millions \$	128.2	N/A
FUTURE ACCESS PRESERVATION COST (Construction and Real Estate)			
System interchange Roadway Construction	Millions \$	N/A	N/A
System interchange Real Estate	Millions \$	N/A	N/A
County W Interchange with Connections	Millions \$	N/A	9.8
County A Interchange with Connections	Millions \$	N/A	8.6
Grade Separation Overpass (Sugarbush, Tower, Seven Hills, Hillview, Scenic View, County P)	Millions \$	N/A	19.6
SUBTOTAL	Millions \$	N/A	38.0
TOTAL COSTS¹	Millions \$	128.2	38.0
Environmental IMPACTS			
Existing right of way Used in Alternative	Acres	486	20
Total Land Converted to New Highway right of way	Acres	424	68
Cropland Converted to Highway right of way	Acres	225	39
Residential Relocations	Number	33	3
Business Relocations (Not Including Farms)	Number	8 Bldgs 10 Bus	2
Farm Relocations (One or more farm buildings)	Number	19	4
Farms Severed	Number	5	2
Wetlands filled	Acres	48.1	1.7
Upland/Woodland Habitat Affected	Acres	47.9	8.5
Excess right of way Purchased (due to relocations)	Acres	158	N/A
Floodplain Encroachment	yes/no	YES	YES
Threatened and Endangered Species	yes/no	YES	YES
Impacted Noise Receptors (2035)	Each	47	9
Potentially Contaminated Sites (Ph II)	Each	27 (4)	0
Historical Resources Nearby (Number Adversely Effected)	Number	19(0)	0
Archaeological Resources	Number Phase II (III)	4(1)	0

N/A = Not Applicable, ND = Not Determined

¹ All Costs are in Year of Expenditure dollars, 2015 for Preferred Build Alternative, 2030 for Improvements Associated with Corridor Preservation

² Approximately 35% of right of way allocated to Old Plank Road Trail would be needed if WIS 23 were expanded without trail. See discussion Section 4.1

C. Basis for Project Decision

Throughout the study process, considerable input was received regarding environmental resources as well as community, transportation, and community factors. All input was considered when selecting an environmentally preferable alternative that met the Purpose and Need. WisDOT and FHWA also used economic and technical considerations in the decision. Values considered in the decision making process included minimizing impacts to the agricultural economy, accommodating traffic demands, and improving safety in a way that complements community planning.

1. Selected Build Alternative

The following summarizes key reasons for the selection of the Preferred Build Alternative:

- The Selected Build Alternative best satisfies the Purpose and Need screening criteria. Other alternatives that did not provide capacity expansion could not provide LOS that satisfied expectations for a Corridors 2030 Connector route. These other alternatives also did not satisfy system linkage, safety, economic development, and five other Purpose and Need screening criteria as well as the Selected Build Alternative.
- The Selected Build Alternative will improve the highway facility's ability to meet current design standards for this Connector route.
- The Selected Build Alternative increases the traffic mobility by adding capacity and minimizing public and private access.
- The Selected 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 minimize private entrances, and turn lanes and median refuges will be provided at intersections to improve safety.
- A 4-lane expressway on the existing alignment received support from the majority of the public, was backed unanimously by the Policy Advisory Committee, and received consensus approval by local officials.
- The Selected Build Alternative received support from most of the state and federal agencies. They expressed support for Alternatives 1 and 2 over Alternatives 3 through 6. The WDNR suggested investigating an interim solution of adding passing lanes before construction of Alternative 1.
- The Selected Build Alternative meets the needs of the project while minimizing adverse impacts to farmland, wetlands, historical resources, and archaeological sites. Needed right of way and project costs are also minimized by the on-alignment Selected Build Alternative rather than the off-alignment build alternatives.
- The Selected Build Alternative implements several key recommendations of the July 2003 *Value Planning Study* (a copy is provided in Appendix E of the 2010 FEIS). The *Value Planning Study* is used to review the project through an organized, multidisciplinary process designed to find alternative ways to achieve the project's necessary and desired functions. Recommendations from the study included maintaining a suburban section (inside median curbs and outside ditches) from County K through County UU, building 4 lanes, and grade-separating the Ice Age Trail.
- The extension of the Old Plank Road Trail is consistent with the local jurisdictions' plans for multiuse trail development along the WIS 23 corridor between Greenbush and the city of Fond du Lac.

2. Selected Corridor Preservation Alternatives

Reasons for the Selected WIS 23 Corridor Preservation alternative include the following:

- WIS 23 Corridor Preservation will protect right of way 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 costs for WisDOT.
- 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, right of way that is preserved will be used in the relatively near future.
- WIS 23 Corridor Preservation measures will facilitate future access reductions. Without preserving right of way 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 Selected Alternative. Reasons for this selection include the following:

- Operations modeling indicates the current diamond interchange with conventional improvements can operate at a satisfactory LOS until the year 2060. The full need for the improvement is likely not to be realized for almost 50 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 reduce 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 almost 50 years.
- There are limited monies available for right of way 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 right of way purchases associated with this corridor preservation.
- Time frame of 40 to 50 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.

Because of these reasons, the benefits derived from US 151/WIS 23 corridor preservation do not appear to outweigh the impacts to property owners and/or WisDOT right of way funding levels. If and when system interchange improvements are warranted or appear to be warranted, these measures can be reinvestigated.

ROD.3 SECTION 4(F)

The WIS 23 Preferred Alternative uses two Section 4(f) properties in which a Section 4(f) *de minimis* impact finding has been made according to 23 CFR 774.3(b). Table ROD.3-1 lists the 4(f) property and the proposed mitigation measures.

Table ROD.3-1 Section 4(f) Properties	
Section 4(f) Property	Measures to Minimize Harm and/or Mitigation Measures
Northern Unit of the Kettle Moraine State Forest, Ice Age Trail/State Equestrian Trail Finding of <i>de minimis</i> Impact	<ul style="list-style-type: none"> • Purchase of 4.275 acres with ownership transferred to the State Forest. • A grade-separated underpass for the Ice Age Trail/State Equestrian Trail

Table ROD.3-1 Section 4(f) Properties	
Section 4(f) Property	Measures to Minimize Harm and/or Mitigation Measures
Old Wade House State Park Finding of <i>de minimis</i> Impact	<ul style="list-style-type: none"> • Restoration and landscaping of disturbed areas. • Provide access to the park from the Old Plank Road Trail extension. • Provide improvements to the park equal to the fair market value of the land.

Mr. Jerry Leiterman of the WDNR was the Superintendent of the Kettle Moraine State Forest. On December 17, 2007 he wrote that the project does not adversely affect the activities, features, and attributes of the trails in Kettle Moraine State Forest and that he agrees with the Section 4(f) *de minimis* impact finding. Mr. Thomas L. Gilbert was the NPS representative managing the Ice Age Trail through 2011. On November 21, 2007, Mr. Gilbert wrote that the Park Service agrees with the Section 4(f) *de minimis* impact finding. The Wisconsin Historical Society is the manager of the Old Wade House State Park. On October 17, 2006 the Wisconsin Historical Society agreed with the *de minimis* finding and stated that the trail associated with the Section 4(f) impact would be mutually beneficial.

The Section 4(f) Findings are contained in Section 5 of this LS SFEIS/ROD. Letters from the officials with jurisdiction over these resources are included in Section 5 of this LS SFEIS/ROD. A signature on the LS SFEIS/ROD represents FHWA approval for the Section 4(f) *de minimis* impact findings for the Kettle Moraine State Forest and the Old Wade House State Park.

Other unique areas (St. Mary’s Springs Academy and Sippel archaeological site) are located within the corridor but are not considered Section 4(f) properties. See Section 5 for more information on these sites and why they do not qualify for Section 4(f).

ROD.4 MEASURES TO MINIMIZE HARM AND MITIGATION COMMITMENTS

Specific measures to minimize harm and mitigate environmental impacts are discussed in detail in Section 6 of this LS SFEIS/ROD. They include:

- 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

All practicable means to avoid and minimize environmental harm from the Selected Alternatives have been adopted. This included selecting the alternatives that best met the project Purpose and Need while having the fewest environmental and socioeconomic impacts. WisDOT and FHWA will continue to coordinate with WDNR and USACE regarding the minimization and mitigation of wetland impacts, Section 401 certification, and Section 404 permitting. WisDOT and FHWA will continue to monitor impacts during final design for consistency with this LS SFEIS/ROD, and will notify affected agencies if substantial differences occur.

The following paragraphs are specific project commitments to continue to minimize harm and mitigate impacts.

1. Transportation

At least two lanes of traffic will be open on WIS 23 at all times during construction. Short-term closures may be needed for beam placement at overpasses and interchanges. Side-road access to WIS 23 will be intermittently closed to accommodate construction activities. A Transportation Management Plan will be developed by WisDOT and will be 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 was sent to adjacent municipalities in July of 2013 notifying them that noise levels adjacent to the roadway will impact properties and that they should consider these impacts in their land use plans. They were also provided with the results of the noise analysis as well as a statement as to why noise mitigation is not reasonable.

For air quality, several examples of voluntary control measures contractors could implement to reduce the emissions of diesel vehicle pollutants will be cited in the Construction Contract Special Provisions for the project.

Dust control will be accomplished in accordance with the WisDOT Standard Specifications, which require application of water or other approved dust control methods during grading operations on haul roads and, in the case of WIS 23, the mainline. The location and operation of asphaltic batch plants will follow the Standard Specifications and any special provisions developed during coordination with WDNR regarding air quality standards and emissions. Any portable material plants will be operated in accordance with WDNR air quality requirements and guidelines. Demolition and disposal of structures are regulated under the WDNR's asbestos renovation and demolition requirements (Wisconsin Administrative Code, Chapter NR 447).

4. Property Acquisition

Property will be acquired according to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, which provides for payment of just compensation for property acquired for a federal aid project. In addition to acquisition price, costs for the replacement dwelling or business location, moving expenses, increased rental or mortgage payments, closing costs, and other valid relocation costs are covered. No person or business will be displaced unless a comparable replacement dwelling or business location, or other compensation where a suitable replacement business location is not practicable, is provided. The above compensation is available to all displaced persons without discrimination.

5. Material Source/Disposal Sites

Federal Rule 23 CFR 635.407 requires that the contractor be allowed to select borrow sites. It is therefore the contractor's responsibility to choose a borrow site and obtain necessary environmental clearance (including permits) for the selected site. Those responsibilities are detailed in Section 208.2.2 (Borrow, Source) and Section 107.3 (Permits and Licensing) of the State of Wisconsin *Standard Specifications for Highway and Structure Construction* manual.

6. Water Quality, Hydrology, and Hydraulics

WisDOT through Trans 401, Wisconsin Administrative Code and the WisDOT/WDNR Cooperative Agreement will comply with the substantive requirements of Chapter 147, Wisconsin Statutes, Wisconsin Pollutant Discharge Elimination System (WPDES). WisDOT, according to the WisDOT/WDNR Cooperative Agreement, will contact the area WDNR liaison and coordinate with the WDNR before performing construction activities that may adversely affect waters of the state.

Creek, slough, and wetland involvement associated with the proposed project is subject to individual permits under Section 404 of the Clean Water Act (33 USC 1344). The permit program, administered by the USACE, covers the discharge of fill material into the waters of the United States, including wetlands. Issuance of Section 404 permits is contingent on receipt of water quality certification from WDNR under Section 401 of the Clean Water Act and Wisconsin Administrative Code Chapter NR 299. Individual 404 permits will be required for this project. Coordination with the WDNR in this regard is accomplished under the Cooperative Agreement. The USACE is using this documentation for its NEPA documentation requirements for a Section 404 permit. WisDOT is continuing coordination with the USACE regarding wetland mitigation options and the issuance of the Section 404 permit.

Structure sizing will be performed in accordance with local, state, and federal guidelines regarding floodplain encroachment and hydraulic capacity. All new and modified structures over navigable waters will be consistent with the provisions of the Wisconsin Administrative Code Chapter NR 116 as administered under the Cooperative Agreement between WisDOT and the WDNR. WisDOT will mitigate project impacts to waterways. When regional 100-year flood levels rise above 0.01 feet, affected property owners and the local floodplain zoning authority will be notified of the rise in the floodplain. This will occur with the Sheboygan River crossing yet flood level increases will be contained within WisDOT right of way.

The Selected Build Alternative (Alternative 1) will install an additional bridge crossing of the Sheboygan River, install two 54 inch culverts at an unnamed tributary to the Sheboygan River, and extend the existing 3-cell box culvert over the Mullet River. Precautions will be taken at the Sheboygan River, Mullet River, and tributary to the Sheboygan River crossings to minimize and prevent stream siltation. 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, the devices will be maintained and repaired, as needed, throughout the life of the contract, and areas will be promptly restored to grass or permanent cover.

The Mullet River culvert extension will consist of three cells that are each 12 feet wide by 8 feet high inside dimensions. The extension will be about 100 feet long. Because the extension is matching the existing structure, the bottom is planned to at the same elevation as the existing box culvert. The existing Mullet River box culvert has approximately 0.5 to 1 feet of streambed material at the inlet and outlet of the box culvert. By matching the existing box culvert dimensions it is anticipated that stream bed material will move into the extension and over time create a natural bottom.

The study determined that there is no practicable alternative to proposed construction in floodplains and that the proposed action includes all practicable measures to minimize harm to floodplains that may result from such use. A finding of No Practical Alternative is contained in Section 6 of this LS SFEIS/ROD.

7. Fish, Wildlife, and Threatened and Endangered Species

Current mitigation arrangements developed in coordination with the WDNR during December 2012 are summarized below and provided in detail according to species in the Threatened and Endangered species factor sheet in this LS SFEIS/ROD.

- a. Bridge and culvert construction will be scheduled to avoid migratory bird species nesting and brooding seasons. Work on existing structures will be restricted during the bird nesting/brooding seasons or netting will be used to discourage nesting under structures.
- b. WisDOT will work with the WDNR regarding tree removal within the Mullet River and wooded environment of the Kettle Moraine State Forest. Clearing and grubbing will be avoided during nesting season to prevent disturbance to nests of species that are state listed. These species are protected from disturbance during the nesting and breeding season by the Migratory Bird Treaty Act. Construction activities may occur inside these windows provided work does not include tree clearing.

- c. Construction Measures to Minimize Impacts to Rare Reptile Species—The WDNR Natural Heritage Inventory and WDNR coordination indicates the State Threatened Blanding's turtle (*Emydoidea blandingii*) occurs within the Upper Sheboygan River Basin. During construction and during the breeding season, the contractor will place nonnetted silt fence a suitable distance as appropriate based on site conditions from delineated wetlands with a riparian connection. Turtles that become trapped within a disturbance area will be carefully removed and relocated outside the silt fence.
- d. WisDOT will conduct rare plant surveys for the state-threatened snow trillium (*Trillium nivale*) at habitat areas near the Mullet River and associated floodplain. This survey will be performed after approval of the project and prior to project construction.
- e. The WDNR will conduct final freshwater mussel surveys to clarify presence or absence of slippershell (*Alasmidonta viridis*), ellipse (*Venustaconcha ellipsiformis*), and rainbow shell (*Villosa iris*) mussels in the Sheboygan and Mullet Rivers. If mussels are found, the WDNR will translocate species as necessary upstream of the Sheboygan River bridge site and the Mullet River culvert extension.

8. Wetlands

During construction, impacts to wetlands from erosion and sediment transport will be avoided or minimized by implementing erosion control best management practices as specified in the construction contract and by ensuring that the practices implemented conform to the contract's special provisions and the WisDOT's *Standard Specifications for Road and Bridge Construction*.

a. Avoidance

Because the reasonable Build Alternatives are generally oriented to the existing WIS 23 corridor, and there are scattered wetlands along both sides of the highway, it is not possible to avoid wetland impacts completely. Avoidance of wetlands was first investigated through the construction of a lower build 2-lane alternative. These alternatives did not satisfy the project Purpose and Need. The wetlands were avoided through the selection of the WIS 23 alignment location, on-alignment versus off-alignment.

- (1) For the WIS 23 expansion, the Selected Build Alternative, an on-alignment alternative (Alternative 1), when compared to off-alignment Alternatives 2 and 3, has fewer direct impacts (filling). It also has fewer indirect impacts (alteration of associated recharge, buffering, or critical habitat) to more ecologically significant wetlands such as wooded swamp, riparian recharge areas, and shrub/scrub habitats.
- (2) The Selected Build Alternative, Alternative 1, has impacts to more easily restorable wetland habitats such as wet meadow and shallow marsh. Both types are easily restorable through altering hydrology at a determined mitigation site containing hydric soils. The wetland impacts of the off-alignment Alternatives 2 and 3 included wooded swamps and riparian floodplains that are more difficult to restore and/or mitigate.

Further avoidance occurred in the selection of where the additional lanes would be constructed. Generally the additional 2 lanes were placed where the least amount of wetland impacts would occur and included:

- (1) Placing the additional lanes on the north side of the existing highway near the Old Wade House mitigation site to minimize impacts to the wetland mitigation site on the parklands.
- (2) Placing the additional lanes on the south side of the existing highway near Pit Road to avoid impacts to the Pit Road Wetland Mitigation Site.

The Selected Build Alternative reduced wetland impacts by 0.8 to 27.4 acres compared to other 4-lane Build Alternatives, depending on which off-alignment alternative it is being compared to. Altering the placement of lanes is estimated to avoid 3 to 5 additional acres at specific wetland mitigation areas.

Even with these avoidance measures, there is no practicable alternative to avoid all the affected wetlands.

b. Minimize Wetland Impacts

WisDOT, in coordination with the WDNR, has identified wetland sites that will be affected by the proposed alternatives. Through detailed mapping, these wetlands were evaluated during this environmental review and actual limits were updated in summer of 2011. Specific wetland minimization efforts are noted on the WIS 23 wetland type and alignment maps provided in Section 4.6, Figures 4.6 C-1.2 to 4.6 C-1.6 of this LS SFEIS/ROD. The design modifications that minimized wetlands impacts include the following:

- (1) Steepened slopes near Pit Road.
- (2) Steepened slopes on WIS 23 between Poplar Road and Hinn Road.
- (3) Alignment modifications and shifts to the north at County U and east of Scenic View Drive.
- (4) Steepened slopes near the Mullet River crossing with an extended box culvert.

It is estimated that an additional 3 to 5 acres of wetlands were saved based on increases in 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 (1 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*.

WisDOT is planning on-site mitigation at two sites in Fond du Lac County to compensate for all the wetland impacts associated with the Selected Build Alternative. One of the two on-site mitigation locations would be on property owned by WisDOT and has approximately 50 acres that could be used for mitigation. This site would be mostly wetland creation and is in the Mullet River watershed. The second on-site mitigation location is in the town of Empire and WisDOT has recently obtained ownership of this site. About 70 acres was acquired and mitigation will focus on wetland restoration. About 10 acres of the site is currently wetlands where a preservation credit may be pursued. The other acreage was previously wetlands that have been ditched and drained. With these acres an enhancement credit will be pursued. This second site is in the Sheboygan River watershed.

It is anticipated that the first property could provide about 20 acres of credit and the second property could provide more than 40 acres of credit. This appears to be fully sufficient for mitigation needs. Better estimates of wetland acres to be credited will occur during design of the wetland mitigation sites.

If changes occur that prevent the implementation of these plans, WisDOT will continue the pursuit of other on-site mitigation opportunities. If efforts fail to locate willing landowners during the engineering design phase, WisDOT will direct the wetland impacts to be debited to either the Hope Marsh wetland mitigation site in Marquette County or the Peshtigo/Brook site in Oconto County.

In accordance with Presidential Executive Order 11990, Protection of Wetlands, and CFR 40 Part 230 Section 404(b), it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands that may result in such use. This LS SFEIS/ROD contains a Finding of No Practicable Alternative in Section 6.

9. Uplands

Mitigation for upland habitat disruption includes the replacement of disturbed vegetation within the right of way under the Wisconsin *Standard Specifications for Road and Bridge Construction*. During construction, cleared and graded areas will be seeded or sodded. The seeding or sodding will be staged to follow the

grading operations to the maximum extent possible. Revegetation measures will minimize upland wildlife habitat loss. Native species will be used within the seeding and restoration standards for the project. It is anticipated the wildlife will return after the construction is completed.

10. Contaminated Sites

In design, WisDOT will seek to avoid the limits of contamination on contaminated parcels. Investigation of contaminated sites and the management of any excavated contaminated material will be completed in accordance with the Facilities Development Manual Section 21-35 and the NR 700 Series of Wisconsin Administrative Codes. The management of excavated contaminated materials on transportation projects typically involves reuse of the materials on the project, disposal of the materials in a landfill, or treatment of the materials at a biopile site. If the contaminated material is classified as a solid waste, activities related to the management of excavated contaminated material will also follow the NR 500 Series of Wisconsin Administrative Codes. If the contaminated material is classified as a hazardous waste, activities related to the management of excavated contaminated material will follow the NR 600 Series of Wisconsin Administrative Codes rather than the NR 500 Series.

11. 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. Both compensable and noncompensable² utility lines located along the WIS 23 project corridor will need to be relocated. There are sensitive resources along the project corridor, but it is anticipated that the majority of these relocations will occur within or directly adjacent to the proposed right of way.

Utility relocations and coordination with utility owners are done in accordance with Wisconsin Administrative Code TRANS 220, *Utility Facilities Relocation*, WisDOT's *Guide to Utility Coordination*, and WisDOT's FDM Chapter 18, *Utility Coordination*. Under these regulations and guidelines, WisDOT is responsible for notifying utility owners about the project, obtaining information on existing utilities in the project corridor, providing final plans showing potential utility conflicts, providing a list of approvals required by governmental agencies, and ultimately reviewing/approving the utility relocation plans.

For impacts that 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.

12. Historic and Archaeological Resources

Section 106 requirements have been completed according to the agreement between FHWA, SHPO, and WisDOT. A revised Memorandum Of Agreement (MOA) between the FHWA, SHPO, WisDOT, and St Mary's Springs was signed in spring 2013 fulfilling the project's Section 106 consultation requirements. This revised MOA can be seen in Appendix D of this LS SFEIS/ROD. The MOA also provides commitments to the known archaeological site (the Sippel Site). These commitments include the following:

- WisDOT will implement the project data recovery plan titled *The Sippel (47 SB 394) Site: A Mid Nineteenth Century Yankee Homestead* in the Town of Greenbush, Sheboygan County.
- Prior to construction, WisDOT or its agent will ensure that protective fencing is placed at the Storm Front (47 FD 497) 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.

² A compensable utility is one that is located on private land by easement and WisDOT must pay the utility to relocate its facility. A noncompensable utility is one that is located on WisDOT right of way and the utility must pay its own cost to relocate its facility.

- 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.
- At preconstruction meetings, the WisDOT PE/PM shall ensure the stipulations contained in the MOA are reviewed with and understood by the responsible party(ies). Responsible parties also include subcontractors.
- Prior to construction, the WisDOT or authorized agent shall petition the Director of the Wisconsin Historical Society for permission to work within the recorded boundaries of two known uncatalogued burial sites, Academy Hill Mound (47 FD 17/BFD 0150) and the unnamed burial site (47 FD 245), in compliance with Wisconsin Statute § 157.70. These activities include, but are not limited to, removal of the existing pavement, sidewalk, roadbed (subgrade 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.
- 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 /BFD 0150) and unnamed burial site (47 FD 245).
- Upon completion of monitoring, the archaeologist will submit a summary report of the results of the monitoring.
- 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.
- 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.
- The WisDOT on-site PE/PM will immediately notify WisDOT Bureau of Technical Services who will notify all signatories of the MOA of any discoveries encountered during construction.
- All archaeological research undertaken for this project will meet the Wisconsin Archaeological Survey Guide for Public Archaeology in Wisconsin, as revised (dated 2012).
- 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 archaeologists will submit a summary report of the results.
 - Nontribal land:
 - If potentially significant archaeological materials unrelated to a human burial are discovered, the on-site WisDOT PE/PM in consultation with WisDOT Bureau of Technical Services shall ensure Section 106 procedures pursuant to 36 CFR 800 will be followed or another area will be obtained.
 - If human remains are discovered, all activities will cease, and the on-site WisDOT PE/PM will ensure compliance with Wisconsin Statute 157.70
 - Tribal Land: Prior to any proposal request, for any activity on tribal land, consultation with appropriate THPO or Tribal Representative is required.

WisDOT has committed to moving the Guardian Angel Statue to another location on the St. Mary's Springs Academy property.

In addition to the above stipulations, the Stockbridge Munsee Tribe will be notified if a Native American cultural site is uncovered.

13. 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 (underpass beneath WIS 23 with a minimum width of 12 feet), improving 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) and 4(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. The proposed WIS 23 expansion would take place on the north side of the existing highway near the Old Wade House State Park. The extension to the Old Plank Road Trail (trail extension to the park and west to Fond du Lac) will be constructed adjacent to WIS 23 to minimize acquisition and impacts near the Old Wade House Wetland Mitigation Site on the south side of WIS 23.

Specific commitments and mitigation for the Section 4(f) property uses include:

- The purchase of 4.275 acres with ownership transferred to the State Forest.
- A grade-separated underpass for the Ice Age Trail/State Equestrian Trail
- Restoration and landscaping of disturbed areas for both properties.
- The provision of access to the Old Wade House State Park from the Old Plank Road Trail extension.
- The provision of improvements to the Old Wade House State Park equal to the fair market value of the land.

More detail regarding mitigation measures are described in Section 5 of this LS SFEIS/ROD.

14. Agricultural Lands

During construction, reasonable access will be provided to agricultural land. Existing drainage systems (ditches and tiles) will be kept operational during construction. WisDOT will work with farm owners to minimize project impacts.

Consideration will be given to the 14 recommendations provided in DATCP's Final Agricultural Impact Statement and update. Of the 14, seven apply specifically to WisDOT as they consider the maintenance of farm activities. These seven are included in Section 6 of this LS SFEIS/ROD.

ROD.5 MONITORING AND ENFORCEMENT

Project development will be monitored by FHWA and WisDOT to ensure conformance with the mitigation commitments made in this LS SFEIS/ROD prior to the authorization of federal-aid highway funds for construction. 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 Wisconsin Statutes. 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 Selected 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.
5. Monitoring and Evaluation of Indirect Effects

Section 6 of this LS SFEIS/ROD contains the commitments to mitigation and monitoring regarding effects of the Selected Build Alternative. It includes continued coordination with WDNR

regarding threatened and endangered species, commitments regarding archaeological and historic sites, wetland monitoring, as well as measures to offset impacts to Section 4(f) properties. WisDOT and FHWA will work within their jurisdictional limitations to minimize adverse indirect effects. These efforts will be primarily associated with the roadway project corridor and are primarily limited to the duration of the construction project. Local communities and state agencies with jurisdiction in the study area will have the ability to monitor and evaluate impacts on land and resources on a long-term basis. Communities have the ability to approve or not approve development proposals and can influence the pace of development for years after WIS 23 improvements are completed. Other agencies with federal authority, such as the USEPA and USACE, also have the authority to monitor impacts to natural resources such as floodplains, wetlands, and water quality.

ROD.6 COMMENTS

The project had numerous opportunities for public and agency comment since its initiation. Specific comments expressed prior to the 2010 ROD included the following:

- Concerns and reasoning for building 4 lanes instead of a low build alternative.
- Interest to extend the Old Plank Trail westward connecting to the US 151 Prairie Trail and the city of Fond du Lac.
- Concerns that expansion to 4 lanes would promote urban sprawl.
- Any new road off the existing alignment would be a duplication of the roadway and therefore a waste.
- Concerns about disturbing farms and business along Alternative 1 rather than building Alternative 2.
- Request to build a full interchange at County A with the initial expansion.
- Criticisms of the Section 4(f) analysis and indirect and cumulative effects analysis.
- Comments supporting the design of the combined Ice Age Trail (IAT) and State Equestrian Trail grade separated crossing beneath WIS 23.
- 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 right of way required to construct Old Plank Trail.

Comments expressed with the release of the 2013 LS SDEIS included the following:

- Disappointment with the delay of the project (which has now been advanced to its original 2015 construction start date.)
- Requests to maintain a 2-lane highway since traffic volume growth rates are reduced or plateaued.
- Statements indicating that safety needs do not warrant a 4-lane facility.
- Requests for further justification for the Old Plank Road Trail extension.
- Requests for an alternatives analysis for the location of the Old Plank Road Trail extension.
- Requests for a full interchange at County A.

A more complete description of the comments received, as well as WisDOT and FHWA responses, is incorporated in Section 7 of this LS SFEIS/ROD.

ROD.7 RECORD OF DECISION APPROVAL

Based on the analysis and evaluation documented in this LS SFEIS/ROD, and after careful consideration of all social, economic, and environmental factors (including comments received during the environmental impact study process), a signature on the cover of this LS SFEIS/ROD indicates the FHWA approves this ROD and adopts the selected alternative as the proposed action.

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